



Oregon

Kate Brown, Governor

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TO: Senator Prozanski, Chair
Senate Judiciary Committee, State of Oregon

FR: Juliet Britton, J.D.
Executive Director
Psychiatric Security Review Board (PSRB)

RE: Written Comment for February 9, 2017, Hearing on SB 66-1

Good morning, Chair Floyd Prozanski, Vice-Chair Thatcher, Senators Dembrow, Linthicum, and Manning. Thank you for the opportunity to speak to you this morning. My name is Juliet Britton; I am the executive director of the Oregon Psychiatric Security Review Board.

Senate Bill 66's notification requirements will ensure that individuals fully understand the consequences of certain mental health determinations as they pertain to sex offender registration and firearm possession.

Sex Offender Registration

Current state law clearly requires defendants who are found "guilty except for insanity" (GEI) of certain crimes to register as sex offenders if they are living in the community. However, there is no statutory requirement that directs the court to inform the defendant of this registration requirement when the GEI finding is imposed. In contrast, ORS 163A.050 clearly requires the court to inform a defendant of the requirement to register as a sex offender if he or she is convicted. This notification can influence how a defendant pleads and/or stipulates to a crime. SB 66-1 would add "guilty except for insanity" language to ORS 163A.050 so all GEI defendants who will be required to register as sex offenders are notified by the court. This is particularly important for those defendants who are required to register despite that there is no sexual intent to the crime and registration would not be obvious to the average defendant (e.g. kidnapping of the Child).

The PSRB has had at least one recent GEI case in which a lack of notice to the defendant was grounds for post-trial relief and the GEI finding was set aside. The notification requirement in this bill would resolve potential appeal issues and unnecessary litigation.

This bill has been vetted with our legislative stakeholder workgroup; there does not appear to be any opposition to this proposal.

Notification of Firearm Prohibition

Under federal and state law, certain mental health adjudications prohibit the individual from later possessing or purchasing firearms (ORS 181.740). These include three broad categories: those (1) defendants and youth who are found “Guilty/Responsible Except For Insanity”; (2) defendants who are found unable to aid and assist in their own defense and (3) those involuntarily civilly committed. Current law requires certain state agencies and Oregon State Police to submit those individuals’ names to the federal “NICS” database. The database is used for firearm purchase background checks.

SB 66 would ensure that those individuals who are losing their firearm privileges due to a mental health adjudication are informed of that loss of right at the time of the court’s decision.

Since 2009, the PSRB has been the ATF-certified mental health firearm relief authority in Oregon. PSRB staff has received calls from potential relief petitioners who did not know they were barred from possessing a firearm until they attempted to purchase a firearm and were denied. This bill will ensure proper notification and mitigate the risk that someone mistakenly believes they can possess a firearm when in fact they are barred under law from doing so.

This bill has been vetted with our legislative stakeholder workgroup and there does not appear to be any opposition to this proposal.

Finally, there is a -1 amendment that correctly identifies Oregon State Police as the entity that enters the information into the Law Enforcement Database System and the PSRB would encourage that amendment to the bill.