

SB 373 A STAFF MEASURE SUMMARY

Carrier: Rep. Stark

House Committee On Judiciary**Action Date:** 05/22/19**Action:** Do Pass the A-Eng bill.**Vote:** 11-0-0-0**Yeas:** 11 - Barker, Bynum, Gorsek, Greenlick, Lewis, McLane, Piluso, Power, Sprenger, Stark, Williamson**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Addie Smith, Counsel**Meeting Dates:** 5/22**WHAT THE MEASURE DOES:**

Incorporates records in the possession of the Psychiatric Security Review Board into existing public records statutes governing medical records and correctional records. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Public records protections for incarcerated individuals
- Provisions of the measure

EFFECT OF AMENDMENT:

No amendment.

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, which includes collection and review of evidence about individual's current mental condition and 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 192.338, 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, with limited exceptions. 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 A incorporates records in the possession of the Psychiatric Security Review Board into ORS 192.398 which governs exemptions from disclosure that relate to medical records and correctional records.