



Oregon

Kate Brown, Governor

Governor's Advisory Committee on DUII

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DATE: May 6, 2019

TO: Senate Committee on Judiciary

FROM: Governor's Advisory Committee on DUII

SUBJECT: Concerns regarding HB3201-A

Dear Chair Prozanski and Members of the Committee:

The GAC-DUII has some concerns and reservations about the unintended consequences regarding HB3201-A, and specifically the elimination for the need to submit a guilty or no contest plea for entry into a DUII diversion agreement.

It is the opinion of the GAC-DUII that without a guilty or no contest plea – and regardless of whatever rights are waived prior to entry into diversion – a defendant will still be able to demand a trial if their diversion agreement is terminated for non-compliance.

Oregon's diversion program was created specifically to greatly reduce the massive caseload caused by first time DUII offenders, while still holding them accountable and making sure they have access to substance abuse treatment to address risky behaviors on the roadways. A diversion participant, upon successful completion, will have no conviction entered on his or her record. The success of diversion is predicated on a defendant entering a plea of guilty or no contest, to ensure that a conviction can happen immediately and without the time and expense of a trial if they violate the conditions of diversion and a judge terminates their agreement. Legal experts have informed us that without a plea from the defendants, a conviction simply cannot be entered without a trial, regardless of any right or process that is waived by the defendant, as proposed by HB3201-A.

HB3201-A intends to address a very specific federal issue that may unfairly or unintentionally trap people who are trying to participate in a diversion program for the betterment of themselves and the overall safety of their community. However, Oregon deals with over 10,000 diversion agreements every year across the state. Implementing HB3201-A could add thousands more trials to our court dockets in a system that is already stretched to capacity. We believe HB3201-A as written would undermine DUII diversion and compromise a critical resource for those defendants struggling with addiction and substance abuse. With more trials on the court dockets, the justice system would also experience slowdowns that would significantly delay justice in both civil and criminal matters.

If there was a way to separate the DUII issues from the intent of the original bill, it may well benefit the Committee to explore this further. If the GAC-DUII can be of any assistance in this matter, we hope the Committee will think of us as a partner and resource to help find a solution that can work for all participants of our justice system, and to minimize unintended consequences.

Sincerely,

Chuck Hayes
Chairman, Governor's Advisory Committee on DUII

