

HB 2309 A STAFF MEASURE SUMMARY

Carrier: Sen. Manning Jr

Senate Committee On Judiciary

Action Date: 04/24/17
Action: Do pass the A-Eng bill.
Vote: 4-0-1-0
Yeas: 4 - Dembrow, Linthicum, Prozanski, Thatcher
Exc: 1 - Manning Jr
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Provides that progress report submitted to trial court to describe treatment of incompetent criminal defendant may consist of update to an earlier conducted examination.

ISSUES DISCUSSED:

- Workload impact on limited number of evaluators
- Full medical history in initial evaluation; paperwork reduction
- No impact on admission to hospital

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The due process clause of the United States Constitution prohibits the criminal prosecution of an incompetent defendant; a "defendant may not be put to trial unless he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding...and a rational as well as factual understanding of the proceedings against him." *Cooper v. Oklahoma*, 517 U.S. 348, 354 (1996). In Oregon, the process for determining the defendant's fitness for trial, often described as the ability to 'aid and assist' - is described in ORS 161.360 to 161.370.

Pursuant to these statutes, a defendant may be subjected to a psychiatric or psychological examination conducted in a jail, locally in the community or at a state mental hospital. When the examination results in a court order suspending the criminal proceeding until the defendant gains fitness for trial, the defendant may receive restorative mental health treatment in the community or at a state mental hospital. Following a commitment to a state mental hospital for restorative treatment, the director of the facility is required to provide the court with regular progress reports. House Bill 2309-A provides that these progress reports need not be based on a thorough evaluation that includes a full medical history, but may consist of an update to an earlier examination conducted by the hospital or facility.