

House Bill 2556

Sponsored by Representative GREENLICK; Representatives BUCKLEY, WILLIAMSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that maximum period of commitment or conditional release of person found guilty except for insanity of felony is equal to presumptive sentence person would have received under sentencing guidelines of Oregon Criminal Justice Commission.

A BILL FOR AN ACT

1
2 Relating to persons found guilty except for insanity; amending ORS 161.327.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 161.327 is amended to read:

5 161.327. (1) Following the entry of a judgment pursuant to ORS 161.319, if the court finds by a
6 preponderance of the evidence that a person found guilty except for insanity of a felony is affected
7 by mental disease or defect and presents a substantial danger to others, the court shall enter an
8 order as follows:

9 (a) If the court finds that the person is not a proper subject for conditional release, the court
10 shall order the person committed to a state hospital or, if the person is under 18 years of age, to a
11 secure intensive community inpatient facility for custody, care and treatment. When the court orders
12 a person committed under this paragraph, the court shall place the person under the jurisdiction
13 of:

14 (A) The Psychiatric Security Review Board, if the person is a tier one offender.

15 (B) The Oregon Health Authority, if the person is a tier two offender.

16 (b) If the court finds that the person can be adequately controlled with supervision and treat-
17 ment if conditionally released and that necessary supervision and treatment are available, the court
18 shall order the person conditionally released.

19 (2) When a person is conditionally released under this section, the person is subject to those
20 supervisory orders of the court as are in the best interests of justice, the protection of society and
21 the welfare of the person. The court shall designate a person or state, county or local agency to
22 supervise the person upon release, subject to those conditions as the court directs in the order for
23 conditional release. Prior to the designation, the court shall notify the person or agency to whom
24 conditional release is contemplated and provide the person or agency an opportunity to be heard
25 before the court. After receiving an order entered under subsection (1)(b) of this section, the person
26 or agency designated shall assume supervision of the person pursuant to the direction of the Psy-
27 chiatric Security Review Board. The person or agency designated as supervisor shall be required to
28 report in writing no less than once per month to the board concerning the supervised person's
29 compliance with the conditions of release.

30 (3) In determining whether a person should be conditionally released, the court:

31 (a) May order evaluations, examinations and compliance as provided in ORS 161.336 (3) and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 161.346 (3);

2 (b) Shall order that the person be examined by a local mental health program designated by the
 3 board and a report of the examination be provided to the court if each felony for which the de-
 4 fendant was found guilty except for insanity is a Class C felony; and

5 (c) Shall have as its primary concern the protection of society.

6 (4) Upon placing a person on conditional release, the court shall notify the board in writing of
 7 the court's conditional release order, the supervisor appointed and all other conditions of release,
 8 and the person shall be on conditional release pending hearing before the board. Upon compliance
 9 with this section, the court's jurisdiction over the person is terminated.

10 (5) The total period of commitment or conditional release under ORS 161.315 to 161.351 may not
 11 exceed the [*maximum*] **presumptive** sentence [*provided by statute*] **or sentence range the person**
 12 **would have received under the sentencing guidelines of the Oregon Criminal Justice Com-**
 13 **mission** for the crime for which the person was found guilty except for insanity.

14 (6) An order of the court under this section is a final order appealable by the person found
 15 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
 16 of an appeal under this section shall be served and filed within 90 days after the order appealed from
 17 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
 18 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
 19 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
 20 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
 21 determined and paid as provided in ORS 138.500.

22 (7) Following the entry of an order described in subsection (1) of this section, the court shall
 23 notify the person of the right to appeal and the right to a hearing before the agency exercising ju-
 24 risdiction over the person in accordance with ORS 161.336 (5) and 161.341 (3).

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