

SENATE AMENDMENTS TO SENATE BILL 375

By COMMITTEE ON JUDICIARY

March 4

1 On page 1 of the printed bill, line 2, delete “and 161.325” and insert “, 161.325, 161.327, 161.328
2 and 161.329”.

3 On page 2, line 18, delete “entry of judgment of” and insert “the defendant is found”.

4 In line 19, delete “enter an”.

5 In line 20, after “order” insert “a disposition”.

6 After line 37, insert:

7 “**SECTION 3.** ORS 161.327 is amended to read:

8 “161.327. (1) [*Following the entry of a judgment*] **After the defendant is found guilty except**
9 **for insanity** pursuant to ORS 161.319, if the court finds by a preponderance of the evidence that a
10 person found guilty except for insanity of a felony is affected by a qualifying mental disorder and
11 presents a substantial danger to others, the court shall [*enter an*] order as follows:

12 “(a) If the court finds that the person is not a proper subject for conditional release, the court
13 shall order the person committed to a state hospital or, if the person is under 18 years of age, to a
14 secure intensive community inpatient facility for custody, care and treatment. When the court orders
15 a person committed under this paragraph, the court shall place the person under the jurisdiction
16 of the Psychiatric Security Review Board.

17 “(b) If the court finds that the person can be adequately controlled with supervision and treat-
18 ment if conditionally released and that necessary supervision and treatment are available, the court
19 shall order the person conditionally released.

20 “(2) When a person is conditionally released under this section, the person is subject to those
21 supervisory orders of the court as are in the best interests of justice, the protection of society and
22 the welfare of the person. The court shall designate a person or state, county or local agency to
23 supervise the person upon release, subject to those conditions as the court directs in the order for
24 conditional release. Prior to the designation, the court shall notify the person or agency to whom
25 conditional release is contemplated and provide the person or agency an opportunity to be heard
26 before the court. After receiving an order entered under subsection (1)(b) of this section, the person
27 or agency designated shall assume supervision of the person pursuant to the direction of the Psy-
28 chiatric Security Review Board. The person or agency designated as supervisor shall be required to
29 report in writing no less than once per month to the board concerning the supervised person’s
30 compliance with the conditions of release.

31 “(3) In determining whether a person should be conditionally released, the court:

32 “(a) May order evaluations, examinations and compliance as provided in ORS 161.336 (3) and
33 161.346 (2);

34 “(b) Shall order that the person be examined by a local mental health program designated by
35 the board and a report of the examination be provided to the court if each felony for which the

1 defendant was found guilty except for insanity is a Class C felony; and

2 “(c) Shall have as its primary concern the protection of society.

3 “(4) Upon placing a person on conditional release, the court shall notify the board in writing
4 of the court’s conditional release order, the supervisor appointed and all other conditions of release,
5 and the person shall be on conditional release pending hearing before the board. Upon compliance
6 with this section, the court’s jurisdiction over the person is terminated.

7 “(5) The total period of commitment or conditional release under ORS 161.315 to 161.351 may
8 not exceed the maximum sentence provided by statute for the crime for which the person was found
9 guilty except for insanity.

10 “(6) An order of the court under this section is a final order appealable by the person found
11 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
12 of an appeal under this section shall be served and filed within 90 days after the order appealed from
13 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
14 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
15 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
16 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
17 determined and paid as provided in ORS 138.500.

18 “(7) Following the *[entry of an]* order described in subsection (1) of this section, the court shall
19 notify the person of the right to appeal and the right to a hearing before the board in accordance
20 with ORS 161.336 (5) and 161.341 (3).

21 “**SECTION 4.** ORS 161.328 is amended to read:

22 “161.328. (1) *[Following the entry of a judgment]* **After the defendant is found guilty except**
23 **for insanity** pursuant to ORS 161.319, the court shall order a person committed to a state mental
24 hospital or other facility designated by the Oregon Health Authority if:

25 “(a) Each offense for which the person is found guilty except for insanity is a misdemeanor; and

26 “(b) The court finds that the person is affected by a qualifying mental disorder and presents a
27 substantial danger to others that requires commitment.

28 “(2) The total period of commitment under this section may not exceed the maximum sentence
29 provided by statute for the crime for which the person was found guilty except for insanity.

30 “(3) If the superintendent of the state mental hospital or the director of the facility to which the
31 person is committed determines that a person committed under this section is no longer affected by
32 a qualifying mental disorder or, if so affected, no longer presents a substantial danger to others that
33 requires commitment, the superintendent or director shall file notice of that determination with the
34 committing court. Upon filing of the notice, the superintendent or director shall discharge the per-
35 son from custody.

36 “**SECTION 5.** ORS 161.329 is amended to read:

37 “161.329. *[Following the entry of a judgment]* **After the defendant is found guilty except for**
38 **insanity** pursuant to ORS 161.319, the court shall order that the person be discharged from custody
39 if:

40 “(1) The court finds that the person is no longer affected by a qualifying mental disorder, or, if
41 so affected, no longer presents a substantial danger to others and is not in need of care, supervision
42 or treatment; or

43 “(2)(a) Each offense for which the person is found guilty except for insanity is a misdemeanor;
44 and

45 “(b) The court finds that the person does not present a substantial danger to others that re-

1 quires commitment.”

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