

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 375**

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

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

5 In line 19, delete “enter an”.

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

7 After line 37, insert:

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

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

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

20 “(b) If the court finds that the person can be adequately controlled with
21 supervision and treatment if conditionally released and that necessary

1 supervision and treatment are available, the court shall order the person
2 conditionally released.

3 “(2) When a person is conditionally released under this section, the per-
4 son is subject to those supervisory orders of the court as are in the best in-
5 terests of justice, the protection of society and the welfare of the person. The
6 court shall designate a person or state, county or local agency to supervise
7 the person upon release, subject to those conditions as the court directs in
8 the order for conditional release. Prior to the designation, the court shall
9 notify the person or agency to whom conditional release is contemplated and
10 provide the person or agency an opportunity to be heard before the court.
11 After receiving an order entered under subsection (1)(b) of this section, the
12 person or agency designated shall assume supervision of the person pursuant
13 to the direction of the Psychiatric Security Review Board. The person or
14 agency designated as supervisor shall be required to report in writing no less
15 than once per month to the board concerning the supervised person’s com-
16 pliance with the conditions of release.

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

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

21 “(b) Shall order that the person be examined by a local mental health
22 program designated by the board and a report of the examination be provided
23 to the court if each felony for which the defendant was found guilty except
24 for insanity is a Class C felony; and

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

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

1 “(5) The total period of commitment or conditional release under ORS
2 161.315 to 161.351 may not exceed the maximum sentence provided by statute
3 for the crime for which the person was found guilty except for insanity.

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

14 “(7) Following the [*entry of an*] order described in subsection (1) of this
15 section, the court shall notify the person of the right to appeal and the right
16 to a hearing before the board in accordance with ORS 161.336 (5) and 161.341
17 (3).

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

19 “161.328. (1) [*Following the entry of a judgment*] **After the defendant is**
20 **found guilty except for insanity** pursuant to ORS 161.319, the court shall
21 order a person committed to a state mental hospital or other facility desig-
22 nated by the Oregon Health Authority if:

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

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

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

1 “(3) If the superintendent of the state mental hospital or the director of
2 the facility to which the person is committed determines that a person com-
3 mitted under this section is no longer affected by a qualifying mental disor-
4 der or, if so affected, no longer presents a substantial danger to others that
5 requires commitment, the superintendent or director shall file notice of that
6 determination with the committing court. Upon filing of the notice, the su-
7 perintendent or director shall discharge the person from custody.

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

9 “161.329. [*Following the entry of a judgment*] **After the defendant is**
10 **found guilty except for insanity** pursuant to ORS 161.319, the court shall
11 order that the person be discharged from custody if:

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

15 “(2)(a) Each offense for which the person is found guilty except for in-
16 sanity is a misdemeanor; and

17 “(b) The court finds that the person does not present a substantial danger
18 to others that requires commitment.”.

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