

## HOUSE AMENDMENTS TO HOUSE BILL 2441

By COMMITTEE ON JUDICIARY

March 19

1 On page 1 of the printed bill, delete lines 4 through 30 and insert:

2 “**SECTION 1.** ORS 136.425 is amended to read:

3 “136.425. (1) A confession or admission of a defendant, whether in the course of judicial pro-  
4 ceedings or otherwise, cannot be given in evidence against the defendant when it was made under  
5 the influence of fear produced by threats[; *nor is*].

6 “(2) **Except as provided in section 2 of this 2009 Act**, a confession [*only*] **alone is not** suffi-  
7 cient to warrant the conviction of the defendant without some other proof that the crime has been  
8 committed.

9 “[~~(2)~~] (3) Evidence of a defendant’s conduct in relation to a declaration or act of another, in the  
10 presence and within the observation of the defendant, cannot be given when the defendant’s conduct  
11 occurred while the defendant was in the custody of a peace officer unless the defendant’s conduct  
12 affirmatively indicated the belief of the defendant in the truth of the matter stated or implied in the  
13 declaration or act of the other person.

14 “**SECTION 2.** (1) A confession alone is sufficient to warrant the conviction of the defendant  
15 without some other proof that the crime has been committed if:

16 “(a) The state files notice in accordance with subsection (3) of this section;

17 “(b) The defendant is charged with a crime listed in ORS 181.594;

18 “(c) The victim of the crime is a vulnerable person;

19 “(d) The victim is incompetent to testify under ORS 40.310; and

20 “(e) The court finds that there is sufficient evidence to establish the trustworthiness of the  
21 confession.

22 “(2) In making the determination described in subsection (1)(e) of this section, the court shall  
23 consider the following factors, in addition to other factors the court considers important:

24 “(a) Whether there is evidence demonstrating the truthfulness of portions of the confession;

25 “(b) Whether the defendant had the opportunity to commit the crime;

26 “(c) The method of interrogation used to solicit the confession; and

27 “(d) Whether the defendant is a vulnerable person.

28 “(3) The state shall file notice of the intention to rely on this section no later than 15 days be-  
29 fore trial, unless the court finds good cause to allow the filing at a later date.

30 “(4) When the state files the notice described in subsection (3) of this section, the court shall  
31 conduct a hearing prior to trial. After the hearing, the court shall enter an order that indicates  
32 whether the confession alone is sufficient to warrant the conviction of the defendant without some  
33 other proof that the crime has been committed.”.

34 On page 2, delete lines 1 and 2.

35 In line 3, delete “(4)” and insert “(5)”.

1 In line 11, delete “(18)(d)” and insert “(18a)(d)”.

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