

**HB 3201 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Hernandez

**House Committee On Judiciary**

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**Action Date:** 04/09/19

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 7-4-0-0

**Yeas:** 7 - Barker, Bynum, Gorsek, Greenlick, Piluso, Power, Williamson

**Nays:** 4 - Lewis, McLane, Sprenger, Stark

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Gillian Fischer, Counsel

**Meeting Dates:** 3/18, 4/9

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**WHAT THE MEASURE DOES:**

Prohibits agreements for deferred resolution of criminal cases from requiring the defendant enter a plea of guilty or no contest on any charge in the accusatory instrument. Requires the agreement to contain a waiver of certain constitutional rights relating to trial if a defendant fails to fulfill the obligations of the agreement. Prohibits police reports or other documents associated with the criminal charges to be admitted into evidence and used to establish a factual basis for finding the defendant guilty unless the court resumes proceedings after diversion is terminated under ORS 135.901.

**ISSUES DISCUSSED:**

- Federal law has broad definition of what constitutes admission of guilt
- Admission of guilt triggers immigration consequences
- Provides undocumented individuals with same benefits in criminal justice system as citizens
- Restricts the rights individual has if fails to complete diversion

**EFFECT OF AMENDMENT:**

Prohibits police reports or other documents associated with the criminal charges to be admitted into evidence and used to establish a factual basis for finding the defendant guilty unless the court resumes proceedings after diversion is terminated under ORS 135.901.

**BACKGROUND:**

Oregon law currently requires a defendant, prior to entering a diversion agreement, to plead guilty to or stipulate to certain facts establishing guilt to a criminal charge. ORS 135.891. A diversion agreement carries the understanding that if the defendant fulfills the obligations of the program described therein, the criminal charges will be dismissed with prejudice. Upon violation of a term or condition of the agreement, the court may enter an adjudication of guilt and a conviction may be entered.

House Bill 3201 A prohibits agreements for diversion from containing requirements that the defendant admit guilt or facts that establish the defendant's guilt. The measure instead provides that a defendant will agree to waive certain trial rights that would otherwise be available upon termination from a diversion agreement.