

SB 380 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/03/23

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 5-0-0-0

Yeas: 5 - Gelser Blouin, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

Prepared By: Amie Fender-Sosa, LPRO Analyst

Meeting Dates: 3/23, 4/3

WHAT THE MEASURE DOES:

Directs the Oregon Public Guardian and Conservator (OPGC) to develop and administer a program to provide guardianship services to defendants whose criminal cases may be or have been suspended or dismissed by a determination of fitness to proceed. Requires participants in the program to qualify for public guardian services. Creates time limits for determining a defendant's eligibility to participate in the program. Directs the OPGC to collaborate with district attorneys, community mental health programs and facilities where defendants are housed. Allows the OPGC to provide services under the measure at any time after the defendant's fitness to proceed is drawn into question. Allows the OPGC to have access to reports and records regarding the defendant from examinations, recommendations resulting from community mental health programs, or related court records. Allows the court to appoint a temporary guardian if the court determines that the appropriate action in the case is commencement of a protective proceeding. Updates statutory reference. Appropriates \$1,696,450 from the General Fund to the OPGC. Delays the operative date of the program until January 1, 2024. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Treatment in the community vs treatment in state hospital
- Some persons are never able to be restored; the person may become more ill and ends up in the system again after being released to the community (cycle of never able, homelessness, criminal conduct, Oregon State Hospital)
- District attorneys would like to refer more people who have acute symptoms to the guardian, but the guardian is almost at capacity
- Public guardian can help keep a person out of the justice system, by creating safe, stable plans
- Concern that the measure creates a separate criterion for establishing a guardianship over a person with a disability
- Measure doesn't change the process for the public guardian to petition
- OPGC is the guardian of last resort
- Measure would increase OPGC capacity to supervise additional 80 adults; currently OPGC has a waitlist

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2014, the Oregon Public Guardian and Conservator (OPGC) was established within the Office of Long Term Care Ombudsman. The OPGC is tasked with providing guardianship and conservatorship services for persons who do not have relatives or friends willing or able to provide those services and who lack the resources to hire a professional fiduciary. If a criminal defendant is determined unable to aid in their own defense, the criminal

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proceeding against the defendant is suspended until such time as the defendant has gained or regained their fitness to proceed. In some instances, the defendant is released into the community.

Senate Bill 380 A appropriates \$1,696,450 from the General Fund to the Oregon Public Guardian and Conservator (OPGC) and directs the OPGC to develop and administer a program to provide guardianship services to defendants whose criminal cases may be or have been suspended or dismissed by a determination of fitness to proceed.