

HOUSE AMENDMENTS TO HOUSE BILL 2980

By COMMITTEE ON JUDICIARY

April 23

1 In line 2 of the printed bill, after “135.896” insert “and 135.919”.

2 In line 12, delete “Within 30 days”.

3 Delete lines 19 and 20 and insert:

4 “**SECTION 2.** ORS 135.919 is amended to read:

5 “135.919. (1) At any time before the court dismisses with prejudice the charge of possession of
6 less than one ounce of marijuana, the court on its own motion or on the motion of the district at-
7 torney may issue an order requiring the defendant to appear and show cause why the court should
8 not terminate the diversion agreement. The order to show cause shall state the reasons for the
9 proposed termination and shall set an appearance date.

10 “(2) The order to show cause shall be served on the defendant and on the defendant’s attorney,
11 if any. Service may be made by first class mail, postage paid, addressed to the defendant at the
12 mailing address shown on the diversion petition and agreement or at any other address that the
13 defendant provides in writing to the court.

14 “(3) **At any time after the district attorney makes a motion for an order to show cause,**
15 **and before the hearing on the order, the defendant may request that the district attorney**
16 **approve an extension of the diversion period of up to 180 days. If the district attorney ap-**
17 **proves the extension, the district attorney shall notify the court and the court shall order**
18 **an extension of the diversion period for the approved period of time.**

19 “[3] (4) The court shall terminate the diversion agreement and continue the offense proceeding
20 if:

21 “(a) At the hearing on the order to show cause, the court finds by a preponderance of the evi-
22 dence that any of the reasons for termination described in this section exist; or

23 “(b) The defendant fails to appear at the hearing on the order to show cause.

24 “[4] (5) If the court terminates the diversion agreement and continues the offense proceeding,
25 the court:

26 “(a) On the defendant’s motion and for good cause shown, may reinstate the diversion agreement
27 at any time before conviction, acquittal or dismissal with prejudice.

28 “(b) If the defendant is convicted, may take into account at time of sentencing any partial ful-
29 fillment by the defendant of the terms of the diversion agreement.

30 “[5] (6) The court shall terminate a diversion agreement under this subsection for any of the
31 following reasons:

32 “(a) If the defendant has failed to fulfill the terms of the diversion agreement.

33 “(b) If the defendant did not qualify for the diversion agreement.

34 “**SECTION 3. The amendments to ORS 135.896 and 135.919 by sections 1 and 2 of this 2015**
35 **Act apply to diversion agreements entered into on or after the effective date of this 2015**

1 **Act.”.**

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