

**TESTIMONY ON HOUSE BILL 2480
BEFORE THE HOUSE COMMITTEE ON JUDICIARY
APRIL 3, 2025**

**PRESENTED BY: CHANNA NEWELL, SENIOR STAFF COUNSEL FOR
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OREGON JUDICIAL DEPARTMENT**

Chair Kropf, Vice-Chairs Wallan and Chotzen, and Members of the Committee:

Thank you for the opportunity to testify. The Oregon Judicial Department (OJD) is neutral on House Bill (HB) 2480 and the –1 amendments.

OJD is grateful for the opportunity to bring together a diverse group of more than 30 stakeholders and interested parties to take a deep dive into the workings of the aid-and-assist process. We appreciate your trust in this process and the time you have given us to complete this task.

HB 2480 with the -1 amendments contain some, but not all, of the items that were addressed by the Forensic Behavioral Health Workgroup as they relate to aid and assist. Some topics were not quite ready for this draft but will be the subject of ongoing conversations. Other topics were best suited for a long look through the interim. Yet other topics will be addressed in HB 2481 and HB 2488 on Thursday, April 3. For now, HB 2480–1 contains only competency-related items with low controversy.

First, the workgroup felt that there was significant value in the services of the Office of the Public Guardian and Conservator in the aid-and-assist process. For some individuals with complex needs, a guardianship is a better alternative than the process through the criminal justice system. Guardianship provides results with more just outcomes for the parties. Many individuals in the criminal justice system who experience mental illness are without means and have no family or friends who can serve as guardians. And in some cases, a family or lay guardian will not have the resources, know-how, or authority to provide the necessary oversight. The workgroup agreed that involvement of the Office of the Public Guardian in the aid-and-assist system would divert truly complex cases onto a better pathway.

Second, the workgroup heard various proposals and desires for dedicated positions within the competency system to provide direction, guidance, and continuity. In Washington, the *Trueblood* litigation required the development and use of a community navigator position to provide additional support and information to parties on defendants' progress through the system. In Oregon, various local providers and community mental health programs fill this important and dynamic role. The workgroup was in favor of codifying the idea that support and information within the system will increase defendants' success navigating the transition to community restoration.

Third, the workgroup addressed many issues relating to forensic evaluators and the information upon which courts could rely when making a determination of a defendant's fitness. The workgroup heard about a variety of practices and procedures across the state in regard to the use of prior evaluations, existing medical records, and prior determinations of fitness as related to a new determination of ability or inability. The workgroup wanted to provide guidance across the state on the information a court could take into account when making a fitness determination without reducing the ability to have a new forensic evaluation. The amendment would allow a court, under ORS 161.370, to consider evidence of prior diagnoses, prior evaluations, prior findings of inability or commitments, conduct observed in court, prior court records or assessments that contain a mental health diagnosis, information held by a supervising authority that may have information on a diagnosis, or any other relevant information. Again, the court is not required to consider these items, nor is it restricted from requesting a new ORS 161.365 evaluation. But in cases in which clear documentation of a diagnosis is present, or where there is information that the court may find relevant, statute should reflect the range of information the court may consider for its determination of ability to aid and assist.

Fourth, the workgroup participants regularly observed a disconnect between the court processes necessary to restore a defendant to competency and the philosophy and goals of mental health treatment and service providers. The court process is a system of mandates that exists to restore a person to competency to proceed with a criminal case and it is at odds with a view that treatment has better outcomes when a person's participation is voluntary and when treatment provides care for the whole person. This disconnect is found within multiple statutes but is most noticeable when a court is determining whether a defendant can receive adequate and appropriate services in the community or when the person is ready to place.

This section of the amendment would make a policy statement that the most long-lasting and effective form of restoration includes treating the whole person. It then replaces "restoration services" with "treatment services" and defines treatment needs to include, but not be limited, to such things as competency restoration services, medical services, medication management, supportive services, case management services, substance use disorder treatment, among others. As such, when the court is determining whether a person is appropriate for community restoration, the view is more holistic, and when restoration services are being provided in the hospital setting, it will likewise address the various needs of the individual to reach restoration.

Again, these changes are only the proposals that were specific to aid and assist that did not impact other systems and did not implicate the timelines. We look forward to presenting those concepts next week.