

SB 64 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/13

WHAT THE MEASURE DOES:

Replaces the term "mental disease or defect" with the term "qualifying psychiatric or developmental condition," for purposes of diminished capacity defense, guilty except for insanity (GEI) plea and post-adjudication jurisdiction of persons found GEI. Authorizes Psychiatric Security Review Board (PSRB) to adopt rules defining the term, while excluding specified abnormalities from its scope.

Modifies additional terminology in PSRB-related statutes. Renames "mental health" as "psychiatric or psychological health." Renames "serious mental condition" as "serious psychiatric or psychological condition." Renames "mental illness" as "psychiatric or psychological diagnosis."

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the term "mental disease or defect" with the term "mental disorder." The -1 amendment replaces the introduced measure.

-2 Modifies "mental disease or defect" by excluding from the scope of that term abnormalities that consist solely of a "paraphilic, addictive or substance use disorder" or that consist solely of "[s]ubstance intoxication or withdrawal." The -2 amendment replaces the introduced measure and applies the amendments prospectively.

BACKGROUND:

Mental health issues can arise in criminal cases in a number of ways. A defendant may, for example, assert a diminished capacity defense or plead guilty except for insanity (GEI). In addition, a person adjudicated GEI may be discharged from state jurisdiction when they are no longer affected by a qualifying mental illness. Since the adoption of the 1971 Oregon Criminal Code, the underlying mental illness has been described as a "mental disease or defect." Currently, ORS 161.295 excludes from the scope of that term "an abnormality manifested only by repeated criminal or otherwise antisocial conduct [and] any abnormality constituting solely a personality disorder."