

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 05/20/15

Action: Do Pass With Amendments To The A-Eng Bill. (Printed B-Eng.)

Meeting Dates: 05/11, 05/20

Vote:

Yeas: 4 - Gelser, Kruse, Prozanski, Thatcher

Exc: 1 - Burdick

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Authorizes court to set aside findings of guilty and responsible except for insanity. Establishes criteria and process. Adds Psychiatric Security Review Board, Department of Human Services, and Oregon Health Authority to certain definitions that apply to expunction of juvenile case records. Clarifies that medical records in the possession of the Psychiatric Security Review Board or the Oregon Health Authority are not to be sealed following a successful motion to set aside. Clarifies language to establish consistency with ORS 137.225.

ISSUES DISCUSSED:

- Eligibility for expungement
- Stigma of mental health adjudication
- Need for (-A3) amendment

EFFECT OF COMMITTEE AMENDMENT:

Clarifies that medical records in the possession of the Psychiatric Security Review Board or the Oregon Health Authority are not to be sealed following a successful motion to set aside. Re-arranges the language in section 4(c) of the bill to make it consistent with ORS 137.225.

BACKGROUND:

ORS 137.225 authorizes the court to set aside, or “expunge,” certain criminal convictions. The statute establishes rules for which offenses may be expunged, as well as the process one follows in seeking an expungement. In *State v. Saunders*, 195 Or. App. 357 (2004), the Oregon Court of Appeals issued an opinion stating that a finding of guilty except for insanity (GEI) is not a conviction. It is therefore ineligible for expungement.

Section 1 of House Bill 2557-B authorizes the court to expunge adult GEI adjudications. The bill adopts criteria and procedures from ORS 137.225. Offenses eligible under ORS 137.225 are eligible under this bill. When an order setting aside a GEI adjudication is granted, the person is no longer legally deemed to have been found GEI and the court records are sealed. The bill requires the court to inform people that their right to possess, purchase, or acquire a firearm is still prohibited under federal law. The court retains jurisdiction to unseal and disclose records relating to GEI adjudication in civil actions in which truth is a defense or criminal cases when the moving party shows good cause.

In addition, Section 2 of House Bill 2557-B adds language to ORS 419A.260 and authorizes the expunction of records associated with juvenile adjudications of responsible except for insanity.