



## ALEX CUYLER

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Intergovernmental Relations Manager  
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DATE: March 9, 2023  
TO: Senate Committee On Judiciary  
FROM: Alex Cuyler, Lane County Intergovernmental Relations Manager  
RE: SB 319, relating to the Oregon TORT Claims Act

Dear Chair Prozanski and Members of the Committee:

Of all the bills introduced in the 2023 Session of the Oregon Legislature, SB 319 is our highest priority. It is a measure we have been working on for several years with a collaboration of aligned stakeholders, and we urge you to help us move this measure ultimately to the desk of Governor Kotek.

SB 319 would establish indemnification for those entities that contract with a public body to carry out the important functions at ORS 161.365 and ORS 161.370. These are the Aid and Assist statutes that come into play when a defendant appears before a state or municipal court and displays such confusion over what is occurring that they are deemed to lack “fitness to proceed”. Typically, these defendants are then ordered into treatment to “gain or regain” fitness.

The County role in these proceedings is provided through the Community Mental Health Program, sometimes referred to as the County Mental Health Authority. Our staff make recommendations to the court based on evaluations of each defendant, and in certain cases place those defendants in the community for treatment, and then provide the actual treatment. The vast number of defendants treated through this process are able to ultimately fulfill their obligation to the court.

At issue is the minority of cases where things do not go as planned. A defendant does not always maintain fidelity to their treatment plan, and at worse can be involved in criminal activity that impacts innocent third parties. That very dynamic occurred in Lane County and resulted in the deaths of three individuals. Since that case, we have worked to seek changes to statute, including:

- Successfully removing the term “supervision” from the role of the Community Mental Health Program. Pre-trial supervision is a function of each court, and it is more or less evolved within each court’s jurisdiction in this State.
- Unsuccessfully, ensuring there exist clear procedures for our staff and court staff to follow if a defendant absconds from treatment, or otherwise is not able to retain fidelity to their treatment plan.

SB 319 is an important component of this work and is immediately necessary, but may not be the only path forward to ensure litigation does not threaten the very existence of these programs. We are engaged in conversations to quickly sunset indemnity, if a workgroup can be formed that would create an insurance option to indemnity, for example a SAIF-like structure that a variety of entities that work with justice involved individuals can access.