

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Garrett, Hicks, Nolan, Olson, Schaufler, Tomei, Wand, Whisnant, Barker, Krieger
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Aaron Knott, Counsel
<b>Meeting Dates:</b>	2/14, 3/3

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**WHAT THE MEASURE DOES:** Prohibits the court from denying the petition of a defendant who would otherwise be eligible for participation in a driving under the influence of intoxicants (DUII) diversion program except for the fact that the defendant is a person who is engaged in active military service. Extends the period of time for diversion completion for those persons engaged in active military service. Permits persons serving in active military service to appear at a show cause hearing telephonically and for that hearing to be stayed. Allows persons serving in active military service to satisfy the terms of their diversion obligation by completing a comparable treatment program conducted by or authorized by a government entity in another jurisdiction.

**ISSUES DISCUSSED:**

- Simultaneous applicability of military and civil law
- Availability of comparable treatment options to military personnel
- Appropriate length of an extension for those engaged in military service

**EFFECT OF COMMITTEE AMENDMENT:** Clarifies that an extension granted under this section may be for no more than 180 days from the ending date of the original diversion period. Requires a defendant to demonstrate that no comparable treatment program is available.

**BACKGROUND:** The DUII diversion program created by ORS 813.200 allows first-time DUII offenders an opportunity to see their DUII dismissed upon successful completion of a course of treatment determined by a mandatory alcohol assessment. Diversion participants are given one year to complete the program and may petition for an extension once within the last 30 days of that period. There are no special privileges given to those participating in active military service. This bill will create a broad exemption to these rules for those engaged in military service, allowing multiple extensions to be granted at any time within the diversion period for any duration to accommodate the completion of a tour of duty.

This bill defines the terms of military service at proposed ORS 813.200(2)(7) to include members of the Armed Forces of the United States, the reserve components of the Armed Forces or the National Guard. The defendant must be on active duty or have received orders that the defendant will be called to active duty and must demonstrate that the military service will impair the defendant's ability to complete the conditions of the diversion agreement.

3/8/2011 10:42:00 AM

*This summary has not been adopted or officially endorsed by action of the committee.*