



TO: Senate Committee on Judiciary and Ballot Measure 110 Implementation
FROM: Elizabeth Wakefield for the Oregon Criminal Defense Lawyers Association
DATE: March 4, 2021
RE: Support for SB 295

Chair Prozanski, Vice Chair Thatcher, and Members of the Committee:

My name is Elizabeth Wakefield. I am an attorney at Metropolitan Public Defender (MPD). I am here today representing OCDLA in support of SB 295.

The Oregon Criminal Defense Lawyers Association (OCDLA) is a nonprofit professional association for experts, private investigators, and attorneys who represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and appellate level, as well as civil commitment proceedings throughout the state of Oregon.

MPD has a Mental Health Attorney assigned to the Aid and Assist docket, mental health court dockets, Civil commitment docket, and serves as a resource to the office. I heard from attorneys around the state about the variety of challenges that arise in urban, rural, and frontier counties.

Defense attorneys take the issue of client competency very seriously. The fundamental right of a criminal defendant to understand the proceedings, work with the defendant's attorney and participate in their own defense is essential to insuring Due Process. We are bound by Oregon Rules of Professional Conduct and guided by legal standards to assess a defendant's mental condition and take appropriate action. Defense attorneys see the damaging impact of incarceration on our clients as they wait in local jails to receive evaluations and restoration services. Access to these services is in many cases out of our control.

OCDLA has participated with criminal justice system partners in a workgroup convened in Fall 2019. The goals of the partners have been to develop collaborative solutions to the challenges that we see. The result of these conversations and collaboration is SB 295.

SB 295 amends Oregon statutes to improve the aid and assist process. SB 295 does the following:

- Defines "Hospital level of care" consistent with mental health professional's understanding.
- Establishes clear guidelines consistent with professional standards and practices for a certified evaluator to review in reaching their opinion about whether a defendant needs a "Hospital level of care."

- Continues to engage the Community Mental Health providers in the aid and assist process.
- Strengthens the partnership and communication between the Oregon State Hospital and the Community Mental Health Providers who provide restoration services in the community.
- Clarifies that a defendant who is held at the Oregon State Hospital while receiving rehabilitation services, shall receive day for day credit for time served in a locked hospital setting toward his or her charges.
- Clarifies process when defendant no longer needs Hospital level of care but continues to need restoration services and can transition to the community for continued restoration services.
- Establishes clear timelines for communication from community mental health providers and Oregon State Hospital.

This testimony is for SB 295. We understand that there are -1 and -2 amendments, which we are not commenting on currently.

OCDLA urges your support for SB 295. Thank you for the opportunity to provide this testimony.

Submitted by:

Elizabeth Wakefield
Metropolitan Public Defender

On behalf of OCDLA