

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 04/30/15

Action: Do Pass.

Meeting Dates: 04/30

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Amends “conditional discharge” statute to authorize continued jurisdiction over defendant until final disposition. Prohibits dismissal until probation terms have been satisfied. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Ways in which a typical “conditional discharge” agreement works
- Evolution and growth of conditional discharge statute
- Benefits of offering defendants possible dismissal of criminal charges by engaging in drug treatment

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

ORS 475.245 authorizes a “conditional discharge.” This process permits criminal defendants facing certain drug charges to have their case dismissed by complying with court orders. Defendants must enter a plea and give up their right to trial. Instead of making a finding of guilt, the court places the defendant on probation. If the defendant successfully completes the conditions of probation, the court will dismiss the offense.

In *State v. Granberry*, 260 Or App 15 (2013), the Oregon Court of Appeals addressed a situation in which a defendant entered a conditional discharge agreement. Although the defendant did not satisfy the terms of the agreement, the court did not discover this until after the period of probation had lapsed. The Oregon Court of Appeals ruled dismissal was the only remedy as the court had no jurisdiction over the defendant once the period of probation had lapsed.

House Bill 2326 fixes this problem and grants the court continued jurisdiction until final disposition occurs.