

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: HB 2420 A
CARRIER: Sen. Kruse

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 04/30/15

Action: Do Pass The A-Eng Bill.

Meeting Dates: 04/30

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Requires community mental health director or designee to consult with incapacitated defendants in all criminal cases. Directs community mental health director or designee to 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:

- Population trends at the Oregon State Hospital
- Specific example of person sent to the Oregon State Hospital rather than community-based treatment
- Community-based treatment options

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

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 already includes a preference for community-based restoration. Commitment to the state hospital for restoration is only permissible when: (1) there is a finding that the defendant is dangerous; or (2) 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 reason to doubt the defendant's fitness to proceed. It also requires the director to provide written findings to the court about whether community-based restoration is available before commitment to state hospital can occur.