



**Testimony in Support of Senate Bill 1575A
Submitted by Courtney Helstein on behalf of ACLU of Oregon
House Committee on Rules
February 25, 2020**

Chair Holvey and Members of the Committee:

The American Civil Liberties Union of Oregon¹ has been a longtime advocate for fair treatment of those in the state's criminal justice system. The Due Process Clause of the Fourteenth Amendment guarantees fairness for defendants in Oregon courts and prohibits criminal prosecution of those defendants that do not have the mental capacity to understand the proceedings to which they are being subjected.

In Oregon, such innocent people who are deemed to be lacking that mental capacity are entitled to competency restoration services. In 2003, the Ninth Circuit Court of Appeals ordered the State of Oregon to transfer people in need of competency restoration care from punitive jail settings to a therapeutic setting within 7 days. *See Mink v. Oregon Advocacy Center*, 322 F. 3d 1101 (9th Cir. 2003). The decision arose in an Oregon where innocent people who were mentally ill were languishing in our county jails. We are still that Oregon.

Jail is no place for somebody needing mental health care. Subjecting innocent people with mental illnesses to punitive jailing is inhumane and unconstitutional. People with mental illness get swept into the criminal justice system for a variety of reasons and are overrepresented in the system. Oregon has recently made important steps to roll back failed tough-on-crime policies that have resulted in the criminalization of mental illness. Shifting state resources from prosecution to public health services will allow our state to continue this trend and build communities that support all of its residents.

Oregon should invest in local mental health care, so communities are able to provide the housing, care and competency restoration that their members need to ensure a safe and healthy environment for all Oregonians. In doing so, the system should be flexible enough to ensure that a lack of community resources does not keep individuals in need of restoration services trapped in local jails indefinitely. We also urge the State to continue considering the needs of those that have conditions for which restoration treatment is not designed (e.g. traumatic brains injuries or intellectual/developmental disabilities).

The ACLU of Oregon recognizes that there is still more work to do in Oregon beyond SB 1575A. We strongly encourage the legislature to continue the critical work to reshape our criminal justice system to align with the Constitution.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We have more than 28,000 members in the State of Oregon, and that number is growing as we speak.