

**PROPOSED AMENDMENTS TO
HOUSE BILL 2980**

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
6 charge of possession of less than one ounce of marijuana, the court on its
7 own motion or on the motion of the district attorney may issue an order
8 requiring the defendant to appear and show cause why the court should not
9 terminate the diversion agreement. The order to show cause shall state the
10 reasons for the proposed termination and shall set an appearance date.

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

16 **“(3) At any time after the district attorney makes a motion for an**
17 **order to show cause, and before the hearing on the order, the defend-**
18 **ant may request that the district attorney approve an extension of the**
19 **diversion period of up to 180 days. If the district attorney approves the**
20 **extension, the district attorney shall notify the court and the court**
21 **shall order an extension of the diversion period for the approved period**
22 **of time.**

1 “[3] (4) The court shall terminate the diversion agreement and continue
2 the offense proceeding if:

3 “(a) At the hearing on the order to show cause, the court finds by a pre-
4 ponderance of the evidence that any of the reasons for termination described
5 in this section exist; or

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

8 “[4] (5) If the court terminates the diversion agreement and continues
9 the offense proceeding, the court:

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

13 “(b) If the defendant is convicted, may take into account at time of sen-
14 tencing any partial fulfillment by the defendant of the terms of the diversion
15 agreement.

16 “[5] (6) The court shall terminate a diversion agreement under this
17 subsection for any of the following reasons:

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

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

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

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