

# House Bill 2213

Sponsored by Representative WILDE (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes process by which defense may request that prosecuting attorney consider mental health of defendant for purposes of plea offer. Authorizes prosecuting attorney to request evaluation of defendant. Requires prosecuting attorney to consider mental health information and prepare written findings.

## A BILL FOR AN ACT

1  
2 Relating to criminal justice.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1)(a) The defense may file with the court a written request that the prose-**  
5 **cuting attorney consider the defendant's mental health for purposes of a plea offer. Within**  
6 **one judicial day of filing the request, the defense shall provide a copy of the request to the**  
7 **prosecuting attorney.**

8 **(b) The defense may provide to the prosecuting attorney a report from a psychological**  
9 **or psychiatric evaluation of the defendant and any additional relevant information concern-**  
10 **ing the defendant's mental health.**

11 **(c) A request made under this subsection must be made in a timely manner that allows**  
12 **sufficient time for the prosecuting attorney to review any information received, and obtain**  
13 **a mental health evaluation under subsection (2) of this section, if applicable, prior to any**  
14 **date set for plea or trial. A request made under this section does not obligate the court to**  
15 **grant to the defense any delay of trial.**

16 **(2)(a) Upon receiving a request under subsection (1) of this section, the prosecuting at-**  
17 **torney shall review and consider any information provided by the defense concerning the**  
18 **defendant's mental health.**

19 **(b) The prosecuting attorney may, by motion, request that the court authorize a psy-**  
20 **chologist or psychiatrist selected by the prosecuting attorney to evaluate the defendant. The**  
21 **court, in its discretion, may authorize the evaluation.**

22 **(3) After considering the mental health information received from the defense, and the**  
23 **results of any evaluation authorized under subsection (2) of this section, the prosecuting**  
24 **attorney shall prepare written findings. The written findings shall include a description of**  
25 **the prosecuting attorney's consideration of the defendant's mental health information, the**  
26 **effect of the information on any plea offer in the case, and an explanation of the following:**

27 **(a) How the prosecuting attorney's recommended disposition of the case will address the**  
28 **mental health needs of the defendant;**

29 **(b) If a sentence of imprisonment is recommended, how the mental health needs of the**  
30 **defendant will be met during the term of imprisonment, and how any concerns for public**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 safety will be addressed after release;

2 (c) If a sentence of probation is recommended, how the mental health needs of the de-  
3 fendant will be met while on probation; and

4 (d) Why alternative dispositions, including diversion, conditional discharge, probation  
5 under ORS 137.533 or other supervision with conditions designed to meet the defendant's  
6 mental health needs, would not adequately address any concerns for public safety.

7 (4) The written findings described in subsection (3) of this section shall be signed by the  
8 prosecuting attorney under penalty of perjury and filed with the court. The court shall en-  
9 sure that a copy of the findings is provided to the defense.

10 (5) If the court authorized an evaluation requested by the prosecuting attorney under  
11 subsection (2) of this section, but the defendant declined to participate in the evaluation for  
12 reasons unrelated to mental health, the prosecuting attorney may, in lieu of the findings  
13 required by subsection (3) of this section, file with the court a document explaining that the  
14 prosecuting attorney was unable to prepare the findings, accompanied by a sworn statement  
15 from the psychologist or psychiatrist who attempted to meet with the defendant.

16 (6) At sentencing, the court shall consider any written findings filed under subsection (3)  
17 of this section in the same manner as the court would consider a presentence report.

18 (7) A report resulting from an evaluation authorized under subsection (2) of this section,  
19 and any written findings or documents filed with the court under subsection (4) or (5) of this  
20 section, are confidential and may be made available only to the court, the defendant, the  
21 prosecuting attorney, the defense attorney or an agent of the prosecuting attorney or de-  
22 fense attorney.

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