

SB 64 – WHAT YOU NEED TO KNOW

What?

SB 64 changes the term “mental disease or defect” to “qualifying mental disorder” in criminal statutes.

When?

SB 64 takes effect on January 1, 2018.

How will these changes affect criminal law and defendants?

The new term, “qualifying mental disorder,” does not change anything legally. The Legislative change is meant to use less offensive and stigmatizing language and to clarify that not *all* mental disorders are “qualifying mental disorders.”

Why?

The Legislature’s preamble to SB 64 explains that:

Whereas the current Oregon Criminal Code was written in 1971 and included the defined term “mental disease or defect”; and

Whereas the term “mental disease or defect” has origins in mid-19th century English common law; and

Whereas the term “mental disease or defect” may carry a negative connotation; and

Whereas the meaning of the term “mental disease or defect” has been interpreted in multiple court decisions since enactment into law; and

Whereas the Legislative Assembly intends to replace the term “mental disease or defect” with a new term while preserving the validity of all previous court decisions interpreting or otherwise involving the term “mental disease or defect”; and

Whereas the purpose of this 2017 Act is to replace the term “mental disease or defect” with the term “qualifying mental disorder” and to retain the meaning of the replaced term, without making a substantive change to Oregon law[.]

Where can I find the new language?

Here’s the link to SB 64:

<https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB64/Enrolled>

Questions?

If you have any questions, please contact OSH Legal Affairs at 503-756-7889.