HB 2307   STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates:	4/24

WHAT THE MEASURE DOES:

Provides that insanity evaluations conducted in criminal case need not address defendant's ability to aid and assist in his or her defense, unless ability to do so is drawn into question during evaluation.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

House Bill 2307 addresses the intersection of two mental health-related issues in the criminal law. On the one hand, the due process clause of the United States Constitution prohibits the criminal prosecution of an incompetent defendant. See, e.g. *Cooper v. Oklahoma*, 517 U.S. 348 (1996). The competency test under Oregon law looks to whether the defendant, as the result of a mental illness, is unable to 'aid and assist' in his or her defense. ORS 161.360. On the other hand, a defendant who is able to assist in his or her defense may choose to assert a guilty except for insanity defense. This affirmative defense looks to whether, as the result of a mental illness, the defendant was legally insane at the time the crime was committed. ORS 161.295.

These two legal issues are related in that they both address the mental health of the defendant, but they involve distinct inquiries. The ability to aid and assist is a precondition to the assertion of the insanity defense and focuses on the defendant's mental health at the time of the trial. Conversely, a guilty except for insanity plea requires a competent defendant and focuses on the defendant's mental health at the time the crime is committed. As a result, there may be criminal trials involving a mentally ill defendant where both of these issues are raised and there may be trials where only one is raised. House Bill 2307 clarifies that a guilty except for insanity evaluation need not also evaluate the defendant's fitness to proceed unless, during the course of the evaluation, the evaluator determines that the defendant's fitness to proceed is drawn into question.