

## HB 2471 -1 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Meeting Dates:** 2/24, 3/31

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#### WHAT THE MEASURE DOES:

The measure modifies when a person may be found guilty except for insanity by requiring that the person's incapacity be "primarily the result of a qualifying mental disorder" rather than "as a result of a qualifying mental disorder."

#### ISSUES DISCUSSED:

- How GEI is assessed in other jurisdictions
- Changes to the frequency of GEI findings in the aftermath of the *Meiser* decisions
- Interaction between legal and clinical language

#### EFFECT OF AMENDMENT:

-1 The amendment replaces the measure and modifies the guilty except for insanity statute to say that a person is guilty except for insanity if, at the time of engaging in 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, and but for a qualifying mental disorder, the person would have had such capacity. The amendment also requires that a separate non-qualifying mental disorder was not the primary cause of the lack of capacity, and that voluntary intoxication combined with a mental disorder was not the cause of the lack of capacity. The amendment applies to conduct occurring on or after the effective date, and the amendment declares an emergency, effective on passage.

*REVENUE: No impact*

*FISCAL: Has minimal fiscal impact*

#### 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).

A recent Oregon Supreme Court case, the third in a series of related cases, interpreted ORS 161.295 to "conclude that 'as a result of' must be given its plain, natural, and ordinary meaning, and, therefore, to prove the GEI defense, a defendant must show that their lack of capacity was a 'consequence' or 'effect' of their mental disease or defect. The defendant's mental disease or defect may combine with another condition to cause the lack of capacity, and the mental disease or defect need not be sufficient on its own to cause the lack of capacity." [State v. Meiser, 372 Or. 438, 440 \(2024\)](#) (commonly referred to as "*Meiser III*").