



Open Government Impact Statement

80th Oregon Legislative Assembly
2019 Regular Session

Measure: SB 24-B

Only impacts on Original or Engrossed
Versions are Considered Official

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SUMMARY

Modifies procedures related to criminal defendants lacking fitness to proceed.

Provides that when defendant is committed to state mental hospital or other facility for examination on issue of fitness to proceed, examination may include period of observation. Provides that committed defendant be transported to hospital or facility for examination, after which superintendent of hospital or director of facility may return defendant to facility from which defendant was transported, or inform court and parties that defendant requires hospital level of care and request that defendant remain at facility pending fitness to proceed order.

Authorizes report concerning defendant's fitness to proceed to be provided to community mental health program director of county in which defendant is charged and county of defendant's last known residence. Restricts availability and use of report. Authorizes court to enter order concerning fitness to proceed, without hearing, based on report from examination if both parties consent.

Requires court to receive and consider certain input from community mental health program director or director's designee, and any entity responsible for supervising defendant upon release, after court finds defendant lacks fitness to proceed. Directs court and parties to at hearing determine appropriate action in case. Directs court to consider certain criteria and enter order necessary to implement action. Requires review hearing after 14 days for defendants not requiring hospital level of care who remain in custody.

Modifies procedures when court receives notice that committed defendant is no longer danger to self or others or that resources to treat defendant are available in community.

Restricts circumstances in which court may commit defendant lacking fitness to proceed to state mental hospital or other facility when defendant is charged only with misdemeanor or violation.

Provides that defendant committed for treatment to restore fitness to proceed receive credit for time served in jail both before and after commitment.

Authorizes treatment, as permitted by law, when defendant committed for purposes of conducting examination on issue of mental defense. Restricts availability and use of report resulting from examination.

Declares emergency, effective on passage.

OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.



This measure exempts from public disclosure the examination report prepared at the direction of the court to help determine if the defendant lacks fitness to proceed.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could receive information regarding mental health evaluations conducted on defendants whose fitness to proceed has been called into question.