

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 0 - 1

Yeas: Bonamici, Boquist, Whitsett, Prozanski

Nays: 0

Exc.: Dingfelder

Prepared By: Anna Braun, Counsel

Meeting Dates: 1/27, 3/2

WHAT THE MEASURE DOES: Creates a procedural mechanism for the allegation and proof of a defendant's previous criminal conviction for 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:

- When evidence of prior conviction will be presented to jury
- Codification of several cases

EFFECT OF COMMITTEE AMENDMENT: Increases the time frame for the notice the defendant must give to challenge the validity of the previous conviction from seven days to 35 days. Clarifies language to ensure consistency with current law.

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 he or she 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 is 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.