

# House Bill 2326

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that when conditional discharge probation has expired but defendant has not fulfilled terms and conditions, case shall not be dismissed. Authorizes court to issue order to show cause and either order new period of probation or enter adjudication of guilt.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to conditional discharge; creating new provisions; amending ORS 475.245; and declaring an  
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 475.245 is amended to read:

6 475.245. (1) Whenever any person pleads guilty to or is found guilty of [*possession of a controlled*  
7 *substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854, 475.864, 475.874, 475.884 or*  
8 *475.894, of unlawfully possessing a prescription drug under ORS 689.527 (6), of endangering the wel-*  
9 *fare of a minor under ORS 163.575 (1)(b), of frequenting a place where controlled substances are used*  
10 *under ORS 167.222 or of a property offense that is motivated by a dependence on a controlled*  
11 *substance*] **an offense listed in subsection (5) of this section**, the court, without entering a judg-  
12 ment of guilt and with the consent of the district attorney and the [*accused*] **person**, may defer  
13 further proceedings and place the person on probation.

14 (2) Upon violation of a term or condition of probation, the court may enter an adjudication of  
15 guilt and proceed as otherwise provided.

16 (3) Upon fulfillment of the terms and conditions **of probation**, the court shall discharge the  
17 person and dismiss the proceedings against the person. Discharge and dismissal under this section  
18 shall be without adjudication of guilt and is not a conviction for purposes of this section or for  
19 purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may  
20 be only one discharge and dismissal under this section with respect to any person.

21 (4) **In the event that the period of probation under this section expires, but the terms**  
22 **and conditions of probation have not been fulfilled and no probation violation proceeding was**  
23 **initiated prior to the expiration of the period of probation, the court may not discharge the**  
24 **person and dismiss the proceedings against the person. The court shall instead issue an order**  
25 **requiring the person to appear and to show cause why the court should not enter an adju-**  
26 **dications of guilt as described in subsection (2) of this section due to the failure of the person**  
27 **to fulfill the terms and conditions of probation prior to expiration of the period of probation.**  
28 **At the hearing on the order to show cause, after considering any evidence or argument from**  
29 **the district attorney and the person, the court may:**

30 (a) **Order a new period of probation to allow the person to fulfill the terms and conditions**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of the previous period of probation; or

2 (b) Enter an adjudication of guilt as described in subsection (2) of this section.

3 (5) This section applies to the following offenses:

4 (a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834,  
5 475.854, 475.864, 475.874, 475.884 or 475.894;

6 (b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

7 (c) Endangering the welfare of a minor under ORS 163.575 (1)(b);

8 (d) Frequenting a place where controlled substances are used under ORS 167.222; and

9 (e) A property offense that is motivated by a dependence on a controlled substance.

10 SECTION 2. The amendments to ORS 475.245 by section 1 of this 2015 Act apply to per-  
11 sons who have plead guilty or who have been found guilty of an eligible offense in a pro-  
12 ceeding occurring on or after the effective date of this 2015 Act.

13 SECTION 3. This 2015 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
15 on its passage.  
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