

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Rules
<b>Vote:</b>	8 - 2 - 0
<b>Yeas:</b>	Garrett, Nolan, Olson, Tomei, Wand, Whisnant, Barker, Krieger
<b>Nays:</b>	Hicks, Schaufler
<b>Exc.:</b>	0
<b>Prepared By:</b>	Bill Taylor, Counsel
<b>Meeting Dates:</b>	4/21

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**WHAT THE MEASURE DOES:** Requires the Oregon State Hospital (OSH) to conduct an initial assessment of and develop a treatment plan for a person sent to OSH after a court found the person guilty except for insanity. Requires OSH to notify the Psychiatric Security Review Board (PSRB) and the Oregon Health Authority (OHA) that a person committed to OSH and under the jurisdiction of the PSRB no longer needs hospital care. Requires the PSRB to conditionally release a person no later than 60 days after receiving this notice. Allows a person on conditional release to be taken into custody if the person presents a danger to self or others. Allows the PSRB to require the released person to live in a restrictive living environment. Requires OHA to adopt rules to ensure treatment practitioners follow evidence based practices. Clarifies that the maximum time, three years, a person may be committed to OSH in an aid and assist proceeding starts from when the defendant is first committed to OSH. Applies to persons found guilty except for insanity before or after the effective date of this measure and to persons found unable to aid and assist. Effective upon passage.

**ISSUES DISCUSSED:**

- Public safety
- Wellness of the patient

**EFFECT OF COMMITTEE AMENDMENT:** Replaces the measure.

**BACKGROUND:** A person is guilty except for insanity, if, as a result of mental disease or defect at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law, ORS 161.295. A court can place a person determined to be guilty except for insanity under the supervision of the PSRB or discharge the person if the court finds that the person is no longer affected by mental disease or defect or no longer presents a substantial danger to others, ORS 161.327 and 161.329. The court may also conditionally release the person if it finds that the person can be adequately supervised in the community, ORS 161.327(2)(b).

The length of time an individual spends under the jurisdiction of the PSRB is based on the category of the crime that the person would have been guilty of if the person were found to be sane. If the crime were an A felony, the person is under the jurisdiction of the PSRB for twenty years; a B felony, ten years; and a C felony, five years. If the crime were an A misdemeanor, the person is under the jurisdiction of the PSRB for one year; a B misdemeanor, six months; and a C misdemeanor 30 days. An adult found guilty but for insanity is initially sent to OSH or a secure intensive community inpatient facility, ORS 161.327(1). The board may conditionally release someone if it finds that the person can be adequately controlled with supervision in the community, ORS 161.336. If a person asserts the not

guilty but for insanity defense, the state has the right to have the person examined by at least one psychiatrist or licensed psychologist, ORS 161.315. If a defendant is unable to aid in his or her own defense, the proceeding against the defendant is suspended until such time as the defendant is able to do so, ORS 161.370. If the defendant is not likely to get well, then he or she may be civilly committed.

4/29/2011 9:52:00 AM

***This summary has not been adopted or officially endorsed by action of the committee.***