

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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**Action:** Do Pass and Be Referred to the Committee on Ways and Means

**Vote:** 7 - 1 - 2

**Yeas:** Nolan, Olson, Schaufler, Tomei, Whisnant, Barker, Krieger

**Nays:** Wand

**Exc.:** Garrett, Hicks

**Prepared By:** Bill Taylor, Counsel

**Meeting Dates:** 2/18, 2/25, 3/18

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**WHAT THE MEASURE DOES:** Requires a person pleading not guilty except for insanity file with the court a report from a psychiatrist or psychologist who has been certified by the Oregon Health Authority (OHA). Requires the Authority to adopt rules to certify psychiatrists and psychologists. Requires the defendant to file the report with the court prior to trial. Allows the court to accept a report after commencement of trial only if there is just cause for not filing the report in time. Allows a court to only accept a plea agreement of not guilty except for insanity if the court has before it a psychiatric or psychological evaluation. Requires a court to commit to the State Hospital a person convicted of a misdemeanor if the court finds that the person not only is affected by mental disease or defect, but also presents a substantial danger to others. Requires a person convicted of a Class C felony be evaluated by a local mental health program designated by the Psychiatric Security Review Board (PSRB). Allows the OHA and PSRB to adopt rules upon passage of the bill. Makes all other provisions applicable January 1, 2012.

**ISSUES DISCUSSED:**

- Treatment in the community

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**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 was found to be sane. If the crime was a Class A felony, the person is under the jurisdiction of the PSRB for 20 years; a Class B felony, 10 years; and a Class C felony, five years. If the crime was a Class A misdemeanor, the person is under the jurisdiction of the PSRB for one year; a Class B misdemeanor, six months; and a Class C misdemeanor, 30 days. An adult found guilty, but for insanity is initially sent to the State Hospital 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.

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