



## Open Government Impact Statement

80th Oregon Legislative Assembly  
2019 Regular Session

## Measure: SB 24-A

Only impacts on Original or Engrossed  
Versions are Considered Official

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### SUMMARY

Modifies procedures related to criminal defendants lacking fitness to proceed.

Provides that order committing defendant to state mental hospital or other facility for examination on issue of fitness to proceed may authorize treatment and observation prior to examination. Provides that committed defendant be transported to hospital or facility for examination, after which superintendent of hospital or director of facility may return defendant to facility from which defendant was transported or request amended court order allowing defendant to be kept for further observation and treatment.

Authorizes report concerning defendant's fitness to proceed to be provided to community mental health program director of county in which defendant is charged and county of defendant's last known residence. Restricts availability and use of report.

Provides that court-ordered consultation with community mental health program director or director's designee occur prior to court's disposition determination and after court finds defendant lacks fitness to proceed. Requires court, upon receipt of findings resulting from consultation, to consider and pursue certain alternative dispositions to commitment.

Modifies procedures when court receives notice that committed defendant is no longer danger to self or others or that resources to treat defendant are available in community.

Restricts circumstances in which court may commit defendant lacking fitness to proceed to state mental hospital or other facility when defendant is charged only with misdemeanor or violation.

Provides that defendant committed for treatment to restore fitness to proceed receive credit for time served in jail both before and after commitment.

Authorizes treatment and observation prior to examination when defendant committed for purposes of conducting examination on issue of mental defense. Restricts availability and use of report resulting from examination.

Declares emergency, effective on passage.

### OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.

This measure exempts from public disclosure the examination report prepared at the direction of the court to help determine if the defendant lacks fitness to proceed.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could receive information regarding



mental health evaluations conducted of defendants whose fitness to proceed has been called into question.