

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	0
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	5/4

WHAT THE MEASURE DOES: Creates a procedural mechanism for alleging and proving a defendant's previous criminal conviction in cases where the offense is elevated based on a previous conviction. Requires defendant to give notice of intent to challenge previous conviction within 35 days.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Oregon appellate courts have issued several opinions that address pleading and proof issues for situations when a criminal offense is elevated by statute to a more serious crime because the defendant was previously convicted of the same or similar offense. The case of *State v. Reynolds* allowed a previous conviction to be alleged in the accusatory instrument if the previous conviction was a "material element" of the charged offense. *State v. Hess* allowed a defendant to stipulate to a previous-conviction element, and in some cases, have that element removed from jury consideration. *State v. Probst* described the shift of burden of proof when a defendant challenges a previous conviction and *State v. Jacob* limited the scope of a collateral challenge to a previous conviction. SB 242A codifies those rulings.