



March 11, 2019

TO: Senator Floyd Prozanski, Chair
Senate Committee on Judiciary
FR: Sarah Radcliffe and Bob Joondeph, Disability Rights Oregon
RE: Supporting SB 378 and the -2 amendments

Disability Rights Oregon (DRO) is the designated Protection and Advocacy program for Oregon. DRO is mandated by federal and state law to advocate for the rights of individuals with disabilities.

The number of Oregonians who are charged with crimes and who, due to a disability, do not understand the charges or have the ability to effectively work with their attorneys has more than doubled just in the past six years. "Aid + Assist" is the umbrella term that describes the process of assessing a defendant's ability to understand the charges and work with their attorney and then potentially, providing treatment to restore competency. The Aid + Assist process can take months or years, during which time, the criminal case is on hold and the defendant is in limbo and usually in custody.

The first step of the Aid + Assist process is a competency evaluation. The evaluation is almost always a prerequisite to competency restoration treatment. In *Trueblood*, the Ninth Circuit Court of Appeals held that defendants have a constitutional right to a prompt competency evaluation, if ordered by the court. In Washington, the court has interpreted that decision to require an evaluation within 14 days. The purpose of SB 378 is to bring Oregon into compliance with the constitutional standard.

A component of the work we do at Disability Rights Oregon is to visit jails around the state and to talk with people in custody, jail commanders, attorneys, and other stakeholders. In both rural and urban areas, we hear that defendants face significant delays in the aid and assist process. Earlier this month, for example, we spent a day at Washington County Jail, and learned that most defendants wait between three and six weeks for an evaluation, and that it's not uncommon to wait two to three months.

These delays clog the courts system and overcrowd jails but, most importantly, additional weeks or months in jail can be detrimental to the health and welfare of individuals with mental health conditions. Often, these individuals are charged with minor crimes that are related to their mental illnesses and they spend far longer in jail than a person without a disability who simply serves the sentence. As DRO has documented, the outcomes for people with mental illnesses in jail can be dire, including suicide, violence, extreme isolation and sensory deprivation, and lack of access to critically needed healthcare.

Stakeholders have been engaged in discussion around reducing delays in competency evaluations and have cited impediments to complying with the 14-day timeframe set forth in

the *Trueblood* line of cases. The -2 amendments to SB 378 propose commissioning a study to better understand these impediments. As a step toward honoring the constitutional rights of defendants as well as addressing the waste and inefficiency of this system, the study is helpful and timely. DRO is eager to continue to be a partner in finding a thoughtful and effective solution.

Thank you for this opportunity to testify in support of SB 378 and the -2 amendments.