

May 21, 2019

The Honorable Senator Prozanski, Chair  
The Honorable Senator Thatcher, Vice-Chair  
Senate Judiciary Committee Members

Re: Testimony in Support of House Bill 3201

Dear Chair Prozanski and Members of the Committee,

I respectfully request your support for HB 3201.

I am a criminal defense attorney, practicing in Lake County. The bulk of my practice is court-appointed criminal defense work, although I do perform private criminal defense work as well.

I am currently licensed in both Washington and Oregon. Prior to coming to Oregon, I practiced for three years as a member of the Pierce County Department of Assigned Counsel Conflict Panel.

Stipulated Orders of Continuance (SOCs) similar to the example that has been provided to your committee have been used in Washington State for quite some time. Although I do not have any specific experience using them in drug cases as is being proposed in Oregon, I can tell you that these agreements are used very successfully in Washington for first-time non-violent offenses.

I personally have seen them used for cases involving shoplifting, 3<sup>rd</sup> degree theft, physical control of a motor vehicle (a lesser-included offense of DUI in Washington) and trespassing (in a civil disobedience context). When a defendant enters into one of these agreements, it is made very clear on the record the rights that the defendant is waiving as part of the agreement. The defendant is not required to enter a plea of guilty, but the defendant is required to agree that if he or she does not complete the requirements of the agreement, the police reports and other documents that gets admitted into evidence will be sufficient to find that defendant guilty. This agreement is entered on the record. In my three years of practice, I was involved in perhaps a dozen of these agreements and never had a defendant fail to complete the requirements.

I think it is important to note that out of an abundance of caution, I made it part of my standard practice when counseling defendants on these agreements to advise them that if they committed another offense or engaged in any other behavior that would be in violation of the agreement, that the judge would simply read the police reports into the record and find them guilty. As I reflect on this process and have more experience with the criminal justice system, I realize that no matter what the agreement is titled, it amounts to an agreement to have a stipulated facts bench trial in the event of a violation.

I have now been practicing in Oregon for over three years and I find that the Stipulated Order of Continuance is probably the one tool that I miss the most in transitioning from practice in Washington to practice in Oregon.

I urge you to support HB 3201. Thank you for your consideration.

Sincerely,

s/James R. Arsenault  
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