

SB 375 A STAFF MEASURE SUMMARY**Carrier:** Sen. Manning Jr**Senate Committee On Judiciary****Action Date:** 02/27/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 5-0-2-0**Yeas:** 5 - Fagan, Linthicum, Manning Jr, Prozanski, Thatcher**Exc:** 2 - Bentz, Gelser**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Addie Smith, Counsel**Meeting Dates:** 2/27**WHAT THE MEASURE DOES:**

Requires court to inform a defendant pleading guilty except for insanity that the court may order commitment or conditional discharge and the maximum period of commitment or conditional discharge it may order.

Consolidates the requirement that the court issue a judgment and an order when finding a defendant guilty except for insanity.

ISSUES DISCUSSED:

- Role of defense attorneys in plea negotiations
- Current court practice
- Need for a clear record on cases involving individuals with mental health diagnosis

EFFECT OF AMENDMENT:

Consolidates requirement that the court issue a judgment and a dispositional order when finding a defendant guilty except for insanity.

BACKGROUND:

A person is guilty except for insanity, if, as a result of mental disease or defect at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law. ORS 161.295. A court can place a person determined to be guilty except for insanity under the supervision of the Psychiatric Security Review Board (PSRB), or discharge the person if the court finds that the person is no longer affected by mental disease or defect or no longer presents a substantial danger to others. ORS 161.327 and 161.329. The court may also conditionally release the person if it finds that the person can be adequately supervised in the community. ORS 161.327(2)(b).

The length of time an individual spends under the jurisdiction of the PSRB is based on the category of the crime that the person would have been guilty of if the person was found to be sane. An adult found guilty, but for insanity, is initially sent to the Oregon State Hospital or a secure intensive community inpatient facility. ORS 161.327(1). The PSRB may conditionally release someone if it finds that the person can be adequately controlled with supervision in the community. ORS 161.336. If a person asserts the not guilty but for insanity defense, the state has the right to have the person examined by at least one psychiatrist or licensed psychologist. ORS 161.315.

Senate Bill 375 A requires the court to inform a defendant at the time of his or her plea to guilty except for insanity, of consequences including that the court may order commitment or conditional release and the maximum period of commitment or conditional release it may order. It also conforms statutes to current practice by requiring the court issue a single judgment finding a defendant guilty except for insanity and ordering a disposition.