

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

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**Action:** Do Pass as Amended and Be Printed Engrossed  
**Vote:** 9 - 0 - 0  
**Yeas:** Barton, Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker  
**Nays:** 0  
**Exc.:** 0  
**Prepared By:** Michael Schmidt, Counsel  
**Meeting Dates:** 5/16, 5/20, 5/30

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**WHAT THE MEASURE DOES:** Requires disclosure to defendant of material information in possession or control of the district attorney that tends to exculpate the defendant, negate or mitigate defendant's guilt or punishment or impeach a witness. Prohibits conditioning a plea bargain on waiver of right. Codifies the current constitutional *Brady* standard from case law.

**ISSUES DISCUSSED:**

- This codifies the constitutional standard.

**EFFECT OF COMMITTEE AMENDMENT:** Consensus amendment between Oregon District Attorneys Association and Oregon Criminal Defense Lawyers Association which would clearly state that the codification of *Brady* goes no further than the constitutional standards set forth in the existing case law.

**BACKGROUND:** In *Brady v. Maryland*, the U.S. Supreme Court recognized that prosecutors must disclose material exculpatory evidence to defendants. That requirement extends to state prosecutors through the Due Process Clause of the 14th Amendment. Though mainly defined by court cases, certain disclosures are required by the Oregon Revised Statutes. In 2005, the disclosure of a witness' personal information was required by statute. In 2007, the legislature specified disclosure requirements for information pertaining to a test for blood alcohol content. Senate Bill 492 A seeks to codify the *Brady* rule into Oregon statute.