

**2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office**

MEASURE NUMBER: SB 528 **STATUS:** Original
SUBJECT: Reporting requirement for a criminal defendant's fitness to proceed to trial
GOVERNMENT UNIT AFFECTED: Department of Human Services, Oregon Judicial Department, and Public Defense Services Commission
PREPARED BY: John F. Borden
REVIEWED BY: John C. Britton and Robin LaMonte
DATE: March 8, 2007

EXPENDITURES:	<u>2007-2009</u>	<u>2009-2011</u>
Department of Human Services – Special Payments (secure intensive residential treatment facility and county mental health agencies)		
General Fund	\$ 2,193,518	\$ 2,033,518
Federal Funds	\$ 1,475,699	\$ 1,475,699
Total Funds	\$ 3,669,217	\$ 3,509,217

EFFECTIVE DATE: On passage

GOVERNOR’S BUDGET: This bill is not anticipated by the Governor’s recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure relates to a criminal defendant’s fitness to proceed to trial and requires the superintendent of the Department of Human Services (DHS), Oregon State Hospital or the director of a secure intensive residential treatment facility (SIRTF) to submit a written evaluation or report to the court regarding when there exists a substantial probability that the defendant will gain or regain his/her capacity to stand trial, but prior to the superintendent or director delivering the defendant to a county jail or other facility.

Under this measure, DHS would have to now hold a patient at the OSH until such time as a patient’s evaluation was formally completed and then provided to a court. DHS’ current practice is to transfer a forensic patient to a county jail or other facility after the patient has been evaluated at the OSH, but before the completion of the formal evaluative report. Completion of the report takes approximately 12-days.

The DHS fiscal impact is premised on the assumption that the DHS-OSP forensic patient census would increase by approximately 10 patients or those patients who otherwise would have been transferred to county jails or other non-DHS facilities or SIRTFS. These new forensic patients would have their length of stay at the OSH extended by approximately 12-days. Due to limited forensic patient capacity at the OSH, however, ten current forensic residents would need to be transferred to a SIRTF. This SIRTF currently does not exist. The new Oregon State Hospital Master Plan does not take into consideration the increase in patient census contemplated by this measure.

DHS states that this measure would not result in a direct increase for the OSH. The costs incurred are the result of paying for the one-time start-up costs for SIRTf, on-going SIRTf operations, administrative payments to local county mental health departments, and other ancillary costs such as employment support for patients. DHS assumes that seven of the ten patients would be eligible for federal Medicaid support. Also it assumes a seven percent vacancy rate at the SIRTf.

DHS estimates the 24-month cost for the 2007-09 biennium at \$3.67 million and the 24-month cost for the 2009-11 biennium at \$3.51 million. Of these amounts, General Fund would be \$2.19 million for the 2007-09 biennium and \$2.03 for the 2009-11 biennium. Federal Funds would be \$1.48 million for both biennia. The one-time cost of the SIRTf would be \$160,000 of General Fund and would be ineligible for Medicaid matching funds. There would be no additional state positions or full-time equivalents associated with this request for DHS. DHS states that all the funds under this measure would be special payments to SIRTf and county mental health agencies.

The Oregon Judicial Department states that it would not have a fiscal impact associated with this measure due to the fact it does not anticipate any measurable increase or decrease in court operations.

The Public Defense Services Commission does not anticipate a measurable fiscal impact.

This measure is also not anticipated to have a fiscal impact on the Psychiatric Security Review Board, as forensic patients would be outside the Board's jurisdiction until adjudicated.

County government could have minimal savings associated with this measure.

The Legislative Fiscal Office believes this measure warrants a subsequent referral to the Joint Committee on Ways and Means Committee for consideration of this measure's budgetary impact on the State's General Fund.