

PRELIMINARY STAFF MEASURE SUMMARY

CARRIER:

Senate Committee on Judiciary

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

SUBSEQUENT REFERRAL TO:

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Eric Deitrick, Counsel

Meeting Dates: 5/20

WHAT THE MEASURE DOES: Amends definition of “person with mental illness” for purposes of civil commitment statute.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT:

BACKGROUND: ORS 426.130 authorizes a court to civilly commit a person with mental illness under certain circumstances. ORS 426.005 defines a person with mental illness. A civil commitment may include mandatory inpatient or outpatient mental health treatment. The statutes authorize commitment of individuals in two circumstances: (1) the person is a danger to themselves or others, or (2) the person is unable to provide for their basic needs.

There are constitutional limitations on when a person can be civilly committed. Under the “basic needs” prong, there must be clear and convincing evidence the person will not survive safely in the near future. O’Connor v. Donaldson, 422 US 563, 575 (1975).

Under current Oregon law, “the state must establish by clear and convincing evidence that the individual, due to a mental disorder, is unable to obtain some commodity (e.g., food and water) or service (e.g., life-saving medical care) without which he cannot sustain life.” State v. Jayne, 174 Or App 74 (2001). “The state need not postpone action until the individual is on the brink of death. The goal of the commitment statute is safe survival, not merely the avoidance of immediate death.” State v. D.P., 208 Or App 453, 461 (2006).

House Bill 3347-A expands the statutory definition of “person with mental illness” to include individuals who, because of a mental illness, are unable to meet basic needs that are necessary to avoid serious physical injury in the near future.