

SB 206-1  
(LC 1672)  
3/2/21 (JLM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO  
SENATE BILL 206**

1 On page 1 of the printed bill, delete lines 4 through 30.

2 On page 2, delete lines 1 through 43 and insert:

3 **“SECTION 1. ORS 161.327 is amended to read:**

4 “161.327. (1) After the defendant is found guilty except for insanity pur-  
5 suant to ORS 161.319, if the court finds by a preponderance of the evidence  
6 that a person found guilty except for insanity of a felony is affected by a  
7 qualifying mental disorder and presents a substantial danger to others, the  
8 court shall order as follows:

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

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

19 **“(2)(a) If a party intends to request conditional release under this**  
20 **section, the party shall, as soon as practicable, notify the opposing**  
21 **party, the court and the board of the request. The party requesting**

1 conditional release shall make every effort to provide the notification  
2 in a manner that allows sufficient time to carry out the provisions  
3 described in this subsection before the court determination on condi-  
4 tional release.

5 “(b) Upon receipt of a request for conditional release under this  
6 section:

7 “(A) If the most serious offense in the charging instrument is a  
8 Class C felony, the court shall order that a local mental health pro-  
9 gram designated by the board consult with the defendant, and shall  
10 order the release of any records to the program director that are  
11 necessary to complete the consultation.

12 “(B) If the most serious offense in the charging instrument is a  
13 Class A or Class B felony, the court may order that a local mental  
14 health program designated by the board consult with the defendant,  
15 and may order the release of any records to the program director that  
16 are necessary to complete the consultation.

17 “(c) Upon the completion of a consultation ordered under paragraph  
18 (b) of this subsection, the program director shall report the findings  
19 resulting from the consultation as follows:

20 “(A) If the outcome of the consultation indicates that the person  
21 can be adequately controlled with supervision and treatment if condi-  
22 tionally released, and that necessary supervision and treatment are  
23 available, the program director shall provide to the court and to the  
24 board a report of the findings resulting from the consultation and a  
25 report of the findings resulting from an evaluation, and any recom-  
26 mendations for treatment, conducted under ORS 161.336 (3).

27 “(B) If the outcome of the consultation indicates that the person  
28 cannot be adequately controlled with supervision and treatment if  
29 conditionally released, or that the person can be adequately controlled  
30 with supervision and treatment, but the necessary supervision and

1 **treatment are not available, the program director shall submit the**  
2 **results of the consultation to the court without conducting an evalu-**  
3 **ation or recommending treatment.**

4 **“(3)(a) In determining whether a person should be conditionally re-**  
5 **leased, the court:**

6 **“(A) May order evaluations, examinations and compliance as pro-**  
7 **vided in ORS 161.336 (3) and 161.346 (2); and**

8 **“(B) Shall have as its primary concern the protection of society.**

9 **“(b) The court shall review the report resulting from the consulta-**  
10 **tion ordered under subsection (2)(b) of this section and any evaluation**  
11 **report and treatment recommendations provided to the court under**  
12 **subsection (2)(c) of this section prior to ordering conditional release**  
13 **under this section.**

14 **“[(2)] (4) When a person is conditionally released under this section, the**  
15 **person is subject to those supervisory orders of the court as are in the best**  
16 **interests of justice, the protection of society and the welfare of the person.**  
17 **The court shall designate a person or state, county or local agency to su-**  
18 **pervise the person upon release, subject to those conditions as the court di-**  
19 **rects in the order for conditional release. Prior to the designation, the court**  
20 **shall notify the person or agency to whom conditional release is contem-**  
21 **plated and provide the person or agency an opportunity to be heard before**  
22 **the court. After receiving an order entered under subsection (1)(b) of this**  
23 **section, the person or agency designated shall assume supervision of the**  
24 **person pursuant to the direction of the [Psychiatric Security Review] board.**  
25 **The person or agency designated as supervisor shall be required to report in**  
26 **writing no less than once per month to the board concerning the supervised**  
27 **person’s compliance with the conditions of release.**

28 **“[(3) In determining whether a person should be conditionally released, the**  
29 **court:]**

30 **“[(a) May order evaluations, examinations and compliance as provided in**

1 ORS 161.336 (3) and 161.346 (2);]

2 “[b) Shall order that the person be examined by a local mental health  
3 program designated by the board and a report of the examination be provided  
4 to the court if each felony for which the defendant was found guilty except for  
5 insanity is a Class C felony; and]

6 “[c) Shall have as its primary concern the protection of society.]

7 “[4] (5) Upon placing a person on conditional release, the court shall  
8 **within one judicial day provide to the board an electronic copy of the**  
9 **conditional release order. The court shall additionally** notify the board  
10 in writing of [*the court’s conditional release order,*] the supervisor appointed  
11 and all other conditions of release, and the person shall be on conditional  
12 release pending hearing before the board. Upon compliance with this section,  
13 the court’s jurisdiction over the person is terminated.

14 “[5] (6) The total period of commitment or conditional release under  
15 ORS 161.315 to 161.351 may not exceed the maximum sentence provided by  
16 statute for the crime for which the person was found guilty except for in-  
17 sanity.

18 “[6] (7) An order of the court under this section is a final order  
19 appealable by the person found guilty except for insanity in accordance with  
20 ORS 19.205 (5). Notwithstanding ORS 19.255, notice of an appeal under this  
21 section shall be served and filed within 90 days after the order appealed from  
22 is entered in the register. The person shall be entitled on appeal to suitable  
23 counsel possessing skills and experience commensurate with the nature and  
24 complexity of the case. If the person is financially eligible, suitable counsel  
25 shall be appointed in the manner provided in ORS 138.500 (1), and the com-  
26 pensation for counsel and costs and expenses of the person necessary to the  
27 appeal shall be determined and paid as provided in ORS 138.500.

28 “[7] (8) Following the order described in subsection (1) of this section,  
29 the court shall notify the person of the right to appeal and the right to a  
30 hearing before the board in accordance with ORS 161.336 (5) and 161.341 (3).

1       **“(9) The board shall hold a review hearing within 90 days for a**  
2 **person conditionally released under this section.”.**

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