

**REPORT**  
**Juvenile Code Revision Work Group:**  
**Juvenile Psychiatric Security Review Board Sub-Work Group**

**DRAFT**

**1. Introductory Summary**

Juveniles alleged to have committed a delinquent act have the ability to raise a defense of mental disease or defect, *see State ex rel Juvenile Department of Multnomah County v. L.J.*, 26 Or App 461, 552 P. 2d 1322 (1976), but the juvenile code is silent as to the disposition available to the juvenile court if a youth is successful in asserting the defense. The Sub-Work Group recognizes that the lack of dispositional alternatives may result in the denial of constitutional rights of some mentally ill youth.

**2. History of the Project**

This project was initiated by a Sub-Work Group of the Juvenile Code Revision Work Group whose task it was to develop a model of the successful Psychiatric Security Review Board (PSRB) for incorporation into the juvenile code. The Sub-Work Group included Mary Claire Buckley, PSRB; Kathie Berger, Juvenile Rights Project; Helen Smith and Amy Holmes Hehn, Multnomah County District Attorney's Office; Karen Brazeau and Phil Cox, Oregon Youth Authority; the Honorable Deanne Darling, Circuit Court Judge; Muriel Goldman; Bob Joondeph, Oregon Advocacy Center; Nancy Miller, Oregon Judicial Department; Mickey Serice and Bill Bouska, Department of Human Services; Ingrid Swenson, Oregon Criminal Defense Lawyers' Association. Other members of the full Juvenile Code Revision Work Group have also participated throughout the process.

**3. Statement of the Problem Area**

Alleged delinquent youth have the right to assert an insanity defense. In criminal court, successful assertion of this defense results in a finding that the person was guilty but insane and the sentencing court can either discharge the case or can commit the person to the supervision of the Psychiatric Security Review Board. The person can be placed in a hospital or facility designated by the Department of Human Services or can be placed and monitored in the community. If a person under the supervision of the PSRB is placed in the community, the person may be moved to a more structured setting, if their mental health needs and protection of the community warrant this type of placement.

The Oregon Juvenile Code is silent as to the dispositional options for youth who are successful in asserting the defense. Since they have not been adjudicated on the offense, they cannot be placed in the custody of the Oregon Youth Authority. Historically, these youth have been placed into the custody of the child welfare agency, which cannot provide the level of community protection needed in many cases. Due to the confusion regarding possible dispositional alternatives, many defense attorneys do not raise the defense and when raised, judges may not find that the defense was successful due to a concern for community safety.

**4. Objective of the Proposal**

The proposal would seek to establish a Juvenile Psychiatric Security Review Board (JPSRB).