

## **SB 1114 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

---

**Prepared By:** Jules Dellinger, LPRO Analyst

**Meeting Dates:** 3/24

---

#### **WHAT THE MEASURE DOES:**

The measure reduces the maximum amount of time a person found guilty except for insanity may be committed to a state hospital or conditionally released from the maximum sentence of the crime committed to the presumptive sentence under the sentencing guidelines, except in certain circumstances, and establishes a procedure for post-conviction relief for persons found guilty except for insanity before the measure's effective date.

#### Detailed Summary

##### **Maximum Period of Commitment or Conditional Release**

Changes the maximum period of commitment or conditional release after a finding of guilty except for insanity from the maximum sentence for the committed crime to:

- The presumptive sentence under the sentencing guidelines of the Oregon Criminal Justice Commission;
- The mandatory minimum sentence for the crime if one applies; or
- The maximum sentence provided by statute for the crime if the crime was a sex crime or involved causing the death of another person.

Requires time the person spent in custody prior to the finding of guilty except for insanity to be included in the calculation of the maximum period of commitment or conditional release.

##### **Post-Conviction Relief**

Permits a person found guilty except for insanity before the effective date of the measure to file a petition for post-conviction relief within one year of the measure's effective date claiming that a person has been subject to a total period of commitment or conditional release equal to the limit imposed by the measure. Imposes a burden on the petitioner to prove that it is more likely than not that

- The person was found guilty except for insanity and subject to a total period of commitment and conditional release equal to the statutory maximum sentence for the offense; and
- The use of the statutory maximum sentence does not conform to the new limit imposed by the measure.

Requires a new judgment of guilty except for insanity to be issued if post-conviction relief is granted establishing a total period of commitment and conditional release that conforms with the measure's limits. Sunsets the post-conviction relief section of the measure on January 2, 2028.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

No amendment.

##### **BACKGROUND:**

ORS 161.295 states that "a person is guilty except for insanity if, as a result of a qualifying mental disorder at the time of engaging in the criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law." "Qualifying mental disorder" is defined so as to "not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct" or "any

abnormality constituting solely a personality disorder." A court may order the conditional release, commitment, or discharge of a person found guilty of a crime except for insanity in certain circumstances as described in ORS 161.325(1).

On finding a person guilty except for insanity, the court must "state on the record the maximum total period of commitment or conditional discharge." ORS 161.325(2)(c). If the court finds the person "presents a substantial danger to others" and "is not a proper subject for conditional release, the court shall order the person committed to a state hospital...under the jurisdiction of the Psychiatric Security Review Board." ORS 161.327(1)(a). A statutory maximum limits how long someone can be committed to a state hospital to no more than "the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity." ORS 161.327(7).

The Oregon Criminal Justice Commission is directed by statute to adopt rules and amend the sentencing guidelines to establish presumptive sentences that control the sentences for felony crimes by establishing a crime seriousness score for each felony crime and classifying it as a person or non-person crime. ORS 137.669. A court is required to impose the presumptive sentence for a crime unless it finds that "there are substantial and compelling reasons justifying a deviation from the presumptive sentence." ORS 137.671. The presumptive sentence for a crime is based on the crime seriousness of the crime of conviction, established by statute or by rule of the Criminal Justice Commission, and by the criminal history of the person being convicted. The presumptive sentences range from 18 months of probation up to multiple years of prison, depending on the crime seriousness of the crime of conviction and the criminal history of the defendant. Certain crimes have mandatory minimum sentences, such as assault in the first degree, ORS 163.185, which establish the minimum amount of prison time to which a court must sentence a person convicted of the crime.

Senate Bill 1114 would reduce the maximum limit of commitment or conditional release to the longer of "the presumptive sentence the person would have received if convicted of the crime under the sentencing guidelines of the Oregon Criminal Justice Commission," the mandatory minimum sentence if one applies, and the maximum sentence if the crime was either a sex crime or involved causing another person's death.