

SB 187 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Action Date: 03/25/21

Action: Do pass and requesting referral to Ways and Means.

Vote: 4-3-0-0

Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski

Nays: 3 - Heard, Linthicum, Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 3/15, 3/25

WHAT THE MEASURE DOES:

Defines "dangerous to self or others" for purposes of civil commitment as likely to inflict serious physical harm upon self or others within the next 30 days. Allows court to consider past behavior that resulted in physical harm to self or others and threats and attempts to commit suicide or inflict serious physical harm on others.

ISSUES DISCUSSED:

- Undefined terms in statutes relating to civil commitment
- Rights of individuals
- Criteria for danger to self or other currently developed through caselaw

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A person may be involuntarily committed to the Oregon Health Authority for treatment upon a court finding, by clear and convincing evidence, that the person has a mental illness and voluntary treatment or conditional release are not in the person's best interest. A "person with a mental illness" is defined as "a person who, because of a mental disorder, is one or more of the following: (A) Dangerous to self or others or (B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm." State law is silent on the definition of dangerous to self or others.

Caselaw provides some context for what makes a person dangerous to self or others. "[T]he type of 'danger' necessary to justify an involuntary civil commitment is a narrow range of serious and highly probable threats of harm." *State v. S. R. J.* (In re S. R. J.), 281 Or. App. 741, 749 (2016). Many cases have concluded that the harm must be life-threatening or involve an inherently dangerous activity.

Senate Bill 187 defines "dangerous to self or others" to mean likely to inflict serious physical harm upon self or another person within the next 30 days. Additionally, the measure allows the court to consider threats or attempts at suicide or harm to others, and any past behaviors that resulted in physical harm to self or another person. In considering prior behaviors, the court must consider the relevance of the person's past behavior, how recently the past behavior occurred, and the frequency and severity of the past behavior.