

HB 3249 A STAFF MEASURE SUMMARY

Carrier: Rep. McLane

House Committee On Judiciary

Action Date: 04/09/19

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

Vote: 11-0-0-0

Yeas: 11 - Barker, Bynum, Gorsek, Greenlick, Lewis, McLane, Piluso, Power, Sprenger, Stark, Williamson

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 3/27, 4/9

WHAT THE MEASURE DOES:

States that a client has a right to privately communicate with the client's lawyer and representatives of the lawyer. Defines representative of the lawyer. States that any evidence obtained in violation of measure shall be inadmissible in subsequent criminal or civil proceeding.

ISSUES DISCUSSED:

- Need to protect confidentiality of entire legal team
- Material disadvantage to out of custody defendants
- Existing confidentiality not applied to jail logs
- Visible jail logs provide insight into a defendant's defense strategy

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

All visitor logs of corrections facilities are currently subject to inspection under public records law. A representative of an inmate's lawyer, under ORS 40.225, means one employed to assist the lawyer in the rendition of professional legal services. The statute protects a client's privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client between the client's lawyer or a representative of the lawyer.

House Bill 3249 A extends this privilege to specifically include visitations between an inmate and their lawyer or a lawyer's representative while in custody at a correctional facility.