

SB 651

Senator Chris Gorsek

Creates equity and due process by revising ORS 137.540 to allow probationers opportunity to request hearing when new conditions of probation imposed

Problem:

- When a person is convicted of a crime and placed on probation, the Court can impose general conditions of probation by statute and can add special conditions if certain circumstances are met. Thereafter, during the term of the probation, the probation officer can add special conditions of probation by giving notice of the proposed modification to the prosecutor and the probationer. If no objection is filed by the prosecutor, the special condition becomes effective without judicial oversight and regardless of the legality of the condition.

Solution:

- **This bill proposes a minor revision to the law by:**
 - ✓ Requiring notice be given to the probationer and her defense attorney too;
 - ✓ Permitting either the probationer or her attorney to object to the proposed special condition of probation too; and
 - ✓ Allowing probationer and/or her attorney to also request a hearing before the Judge agrees to impose the new condition.
- **This bill:**
 - ✓ *Will Not* change the Judge's or Probation Officer's authority to impose new probation conditions;
 - ✓ *Will Not* remove the prosecutor's right to request a hearing;
 - ✓ *Will* Provide probationers with due process and the opportunity to be heard;
 - ✓ *Will* Avoid the imposition of unlawful or unconstitutional probation conditions that result in unnecessary litigation and appeals down the road; and
 - ✓ *Will* Ensure better compliance with new conditions of probation imposed during probation.

2.17.21

Please do not hesitate to reach out to:

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