

HOUSE AMENDMENTS TO HOUSE BILL 2262

By COMMITTEE ON JUDICIARY

April 27

1 In line 2 of the printed bill, before the period insert “; creating new provisions; and amending
2 ORS 135.390”.

3 Delete lines 4 through 10 and insert:

4 “**SECTION 1.** ORS 135.390 is amended to read:

5 “135.390. (1) The court shall not accept a plea of guilty or no contest without first determining
6 that the plea is voluntary and intelligently made.

7 “(2) The court shall determine whether the plea is the result of prior plea discussions and a plea
8 agreement. If the plea is the result of a plea agreement, the court shall determine the nature of the
9 agreement.

10 “(3) **If the plea agreement includes an agreement that the district attorney will seek or
11 not oppose dismissal of a charge in exchange for the defendant’s plea of guilty or no contest
12 to another charge, the court may not accept the plea of guilty or no contest unless:**

13 “(a) **The agreement includes a written provision that indicates whether the court is re-
14 quired to reinstate charges that are dismissed pursuant to the agreement if the plea of guilty
15 or no contest is withdrawn under ORS 135.365 or the judgment of conviction is subsequently
16 reversed, vacated or set aside; and**

17 “(b) **If the agreement requires the court to reinstate charges under the circumstances
18 described in paragraph (a) of this subsection, the defendant has provided the court with a
19 written waiver of the statute of limitations and any statutory or constitutional speedy trial
20 or double jeopardy rights, applicable to the dismissed charges.**

21 “[3] (4) If the district attorney has agreed to seek charge or sentence concessions which must
22 be approved by the court, the court shall advise the defendant personally that the recommendations
23 of the district attorney are not binding on the court.

24 “[4(a)] (5)(a) If the district attorney has provided a plea offer and agreed disposition recom-
25 mendation to the defendant as provided in ORS 135.405 and the defendant is entering a guilty plea
26 based on the plea offer and agreed disposition recommendation, the court shall determine whether
27 the plea is voluntarily made. Except as otherwise provided in paragraph (b) of this subsection, if the
28 court finds that the plea is voluntarily made, the court shall impose sentence as provided in the
29 agreed disposition recommendation.

30 “(b) If the court determines that the agreed disposition recommendation is inappropriate in a
31 particular case, the court shall so advise the parties and allow the defendant an opportunity to
32 withdraw the plea.

33 “**SECTION 2. The amendments to ORS 135.390 by section 1 of this 2009 Act apply to pleas
34 of guilty or no contest tendered on or after the effective date of this 2009 Act.”.**

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