

HB 3201 B STAFF MEASURE SUMMARY**Carrier:** Sen. Manning Jr**Senate Committee On Judiciary****Action Date:** 05/23/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 6-1-0-0**Yeas:** 6 - Bentz, Fagan, Gelser, Manning Jr, Prozanski, Thatcher**Nays:** 1 - Linthicum**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Gillian Fischer, Counsel**Meeting Dates:** 5/22, 5/23**WHAT THE MEASURE DOES:**

Prohibits agreements for deferred resolution of criminal cases under ORS 475.245 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. States that if a court finds a defendant in violation of a term or condition of the probation and resumes criminal proceedings, the defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Federal law broadly defines 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:

Replaces the measure.

BACKGROUND:

Oregon law currently requires or allows for the requirement that a defendant, prior to entering a diversion agreement, to plead guilty to or stipulate to certain facts establishing guilt to a criminal charge. 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 B 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.