

HB 2400 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Addie Smith, Counsel

Meeting Dates: 2/18, 2/25

WHAT THE MEASURE DOES:

Establishes a timeline and standards for the late appeal of a judgment determining that a person has a mental illness under ORS 426.130 or is an extremely dangerous person with mental illness under ORS 426.701 or 426.702.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In criminal appeals, defendants have the opportunity to file a motion for late appeal if they have missed the 30 day deadline. Specifically, ORS 138.071 allows: "(5) (a) Upon motion of a defendant, the Court of Appeals shall grant the defendant leave to file a notice of appeal after the time limits described in subsections (1) to (4) of this section if: (A) The defendant, by clear and convincing evidence, shows that the failure to file a timely notice of appeal is not attributable to the defendant personally; and (B) The defendant shows a colorable claim of error in the proceeding from which the appeal is taken... (c) The request for leave to file a notice of appeal after the time limits prescribed in subsections (1) to (3) of this section must be filed no later than 90 days after entry of the order or judgment being appealed."

ORS 419A.200(5) provides the same timelines and standards for a motion for a late appeal in delinquency and dependency cases. Under current law, there is no provision allowing an individual to file a motion for late appeal in a civil commitment case.

House Bill 2400 creates a timeline and process for late appeal in civil commitment cases that mirrors the provisions found in the criminal and juvenile statutes.