

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 03/26/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 03/17, 03/26

Vote:

Yeas: 6 - Barker, Barton, Greenlick, Krieger, Olson, Post

Exc: 3 - Lininger, Sprenger, Williamson

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Requires community mental health director or designee to consult in all criminal cases with defendant who lacks capacity. Establishes that community mental health director or designee must determine whether community restoration services are available and provide findings to the court. Establishes that consultation must occur prior to commitment at state hospital for restoration.

ISSUES DISCUSSED:

- Bill is product of work group that included Legislative Counsel, Department of Justice, Police, District Attorneys, Sheriffs, Oregon Criminal Defense Lawyers Association, Disability Rights Oregon, and the Oregon Health Authority
- Population trends at the state hospital
- Community-based treatment option

EFFECT OF COMMITTEE AMENDMENT:

Clarifies language and extends the consultation requirement to all criminal allegations, not just Class C felonies and misdemeanors. Moves the community mental health consultation from ORS 161.370 to 161.365.

BACKGROUND:

It is a requirement of our criminal justice system that the defendant understands and participates in the criminal proceedings. This requirement has several sources. ORS 161.360 – 161.370 requires the court to suspend criminal proceedings when, as a result of mental disease or defect, the defendant is unable to understand the nature of the proceedings, assist with counsel, or participate in the defense. It also authorizes the court to order treatment and commitment in order to restore the defendant to capacity.

ORS 161.370 includes a preference for community-based restoration. Commitment to the state hospital for restoration is only permissible when there is a finding that the defendant is dangerous or there are no community-based restorative services.

House Bill 2420 A requires a consultation between the community mental health director and the defendant when the court has reasons to doubt the defendant's fitness to proceed. It also requires the director to provide findings to the court regarding community-based restoration before commitment to state hospital occur. By moving the consultation requirement to ORS 161.365, the consultation process is expedited and there are fewer court hearings.