



Aid & Assist

2020 SB 1575

Key Points

- Defendants in criminal cases have a constitutional right to assist in their own defense.
- Addresses issues that have arisen in implementing 2019 SB 24.
- Reflects consensus of a broad-based group of stakeholders.
- Conforms statutory requirements for evaluator reports with the scope of their professional authority.
- Limits the time a defendant who has been found unfit to proceed may remain in jail, per federal requirements.

SB 1575 – Aid & Assist Process

The 2019 Legislature passed bills to improve court processes involving criminal defendants who are unfit to aid assist in their own defense. This legislation sought to increase the use of community-based services as an alternative to commitment to the Oregon State Hospital (OSH) for treatment necessary to stand trial. SB 1575 restructures the aid-and-assist statutes to improve clarity and makes the following substantive changes to effectuate the intent of SB 24:

Hospital Level of Care. SB 24 required certified evaluators to opine on a defendant's dangerousness as part of assessing the need for "hospital level of care." SB 1575 limits an evaluator's recommendation to acuity of the defendant's symptoms, a review of appropriate community restoration services, the defendant's current diagnosis and symptomology, the defendant's current ability to engage in treatment, and general safety concerns relating to the defendant.

SB 1575 similarly modifies the criteria for OSH to determine that a defendant who has been committed for restoration services no longer needs a hospital level of care and replaces consideration of defendant's dangerousness with consideration of present public safety concerns.

Expands criteria permitting a judge to commit a defendant charged with a misdemeanor to OSH for restoration services. SB 1575 requires either a recommendation from a certified evaluator and a community mental health program, or certain court findings on the severity of a defendant's symptoms, present public safety concerns, and lack of appropriate community restoration services.

Seven-Day Review Hearings. Conforms Oregon law to federal requirements for maximum duration that a defendant who is determined to be unfit to proceed may remain in jail. SB 1575 requires a judge to determine an appropriate action using current release criteria and enter an order in accordance with the defendant's constitutional rights to due process.