

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3100

Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

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Date: 3/18/2011

Measure Description:

Modifies jurisdiction of Psychiatric Security Review Board. Modifies process for guilty except for insanity plea. Establishes certification process for providers of psychiatric and psychological evaluations.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Psychiatric Security Review Board (PSRB), Public Defense Services Commission (PDSC), Judicial Department, Oregon Youth Authority (OYA), Department of Corrections (DOC)

Summary of Expenditure Impact:

See Analysis

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:

House Bill 3100 modifies statutes relating to [1] the jurisdiction of the Psychiatric Security Review Board; [2] procedures for determining fitness to proceed; and [3] the right of state to obtain mental examination of a defendant. The bill stipulates that a defendant (adult or youth) may not introduce evidence on the issue of insanity unless the defendant files with the court a report of a psychiatric or psychological evaluation conducted by a certified evaluator. The bill outlines the requirements of this report. The bill authorizes the Oregon Health Authority (OHA), in consultation with the Psychiatric Security Review Board (PSRB), to adopt rules and establish fees necessary to certify psychiatrists and licensed psychologist for the purpose of performing these evaluations and examinations.

Oregon Health Authority (OHA)

OHA estimates the fiscal impact of this bill to be approximately \$290,694 Total Funds [\$281,319 General Fund, \$9,375 Other Funds and 0.75 FTE] for the 2011-13 biennium and \$385,266 Total Funds [\$372,766 General Fund, \$12,500 Other Funds and 1.00 FTE] for the 2013-15 biennium.

With passage of HB 3100, OHA anticipates developing and implementing a certification process for providers of psychiatric and psychological evaluations to ensure that evaluators have specific forensic mental health training, an understanding of Oregon's mental health system, knowledge about the difference between chemical dependency and mental illness, as well as knowledge of the criteria of the guilty except for insanity statute. The certification would last for two years with renewal through continuing education requirements in specific forensic training or by repeating the approved training. Those individuals wishing to be certified forensic evaluators would pay a fee of \$250. OHA estimates that 50 individuals would seek certification in a biennium. OHA would contract with an entity to provide this standardized training, roughly estimated at \$200,000 per biennium. OHA notes that this is a best available estimate, at this time. The agency is in the process of researching and identifying the most efficient and cost effective training available. The Legislative Fiscal Office (LFO) assumes that evaluator certification fees would be adjusted if this training cost differs from the current estimate.

OHA would establish a full-time Program Analyst 3 position, starting on January 1, 2012, to oversee this certification process and provide the list of certified evaluators to the courts.

Passage of this bill could reduce the number of insanity pleas, and may result in fewer forensic patients being sent to the Oregon State Hospital. However, the number of cases that may be affected is indeterminate, and it is anticipated that any bed capacity realized from passage of this bill would be filled by other patients.

Psychiatric Security Review Board (PSRB)

HB 3100 is anticipated to have minimal impact on PSRB. The bill [1] removes the requirement that the court place a person under the jurisdiction of the PSRB if the person had been found guilty except for insanity of a misdemeanor involving physical injury or risk of physical injury to another; and [2] specifies that in determining the conditional release of a defendant placed under the jurisdiction of the Psychiatric Security Review Board (PSRB), the court is required to order that the person be examined by a local mental health program designated by the board and a report of the examination be provided to the court if each felony for which the defendant was found guilty except for insanity is a Class C felony.

PSRB reports that the agency's historical data shows that misdemeanants only comprise between 2% and 3% of the board's clients. Currently, this equates to only 17 of the board's 735 clients. Therefore there will be a minimal decrease in workload as a result of this provision.

The requirement for an examination by a local mental health program in determining conditional release could increase workload for the board. Under current statute, PSRB only designates the local mental health program for judges who consider conditionally releasing a client when consulted. In addition, the increase in evaluations could increase the number of PSRB clients that will be placed on court conditional release. Consequently, workload associated with monitoring clients on conditional release would increase.

PSRB anticipates that any decrease in workload from the elimination of misdemeanants from the board's jurisdiction would be offset by the increase in workload required by board staff to designate an appropriate community agency to evaluate Class C felony clients and supervise additional clients on conditional release.

The Public Defense Services Commission (PDSC)

HB 3100 has an indeterminate fiscal impact on PDSC. The bill states that when the court orders a report of a psychiatric or psychological evaluation conducted by a certified evaluator, of a financially eligible person, the Public Defense Services Commission (PDSC) is responsible for paying for the evaluation. Under current practice, the agency expends funds for similar evaluations which range from \$750 to \$2,000, depending on variable factors including whether evaluators have to travel to examine the person or testify in court. At this time, PDSC is unable to determine whether the passage of this bill will increase the number of these evaluations or the cost of these evaluations due to evaluator certification requirements.

Judicial Department, Oregon Youth Authority (OYA), Department of Corrections (DOC)

HB 3100 is anticipated to have minimal impact on the Judicial Department, the Department of Corrections and the Oregon Youth Authority.

HB 2106 is similar to this measure.