

LC 420: OSH and Community Restoration Limits Placeholder

A partner workgroup is currently crafting potential statutory changes to codify admissions requirements and restoration limits at the Oregon State Hospital and create similar standards for community restoration.

The Mink Case and Restoration

The United States constitution prohibits the criminal prosecution of a person who lacks the mental capacity to stand trial. Criminal defendants who lack capacity may be transported to the Oregon State Hospital (OSH) or a community restoration site for “restoration” of their capacity to aid and assist in their legal proceeding.

Following the Mosman Order, as amended, in the Mink federal court case, OSH has strived toward compliance with the 7-day admission requirement. However, various partners have expressed concerns related to admissions requirements and the shift of restoration services to community settings. Individual defendants often remain on restoration orders for long periods of time, evaluators in the community are limited, and the community orders raise further concerns about due process in holding defendants in a pretrial status under court order indefinitely regardless of the nature of their underlying criminal charges. Additionally, lack of time limits creates further backlog to resources in the community for those who could benefit from community restoration.

A partner workgroup including judiciary, local district attorney, county behavioral health, disability rights advocates, people with lived experience, and state representatives was convened to develop potential legislation around this issue, beginning in January 2024. Broadly, they are working toward an agreement on how to codify the Mosman Order or other comparable provisions on this topic.

This legislative concept is a placeholder for the results of that workgroup. This summary will be updated when further details are available.

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