

SB 64 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/06/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-2-0-0
Yeas: 3 - Dembrow, Manning Jr, Prozanski
Nays: 2 - Linthicum, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Replaces the term "mental disease or defect" with the term "qualifying mental disorder," for purposes of diminished capacity defense, guilty except for insanity (GEI) plea and post-adjudication jurisdiction of persons found GEI. Includes preamble describing legislative intent to replace term without making substantive change to law.

ISSUES DISCUSSED:

- Derogatory statutory language applicable to persons living with mental illness or intellectual disability
- Potential litigation because, ordinarily, courts and lawyers assume that changes in statutes are intended to make a legal change

EFFECT OF AMENDMENT:

Replaces the measure.

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." Senate Bill 64-A replaces this phrase with the phrase "qualifying mental disorder" and includes a preamble describing the legislative intent to modernize terminology, without changing the underlying law.