

Senate Bill 41

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Psychiatric Security Review Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires defendant who intends to assert mental disease or defect as affirmative defense to submit psychiatric or psychological evaluation that was performed after offense but before trial.

A BILL FOR AN ACT

1
2 Relating to insanity defense; creating new provisions; and amending ORS 161.309.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 161.309 is amended to read:

5 161.309. (1) No evidence may be introduced by the defendant on the issue of insanity under ORS
6 161.295, unless the defendant gives notice of intent to do so in the manner provided in subsection
7 (3) of this section **and submits to the court, before trial, a psychiatric or psychological evalu-**
8 **ation performed after the time of the offense that addresses the defendant's current mental**
9 **condition and diagnosis.**

10 (2) The defendant may not introduce in the case in chief expert testimony regarding partial re-
11 sponsibility or diminished capacity under ORS 161.300 unless the defendant gives notice of intent to
12 do so in the manner provided in subsection (3) of this section.

13 (3) A defendant who is required under subsection (1) or (2) of this section to give notice shall
14 file a written notice of purpose at the time the defendant pleads not guilty. The defendant may file
15 such notice at any time after the plea but before trial when just cause for failure to file the notice
16 at the time of making the plea is made to appear to the satisfaction of the court. If the defendant
17 fails to file notice, the defendant shall not be entitled to introduce evidence for the establishment
18 of a defense under ORS 161.295 or 161.300 unless the court, in its discretion, permits such evidence
19 to be introduced [*where*] **when** just cause for failure to file the notice is made to appear.

20 **SECTION 2. The amendments to ORS 161.309 by section 1 of this 2005 Act apply to of-**
21 **fenses committed on or after the effective date of this 2005 Act.**

22

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.