

HOUSE AMENDMENTS TO HOUSE BILL 3336

By COMMITTEE ON JUDICIARY

May 11

1 On page 1 of the printed bill, line 2, after “penalty” delete the rest of the line and insert “; and
2 declaring an emergency.”.

3 Delete lines 4 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1. The Legislative Assembly finds that:**

5 **“(1) The United States Supreme Court has clarified that states may not impose or carry
6 out a death penalty on certain defendants who are mentally retarded.**

7 **“(2) The United States Supreme Court has provided little guidance for states on the de-
8 finition of mental retardation or the procedures to be followed in determining whether a
9 particular defendant is mentally retarded so as to preclude imposition of or carrying out the
10 death penalty.**

11 **“SECTION 2. (1) There is created the Task Force on Mental Retardation in Capital Cases
12 consisting of four members appointed by the Governor as follows:**

13 **“(a) One member from the Oregon District Attorneys Association;**

14 **“(b) One member from the Oregon Criminal Defense Lawyers Association;**

15 **“(c) One member from the Oregon Advocacy Center; and**

16 **“(d) One member, who shall serve as the chairperson, from the Department of Justice.**

17 **“(2) The task force shall study issues surrounding the determination of whether a crim-
18 inal defendant in a capital case is a person with mental retardation. The study shall include,
19 but is not limited to, the following issues:**

20 **“(a) An applicable definition of mental retardation;**

21 **“(b) Whether the determination of mental retardation should be made by a judge or a
22 jury and at what stage of the proceeding this determination should be made;**

23 **“(c) The standard of proof and which party should bear the burden of persuading the
24 decision maker;**

25 **“(d) The number and type of expert evaluations of the defendant that may assist the
26 decision maker in making the determination of whether the defendant is a person with
27 mental retardation, and who may choose those experts;**

28 **“(e) The role of privacy laws and evidentiary privileges in the determination of mental
29 retardation; and**

30 **“(f) Who may raise the issue of mental retardation, when the issue may be raised and
31 procedures to address the issue when it is raised after the defendant has been sentenced.**

32 **“(3) A majority of the members of the task force constitutes a quorum for the trans-
33 action of business.**

34 **“(4) Official action by the task force requires the approval of a majority of members of
35 the task force.**

1 “(5) If there is a vacancy for any cause, the Governor shall make an appointment to be-
2 come effective immediately.

3 “(6) The task force shall meet at times and places specified by the call of the chairperson
4 or of a majority of the members of the task force.

5 “(7) The task force may adopt rules necessary for the operation of the task force.

6 “(8) No later than October 1, 2008, the task force shall prepare a report that includes
7 recommendations for legislation and provide the report to:

8 “(a) The interim committee related to the judiciary; and

9 “(b) The Legislative Assembly in accordance with ORS 192.245.

10 “(9) The Department of Justice shall provide staff support to the task force.

11 “(10) Members of the task force are not entitled to compensation, but may be reimbursed
12 for actual and necessary travel and other expense incurred by them in the performance of
13 their official duties in the manner and amounts provided for in ORS 292.495. Claims for ex-
14 penses shall be paid out of funds appropriated to the Department of Justice for that purpose.

15 “(11) All agencies of state government, as that term is defined in ORS 174.111, are di-
16 rected to assist the task force in the performance of its duties and, to the extent permitted
17 by laws relating to confidentiality, to furnish such information and advice as the members
18 of the task force consider necessary to perform their duties.

19 “SECTION 3. Section 2 of this 2007 Act is repealed on January 2, 2009.

20 “SECTION 4. This 2007 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
22 on its passage.”.

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