

SB 295 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 3/4, 3/11

WHAT THE MEASURE DOES:

Defines terms related to fitness to proceed. Reorganizes and restructures statutes related to fitness to proceed. Modifies procedures and criteria for committing a defendant charged with felony to state mental hospital or other facility in order to gain or regain fitness to proceed. Requires the court to find that the defendant requires hospital level of care due to public safety concerns or acuity of symptoms of the defendant's mental disorder, and that appropriate community restoration services are not provided before committing a defendant to the state hospital. Modifies procedures and criteria for committing a defendant charged with a misdemeanor to the state mental hospital or other facility in order to gain or regain fitness to proceed. Requires either a recommendation from a certified evaluator that the defendant requires hospital level of care and a statement from the community mental health program director concerning available community restoration services, or for court to make certain findings concerning the severity of the defendant's symptoms, public safety concerns and whether appropriate community restoration services are provided. Modifies procedures when circumstances authorizing commitment of a defendant no longer exist. Establishes timelines under which evaluations of a defendant must be performed and the results of which must be provided to the court ordering commitment. Establishes timeline for treatment facility to provide progress reports on defendant's treatment status to the court. Provides that if a defendant is charged with felony, the superintendent of state mental hospital or the director of a facility to which the defendant is committed may notify the court when hospital level of care is no longer necessary. Requires the superintendent or director to notify court when specified circumstances have changed for a defendant charged with misdemeanor. Authorizes community mental health program director to notify court if community restoration services become available for committed defendant charged with felony or misdemeanor. Establishes criteria and timeline for court consideration of defendant's release into community when hospital level care is no longer necessary. Provides that documents related to involuntary medication of defendant are confidential and may be made available only to specified parties. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Defines terms related to fitness to proceed. Reorganizes and restructures statutes related to fitness to proceed. Modifies procedures and criteria for committing a defendant charged with felony to state mental hospital or other facility in order to gain or regain fitness to proceed. Requires the court to find that the defendant requires hospital level of care due to public safety concerns or acuity of symptoms of the defendant's mental disorder, and that appropriate community restoration services are not provided before committing a defendant to the state hospital. Modifies procedures and criteria for committing a defendant charged with a misdemeanor to the state mental hospital or other facility in order to gain or regain fitness to proceed. Requires either a recommendation from a certified evaluator that the defendant requires hospital level of care and a statement from the community mental health program director concerning available community restoration services, or for court to make certain findings concerning the severity of the defendant's symptoms, public safety concerns and whether appropriate community restoration services are provided. Modifies procedures when circumstances authorizing commitment of a defendant no longer exist. Establishes timelines

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under which evaluations of a defendant must be performed and the results of which must be provided to the court ordering commitment. Establishes timeline for treatment facility to provide progress reports on defendant's treatment status to the court. Provides that if a defendant is charged with felony, the superintendent of state mental hospital or the director of a facility to which the defendant is committed may notify the court when hospital level of care is no longer necessary. Requires the superintendent or director to notify court when specified circumstances have changed for a defendant charged with misdemeanor. Authorizes community mental health program director to notify court if community restoration services become available for committed defendant charged with felony or misdemeanor. Establishes criteria and timeline for court consideration of defendant's release into community when hospital level care is no longer necessary. Provides that documents related to involuntary medication of defendant are confidential and may be made available only to specified parties. Declares emergency, effective on passage.

-2 Requires that a defendant's release to community restoration program be conditioned upon a requirement that the defendant follow all policies of the program to which the defendant is released and that the defendant maintain regular contact with defendant's attorney. Requires notice be provided to the court within five days of any violation of said release. Exempts programs providing residence to a defendant, for purpose of gaining or regaining fitness, from governance under ORS chapter 90 relating to landlord and tenant duties.

BACKGROUND:

In 2019, the Legislative Assembly enacted Senate Bill 24. The measure made changes to the fitness to proceed processes delineated in ORS 161.365 and ORS 161.370. It required courts to consider ordering rehabilitation services in the least restrictive setting possible or, when appropriate, finding an alternative disposition for a defendant who does not require a hospital level of care. It also prohibited the commitment to the State Hospital of persons charged with violations, and limited persons who have committed misdemeanors to be admitted only when a hospital level of care is necessary. Finally, the measure created the requirement for 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.