



March 12, 2025

Representative Jason Kropf, Chair
House Committee On Judiciary
900 Court Se. NE
Salem, OR 97301

RE: City of Eugene Opposes HB 3501 and -3 amendment

The City of Eugene opposes HB 3501 and the -3 amendments. The City operates the state's largest Municipal Court and also hosts an in-house City Prosecutors Office, both entities have provided input for our letter of testimony. In addition to the substantive items included below, the City takes issue with the process for moving the -3 amendment forward, releasing the amendment onto OLIS on Friday March 7th with a Monday March 11th Public Hearing—despite the Forensic Behavioral Health Workgroup commitments to move a package of bills forward in a collaborative and informed process.

The -3 amendment to HB 3501 will severely undermine the Eugene Municipal Court (Muni Court) regarding defendants found incapacitated to stand trial. This legislation will cause the City of Eugene to expend limited general fund resources in enforcing the law, will cause more defendants to not receive the treatment they need, will cause many more cases to be statutorily dismissed, and cause undue hardship on the very few Muni Court partners whom we rely upon for restoration treatment.

Community Restoration Timelines

The proposed time limits on how long a defendant can be “restored in the community” are too short. The time limits will work against real restoration and financial resources expended within the City's criminal justice system will have little effect. Our Prosecutor's Office and Muni Court experience shows that:

1. The vast majority of defendants who are out of custody need longer time for restoration to capacity to understand the proceedings and assist in their own defense.
2. By law, cities are required to pay for the initial evaluation used to determine fitness. This evaluation is required to be performed by a state-certified evaluator.
 - a. The City of Eugene has a large number of defendants in non-person misdemeanor cases and where fitness quickly becomes a primary question for the court.
 - b. With the severely truncated time limits proposed, the City would expend more financial resources than most Circuit Courts (where the initial evaluations are paid by the state through the Oregon Public Defense Commission (OPDC) simply to be forced to dismissed because restoration cannot be accomplished in such short order.
3. There are little to no local resources available for defendants (especially defendants who need a hospital level of care) for restoration in the community. The Lane County Behavioral Health (LCBH), the local Community Mental Health Program (CMHP), often



reports to Muni Court that the extent of services they can offer is “survival gear” and the opportunity for the defendant to make an appointment.

- a. The phenomenon of defendants being sent back from Oregon State Hospital (OSH) under the current ‘Mosman Order’, has manifested into a scenario where persons who may have been on track to restoration are sent back to local communities only to decompensate and exert pressure on local CMHPs that do not have the local resources necessary to assist in the restoration of those who are sent back from OSH.
 - b. Limiting the kinds of charges that can go to OSH will severely limit the number of defendants receiving treatment that truly need a hospital level of care.
4. There is proposed legislation to have Treatment for Fitness restoration in local county jails, which would ostensibly address offenders who are held in custody under the ORS primary and secondary criteria. This potential legislation should not be relied upon as a “fix” for short restoration timelines.
- a. Such treatment in a local custodial setting has been prohibited in the past.
 - b. There is likely opposition to this proposal, as it is the driver behind the litigation that argues such custodial settings are unlawful for persons found incapacitated to stand trial.
 - c. Local jail facilities are not designed nor equipped to host such in-custody treatment.

OSH Timelines

The timelines proposed at OSH for restoration are too short. Defendants are sent back to OSH attempts to send defendants back before they have even begun a regimen to restore fitness. Without significant restoration, sending defendants back into the community renders the restoration process ineffective. Furthermore, the timelines and criteria proposed in the legislation may cause an increase in the number of defendants found unfit, as it is advantageous to defendants to be unfit and substantially increase the chance that their cases will ultimately be dismissed without trial or the court ever reaching the merits of a criminal case filed by the prosecution.

Criteria for Treatment

The criteria for which defendants may receive treatment at OSH are arbitrary. The City of Eugene sees non-person misdemeanors filed in its court that are very violent in nature, establish violent patterns of behavior, and require a hospital level of care to be restored to capacity to stand trial.

1. The Mosman Order has severely limited City Prosecution and the Muni Court’s ability to address incapacity regarding these categories of defendants. Sometimes there is nothing the court can do but hold a defendant in custody due to the danger the defendant poses to the community. This category of defendants may likely never be restored to fitness, thus rendering any law enforcement and prosecutorial influence impotent. The best outcome in such a situation is that the defendant “is off the street for a while.”
2. The division of non-person misdemeanors vs. person misdemeanors and felonies is seemingly an arbitrary division.
 - a. Many felonies are non-violent in nature (drug possession, property crime, etc.).



- b. Some non-person misdemeanors are really very violent and dangerous in nature or the defendant is violent and dangerous.
- c. Some of the hardest defendants to restore to fitness have a reoccurring and large number of non-person misdemeanors.
- d. As a municipal justice system, our cases are disproportionately affected by the limitations on misdemeanor crime placed temporarily by the 'Mosman Order' and the proposed codification of those rulings by the -3 amendment to HB 3051. The narrative of these crimes being 'only' misdemeanors is misleading. These misdemeanors include assault, menacing, bias, certain disorderly conduct charges and other crimes of violence. In a triage-based system of limited resources, does it make sense to earmark resources for a singular burglary charge over an individual with 3 person crimes and 5 disorderly conducts spread over 5 incidents?

Summary

House Bill 3051 and the -3 amendments does not address the deficiencies of the aid and assist and civil commitment system. It appears designed to simply minimize the Oregon Health Authority's (OHA) risk regarding admission deficiencies without regard for public safety, the defendant's safety, nor the limited resources of local governments in Oregon. Ultimately, the proposal will render the vast majority of attempts to restore defendants ineffective, it will cause limited financial resources the city spends on defendants that may be unfit but have a right to restoration and trial to be ineffective, and will cause the dismissals of a large number of cases where restoration is impossible in the short timelines proposed. The results can include dangerous offenders being released and potentially having their cases dismissed.

Rather, we encourage the Committee to support the Forensic Behavioral Health Workgroup's recommendations that, we believe, can provide real, grounded, cooperative and holistic policy recommendations and changes. The City asks that you do not work on HB 3501 and the -3 amendment, until such time as a full recommendation and policy package from the Workgroup is brought forth in the coming weeks.

Respectfully,

//submitted electronically//

Ethan Nelson, Intergovernmental Relations Manager