

SB 1575 A STAFF MEASURE SUMMARY**Carrier:** Rep. Sanchez**House Committee On Rules**

Action Date: 02/26/20
Action: Do Pass the A-Eng bill.
Vote: 4-0-0-3
Yeas: 4 - Fahey, Holvey, Nosse, Smith Warner
Abs: 3 - Drazan, Sprenger, Zika
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Melissa Leoni, LPRO Analyst
Meeting Dates: 2/25, 2/26

WHAT THE MEASURE DOES:

Modifies provisions related to fitness to proceed. Reorganizes and restructures statutes. Defines terms related to fitness to proceed. Provides for the confidentiality of any documents prepared by the state hospital for the purposes of ORS 161.365 and ORS 161.370. Modifies procedures and criteria for committing defendant charged with felony to the Oregon State Hospital or other facility in order to gain or regain fitness to proceed. Requires court to find that defendant requires hospital level of care due to public safety concerns or acuity of symptoms of defendant's mental disorder and that appropriate community restoration services are not provided. Modifies procedures and criteria for committing defendant charged with misdemeanor to Oregon State Hospital or other facility in order to gain or regain fitness to proceed. Requires either recommendation from certified evaluator that defendant requires hospital level of care and statement from community mental health program director concerning available community restoration services, or for court to make certain findings concerning severity of defendant's symptoms, present public safety concerns, and whether appropriate community restoration services are provided. Modifies procedures to return a defendant to community restoration services and differentiates between defendant charged with misdemeanor and defendant charged with felony when circumstances authorizing commitment of defendant no longer exist. Allows the court to consider information that is trustworthy and reliable when making determinations regarding a defendant's fitness to proceed. Requires city to pay for municipal court-ordered psychological examinations. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Senate Bill 24 (2019) implementation work group
- Provisions of the measure

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

If there is doubt as to whether a defendant is able to aid and assist in their own defense, the court may require the defendant to consult with a community mental health program to determine whether there are services available in the community to restore the defendant's fitness, order an examination of the defendant by a certified evaluator, or order the defendant be committed to the State Hospital for the purposes of evaluation. See ORS 161.365. If a defendant is determined unable to aid in their own defense, the criminal proceeding against the defendant is suspended until such time as the defendant has gained or regained their fitness to proceed. See ORS 161.370.

In the 2018-2019 interim, the Oregon State Hospital convened a work group to address the increase in the fitness to proceed population at the State Hospital and to review the statutory scheme that governs fitness to proceed

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cases in Oregon's criminal courts. The product of that work group was Senate Bill 24 (2019). That bill substantially overhauled Oregon's fitness to proceed statutes. Specifically, it requires courts to consider ordering rehabilitation services in the least restrictive setting possible or, when appropriate, find an alternative disposition for a defendant who does not require a hospital level of care. It also prohibits the commitment to the State Hospital of persons charged with violations and only allows for the commitment to the State Hospital of persons who have committed misdemeanors when a hospital level of care is necessary. Finally, it requires review hearings where the court must consider alternative placements and dispositions at seven-day intervals for any individual found to be unfit and placed in custody while awaiting services at the State Hospital or in the community.

In the 2019-2020 interim, the State Hospital, in partnership with the Oregon Judicial Department and the Senate Committee on Judiciary, convened a SB 24 implementation work group. That work group included membership from over 50 participants representing a variety of disciplines from around the state, including but not limited to, judges, district attorneys, defense attorneys, community mental health representatives, Department of Justice, and other interested organizations. The work group sought to ensure the successful implementation of SB 24 and to assess whether there were any needed legislative changes to the fitness to proceed statutes based on the experiences of work group members during the implementation of the bill.

Senate Bill 1575-A is the consensus product of that work group. It makes a series of adjustments to the fitness to proceed statutes as they were modified by SB 24.