

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 2382 - A**

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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**Measure Description:**

Authorizes court to determine fitness to proceed in probation violation proceedings.

**Government Unit(s) Affected:**

District Attorneys and their Deputies, Judicial Department, Public Defense Services Commission, Oregon Health Authority (OHA)

**Summary of Expenditure Impact:**

Agency – Fund Type	2015-2017 Biennium	2017-2019 Biennium
Oregon Health Authority – General Fund	\$4,140,856	\$5,562,122
Public Defense Services Commission – General Fund	\$409,500	\$546,000

**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:**

The measure authorizes the court to determine a defendant’s fitness to proceed in probation violation proceedings. Currently, courts are authorized to determine fitness to proceed only with regard to the original criminal case. The measure outlines specific stipulations if the court finds a defendant lacks fitness to proceed. The measure is effective January 1, 2016.

The Judicial Department notes that under current law, when the court orders a defendant lacks fitness to proceed, the defendant is typically transported to the Oregon State Hospital (OSH) or local community facility for treatment. OSH is required by law to admit all patients received through lack of fitness to proceed determinations and reports that the average length of stay for these patients is 72 days at a cost of \$804.46 per day.

The Oregon Health Authority (OHA) utilized DOC data on inmate mental health, probation populations, and revocation rates to estimate the number of defendants that may be admitted as patients into OSH. Based on these assumptions, OHA anticipates 13 additional occupied beds per year. The estimated costs to OHA for patient care and additional staffing are \$4,140,856 General Fund in the 2015-17 biennium and \$5,562,122 General Fund in the 2017-19 biennium.

The Public Defense Services Commission (PDSC) notes that when a court orders an evaluation of a state-represented defendant for fitness to proceed, the costs of the evaluation is covered by PDSC. The average cost of a fitness to proceed evaluation is \$2,100. In order to determine the potential costs, PDSC looked at the annual number of public defense criminal cases where fitness to proceed evaluations took place, compared to the total number of public defense probation cases during that same time frame. Using 2014 data, there was a fitness to proceed evaluation on 0.56% of adult criminal

public defense cases and 23,009 public defense probation violations. Using that percentage, PDSC estimates at least 130 cases with an estimated cost of \$273,000 General Fund per year.

There is a minimal fiscal impact to the Judicial Department and the District Attorney's and their Deputies as a result of this measure.

The Legislative Fiscal Office notes that these cost estimates could vary depending on the actual number of cases that occur and the number of patients that are admitted into the Oregon State Hospital based on the measure.