

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 5 - 0 - 0

Yeas: Close, Dingfelder, Kruse, Roblan, Prozanski

Nays: 0

Exc.: 0

Prepared By: Mike Schmidt, Counsel

Meeting Dates: 2/19, 4/18

WHAT THE MEASURE DOES: Creates new standard of civil commitment for “extremely dangerous” people. Requires, when court makes finding, that person be supervised by Psychiatric Security Review Board (PSRB) and have initial review hearing in six months, and have their status reviewed only if requested by the hospital or treatment facility, or every two years, whichever comes first. Allows prosecuting attorney to petition court for commitment hearing. Directs hospital superintendent to petition for early termination of commitment where committed person no longer suffers from disease or defect, or is no longer extremely dangerous. Instructs supervisory agency to notify parties before commitment period ends, and hold hearing determining whether or not a new period of commitment should be set. Tolls statute of limitations for the duration of the commitment if there is a pending underlying crime. Allows prosecuting attorney to request an aid and assist evaluation be done in advance of any hearing where the person may be released from the jurisdiction of the PSRB.

ISSUES DISCUSSED:

- Victims currently have to be worried every six months that the person who seriously injured or killed their loved one may be released

EFFECT OF COMMITTEE AMENDMENT: Creates new standard for civil commitment of “extremely dangerous.” People who are found to be extremely dangerous will be placed under jurisdiction of the PSRB, where they will have an initial hearing within six months, and every two years thereafter, unless the agency holding the person petitions the court for a hearing sooner because they feel that the person no longer meets the criteria for their designation. The prosecuting attorney, where any unresolved criminal charges, shall be notified in advance of any such hearing. The prosecuting attorney may request an evaluation to determine if the person is fit to proceed with the criminal proceeding in advance of the hearing to determine if the person still meets the “extremely dangerous” criteria.

BACKGROUND: In many cases, mental health services are only available to those individuals who are able to accept services voluntarily; the most severely ill are left untreated until their condition deteriorates to the point that they pose a clear and present danger to themselves or others. This raises significant issues where a person has been accused of committing a crime but is found unfit to stand trial. Oregon law currently sets a maximum time that a defendant may be held when the defendant is initially found to be unfit for trial. A defendant must be discharged at the end of a period equal to the maximum term which could be imposed if the person were convicted of the offense with which the person was charged, or three years, whichever is less. If it is determined that the person is unlikely to gain or regain capacity to stand trial, the charges must be dismissed and the defendant released, or civil commitment proceedings must begin, which only commit a person for 180 days at a time. This requires a new hearing every 180 days, unless the committed person stipulates to continue to commitment.

Two recent cases have brought this issue to the forefront in Oregon. The Spinosa case in Washington county where a man charged with murder would have been released from custody after being found “unable to aid and assist” his counsel in trial, and where the hospital stated that he received the maximum benefit through hospital involuntary civil

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commitments that he could receive. If a person is both unable to aid and assist, and no longer meets criteria for civil commitment under an undefined “maximum benefit” standard supplied by the hospital, then there is a gap where the only other avenue is release into the community. The other case is that of Cheryl Kidd, the woman who killed Eugene Police Department Officer Chris Kilcullen, who is still in the Oregon State Hospital. Presently the state hospital is attempting to treat her into competence to aid and assist but, if unsuccessful, Ms. Kidd may fall into the same justice and community safety gap.