

SB 373 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Addie Smith, Counsel

Meeting Dates: 1/31, 4/4

WHAT THE MEASURE DOES:

Exempts medical records in the possession of the Psychiatric Security Review Board from public record disclosure. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Exempts records in the possession of the Psychiatric Security Review Board from public disclosure under the requirements and exceptions contained under ORS 192.398.

BACKGROUND:

When an adult commits a felony and is found by the courts to be Guilty Except for Insanity (GEI), the court is likely to place the individual under the jurisdiction of the Oregon Psychiatric Security Review Board (PSRB). The PSRB is required to monitor the progress of individuals under its jurisdiction and maintain a current medical, social, and criminal history of those individuals. In addition, the PSRB makes decisions about the placement and treatment of individuals under its jurisdiction at administrative hearings—where it collects evidence about their current mental condition in addition to their psychiatric and criminal history.

Oregon Public Records Laws (ORS 192.311 to 192.431) provide that "[e]very person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.388, 192.345 and 192.355." ORS 192.314(1). The records of the PSRB are public records under the meaning of those statutes.

Medical records, including the records of the Oregon State Hospital and the Department of Corrections, are typically exempt from disclosure under Oregon's Public Records Laws. A March 21, 2017, letter from the Oregon Department of Justice found that significant portions of the medical records entered into evidence at a PSRB discharge hearing were not exempt from disclosure under current law. In order to comply with the guidance from that letter, the PSRB currently engages in a line-by-line redaction of all public records requested to determine whether information is private medical information and if so whether disclosure would constitute an unreasonable invasion of privacy and whether there is clear and convincing evidence that the public interest requires disclosure.

Senate Bill 373 exempts all medical records in the PSRB's possession from disclosure as public records.