

SB 205 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

**Senate Committee On Judiciary and Ballot Measure 110
Implementation**

Action Date: 04/12/21
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-2-1-0
Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski
Nays: 2 - Linthicum, Thatcher
Exc: 1 - Heard
Fiscal: Fiscal impact issued
Revenue: No revenue impact
Prepared By: Amie Fender-Sosa, Counsel
Meeting Dates: 2/4, 4/12

WHAT THE MEASURE DOES:

States that venue for initiation of commitment proceedings by the district attorney (DA) for extremely dangerous persons with mental illness is proper in the county of the qualifying act or the county of residency. Permits DA to provide to the state hospital notice of intent to file a petition and allows the state hospital to delay discharge of the person for up to seven judicial days to allow the petition to be filed and the court to make findings. Requires the court, upon receipt of the petition, to schedule a hearing, and if the person is in custody, the hearing must commence within 30 days of the filing date, unless the court finds good cause. Defines "good cause." Allows court to order that person be committed to the custody of the state hospital or secure mental health facility during the pendency of the petition if certain factors are met; requires that placement must comply with constitutional due process rights and that commitment may not exceed 60 days. Provides timelines and requirements for when person is held at a secure facility that is not the state hospital or a secure mental health facility. Provides direction for cases where the hearing does not occur within 60 days. Provides direction to the court for instances when a court commits a person and person has pending criminal charges. Modifies the venue for recertification of extremely dangerous persons, and directs the venue for filing of the certificate of recommitment to the county in which the person was originally committed. States that while a hearing is pending regarding a person contesting an additional period of commitment to the Psychiatric Security Review Board (PSRB), the person remains under jurisdiction of the PSRB, and that the hearing must occur as soon as possible, but no later than 60 days from the date of the hearing request, unless the person requests a postponement. Changes language from "mental disorder" to "qualifying mental disorder" relating to commitment of extremely dangerous persons with mental illness. Allows for hearings to be conducted via simultaneous electronic transmission. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Enhancing due process for persons under the jurisdiction of the Psychiatric Security Review Board (PSRB)
- Recommitment hearings timelines
- Effort to create more certainty for clients and the Oregon State Hospital
- Protecting community safety, resources, and committed individuals
- Allowing an extremely dangerous mentally ill person to be held in a secure facility while awaiting hearing
- Senate Bill 421 (2013)
- Senate Bill 296 (2021)

EFFECT OF AMENDMENT:

Replaces the measure.

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BACKGROUND:

Currently under ORS 426.701, the courts do not have the authority to detain an individual who is alleged to be extremely dangerous while the civil commitment petition is pending. When individuals are returned from the Oregon State Hospital (OSH) after a determination that they are permanently unable to aid and assist, the courts must either set over the aid and assist hearing or dismiss the criminal case. This results in either a mentally ill individual who cannot be prosecuted sitting in jail, or alternately, an extremely dangerous person being released into the community prior to their hearing.

Senate Bill 205 A allows the court to order an individual to be committed to OSH or other secure mental health facility while a petition is pending.