

HB 2400 STAFF MEASURE SUMMARY

Carrier: Rep. McLane

House Committee On Judiciary

Action Date: 02/25/19

Action: Do Pass.

Vote: 11-0-0-0

Yeas: 11 - Barker, Bynum, Gorsek, Greenlick, Lewis, McLane, Piluso, Power, Sprenger, Stark, Williamson

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Addie Smith, Counsel

Meeting Dates: 2/18, 2/25

WHAT THE MEASURE DOES:

Establishes a timeline and standards for the late appeal of a judgment determining that a person has a mental illness under ORS 426.130 or is an extremely dangerous person with mental illness under ORS 426.701 and 426.702.

ISSUES DISCUSSED:

- Reasons for late appeal
- Vulnerability of the population seeking late appeal of civil commitment
- Late appeal provisions in other areas of Law

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In criminal appeals, defendants have the opportunity to file a motion for late appeal if they have missed the 30 day deadline. Specifically, ORS 138.071 allows: "(5) (a) Upon motion of a defendant, the Court of Appeals shall grant the defendant leave to file a notice of appeal after the time limits described in subsections (1) to (4) of this section if: (A) The defendant, by clear and convincing evidence, shows that the failure to file a timely notice of appeal is not attributable to the defendant personally; and (B) The defendant shows a colorable claim of error in the proceeding from which the appeal is taken... (C) The request for leave to file a notice of appeal after the time limits prescribed in subsections (1) to (3) of this section must be filed no later than 90 days after entry of the order or judgment being appealed." The same timelines and standards apply to a motion for a late appeal in delinquency and dependency cases. See ORS 419A.200(5). Under current law, individuals who are civilly committed have a statutory right to appeal, but there is no provision allowing for a motion for late appeal. See ORS 426.130, ORS 426.701, and ORS 426.702.

House Bill 2400 creates a timeline and process for late appeal in civil commitment cases that mirrors those found in the criminal and juvenile statutes.