Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session **MEASURE: HB 3347 A**

STAFF MEASURE SUMMARY **CARRIER: Sen. Prozanski**

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact
Revenue: No Revenue Impact

Action Date: 05/28/15
Action: Do Pass The A-Eng Bill.
Meeting Dates: 05/20, 05/28
Vote:
Yeas: 4 - Burdick, Gelser, Kruse, Prozanski
Nays: 1 - Thatcher
Prepared By: Eric Deitrick, Counsel

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

ISSUES DISCUSSED:

- Specific instance where court did not commit person in Lane County
- Progression of bill from original measure to A-engrossed version
- Constitutional standards for civil commitment
- Different commitment practices from county to county
- Intent is to clarify current statute by codifying appellate case law

EFFECT OF COMMITTEE AMENDMENT:
No 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 in unable to provide for their basic needs.

There are constitutional limitations on when a person can be civilly committed. 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 statute does not express a standard by which the imminence of the threat to life is to be measured. A speculative threat . . . is not itself sufficient." Id. However, "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). There must be a "likelihood that the person probably would not survive in the near future because the person is unable to provide for basic personal needs." State v. Cori Aron, 176 Or App 342 (2001).

House Bill 3347-A clarifies the statutory definition of "person with mental illness" by incorporating concepts from Oregon's appellate courts and codifying those concepts.