2009 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION

Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 265 **STATUS:** A Engrossed

SUBJECT: Establishment of mental health courts.

GOVERNMENT UNIT AFFECTED: Oregon Judicial Department, Criminal Justice Commission

Public Defense Services Commission, Department of Human Services, and local government

PREPARED BY: Tim Walker and John Borden

REVIEWED BY: John Borden, Doug Wilson, and John Britton

DATE: April 23, 2009

2009-2011 2011-2013

EXPENDITURES:

See Analysis.

EFFECTIVE DATE: January 1, 2010

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.

ANALYSIS: This bill would allow the presiding judge of any circuit court to establish a mental health court and a mental health treatment team. The bill identifies certain records maintained by the mental health court that cannot be introduced as evidence unless the participant waives the right or the court finds good cause. The bill also allows the State Court Administrator and the Criminal Justice Commission to access and track statistics concerning the effectiveness, costs and other areas of data of public interest. The bill also authorizes disbursement of a portion of the forfeiture proceeds to support the mental health programs. This money would normally go to the support of the drug court programs. The bill is silent on how much money is to be dedicated to drug courts vs. mental health courts.

This bill would codify the Oregon Judicial Department's (OJD) ability to establish mental health courts OJD currently operates nine "treatment" courts in eight counties. This type of problem-solving court is funded with the General Fund through the Department's budget. The establishment of additional mental health courts would represent a re-prioritization of funding and workload away from normal court operations. OJD states that a typical mental health court takes 8.25 judge hours and 39 staff hours per week. In addition, there are also centralized State Court Administrator costs for statewide treatment court coordination, management and reporting. Therefore, if additional mental health courts were to be established, they could lead to an increase in backlogs of court cases.

Given that the measure is permissive and does not provide for additional judgeships, treatment court specialists, or other staff for mental health courts, it is unclear why forfeiture revenues would be used other than as an offset to current General Fund expenditures (i.e, General Fund savings). The bill could also reduce the amount of drug court money received by the Department from the Criminal Justice Commission (CJC). CJC notes that civil forfeiture revenues to-date for 2009 have been de minimis, but may increase with the re-write of Oregon's civil forfeiture statutes, if enacted into law (SB 356A).

The bill has an indeterminate fiscal impact on OJD and a minimal impact on Public Defense Services Commission, Criminal Justice Commission, the Department of Human Services and local government.