



Open Government Impact Statement

81st Oregon Legislative Assembly
2021 Regular Session

Measure: SB 295

Only impacts on Original or Engrossed
Versions are Considered Official

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Date: 1/29/2021

SUMMARY

Defines terms related to fitness to proceed. Reorganizes and restructures statutes related to fitness to proceed.

Modifies procedures and criteria for committing defendant charged with felony to state mental 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 state mental 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, public safety concerns and whether appropriate community restoration services are provided.

Modifies procedures when circumstances authorizing commitment of defendant no longer exist. Provides that if defendant is charged with felony, superintendent of state mental hospital or director of facility to which defendant is committed may notify court when hospital level of care is no longer necessary. Requires superintendent or director to notify court when specified circumstances have changed for 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.

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.

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 a certified evaluator's examination report made in performing a fitness to proceed evaluation, records containing the recommendations of, or resulting from consultation with, a community health program director or the director's designee, and any documents submitted to the court by a state mental hospital related to the proceedings. The measure also exempts from public disclosure reports, motions and orders concerning the involuntary medication of a defendant.



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 additional information regarding a defendant's fitness to proceed evaluation and information relating to the involuntary medication of defendants.