

**TESTIMONY ON SB 206-1
BEFORE THE SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110
IMPLEMENTATION
MARCH 18, 2021**

**PRESENTED BY: HONORABLE LAURA CROMWELL, JACKSON COUNTY
CIRCUIT COURT JUDGE, OREGON JUDICIAL DEPARTMENT**

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

I am Laura Cromwell, Circuit Court Judge in Jackson County. I offer this testimony on behalf of the Oregon Judicial Department (OJD) and as a member of the PSRB Legislative Work Group that developed this proposal. OJD is neutral on SB 206-1.

I sat on the legislative work group as a representative of the Chief Justice's Behavioral Health Advisory Committee (BHAC). BHAC advises the Chief Justice on best practices for use in case and docket management, and in decision-making, in cases involving court users with behavioral health issues. It also provides direction to OJD regarding legislation in this area. BHAC works closely with the Office of the State Court Administrator, governmental partners, and other behavioral health stakeholders.

The Oregon Judicial Department's Strategic Campaign includes an initiative specifically focused on behavioral health, guided by our Commitment to join with community partners to improve services and outcomes for people who are underserved, vulnerable, or marginalized. Our goal is to develop effective, supportive, and creative solutions to respond to their legal needs.

SB 206-1 amends the process established in ORS 161.327 for a court to determine the appropriate placement of an individual who was found guilty except for insanity (GEI) of a felony. The court must commit the individual to the Oregon State Hospital unless it determines that the individual can be adequately controlled with supervision and treatment if conditionally released into the community and that necessary supervision and treatment are available.

Under the current process, the court is required to order an evaluation by a community mental health program and consider conditional release for Class C felonies. The court may consider conditional release for all other types of crime. In practice, a significant majority of individuals found GEI are committed to the Oregon State Hospital. SB 206-1 seeks to increase utilization by court conditional release by improving the process for communication and coordination of conditional release plans.

As amended in SB 206-1:

- A party that wants to request conditional release must notify opposing party, court, and board of request as soon as possible;
- Upon receipt of request, the court's action depends on the level of the most serious offense in the charging instrument:
 - If the most serious offense is a Class C felony, the court must order a local mental health program designated by board to consult with the defendant, and court orders release of records to the local mental health program for consultation
 - If the most serious offense is a Class A or B felony, the court may order the local mental health program designated by the board to consult with the defendant, and may order release of records to the local mental health program for consultation
- The local mental health program consultation reporting requirements vary depending on whether the program thinks the person is appropriate for court conditional release:
 - If yes, the local mental health program must provide its consultation report to the court, perform an evaluation of the person, and provide its evaluation report and treatment recommendations to the court.
 - If no, the local mental health program must provide its consultation report to the court; no evaluation, evaluation report, or treatment recommendations are required.
- In determining whether the person should be conditionally released, the court:
 - Must review reports from the local mental health program consultation and evaluation
 - May order evaluations, examination, and compliance
 - Must have the protection of society as its primary concern
- If the court determines that conditional release is appropriate, the court must notify the person/agency to whom conditional release is contemplated and provide an opportunity for that person/agency to be heard before the court.
- If the court orders conditional release:
 - It must order a person/agency to supervise the person upon release, subject to conditional release conditions
 - The maximum period of commitment or conditional release may not exceed the maximum sentence for crime for which person was found GEI

- The order is a final order appealable by the person found GEI; notice of appeal must be served and filed within 90 days
- The court must notify the person of a right to appeal and a right to a hearing before the board
- Within one judicial day of ordering conditional release, the court must provide an electronic copy of the conditional release order to the PSRB and notify the PSRB of the supervisor appointed and all other conditions of release
- A person who is ordered conditionally released shall be on conditional release pending a hearing before the PSRB and is subject to supervisory orders of the court as are in the best interests of justice, protection of society and welfare of the person
- Upon compliance with the above, the court's jurisdiction over the person is terminated
- After receiving the order, a person/agency assumes supervision pursuant to PSRB direction and must report to board in writing no less than once a month
- The board shall hold a review hearing within 90 days

The changes proposed in SB 206-1 will provide more information to the court for its determination on conditional release and ensure a more coordinated conditional release plan for individuals who are placed in the community.

SB 206-1 OJD appreciates the work of the PSRB Legislative Work Group and the opportunity to participate in continued efforts to improve the PSRB process.