

LC 451: Modernizing Juvenile Restoration Statutes

Oregon’s juvenile “fitness to proceed” laws address whether a young person is mentally fit to participate in legal proceedings and access appropriate mental health services. Ambiguities and inconsistencies in these laws contribute to health disparities, particularly among youth populations at higher risk.

Juvenile Restoration Statutes Require Modernization and Clarification

Oregon’s Juvenile Code includes statutes (ORS 419C.378 to 419C.398) to establish standards and procedures for determining if a young person involved in a delinquency matter is mentally fit to participate in legal proceedings. They outline criteria for determining mental unfitness, and mandate evaluations by mental health professionals if doubt arises. The law emphasizes the protection of youths’ legal rights and their access to mental health services when needed. The majority of youth in Oregon ordered into restorative services have dual-diagnoses of behavioral health concerns and intellectual/developmental disability.

Ambiguity in these statutes has resulted in inconsistent interpretation among Oregon’s juvenile courts. This can limit access to mental health services, exacerbate disparities in treatment, and deny legal advocacy and support to vulnerable youth populations. Populations at higher-risk, including communities of color and those from families with low-income, are disproportionately affected by these inconsistencies, leading to unequal access to care.

Ambiguity in statutes can also deny youth the legal advocacy and support to which they are entitled under relevant laws such the Indian Child Welfare Act, further limiting access to culturally competent care and support services.

Taskforce on Juvenile Fitness to Proceed and Restoration

OHA recommends the convening of a Taskforce on Juvenile Fitness to Proceed and Restoration to thoroughly examine and propose reforms to the juvenile restoration statutes. The task force should focus on the following areas:

- Overall Statute Clarity: Clarify and streamline statutes to ensure consistency and fairness across jurisdictions.
- Updated Terminology: Use language that is accessible and respectful to youth and families, avoiding stigmatizing or discriminatory terms.
- Research-Based Best Practices: Incorporate evidence-based practices for youth involved in fitness to proceed programs, to promote interventions that have demonstrated success in other states.
- Roles and Responsibilities: Define clear roles and responsibilities for each party involved in the fitness to proceed process, including legal, behavioral health, and support service providers.
- Length of Services: Reexamine guidelines for the duration of services, considering developmental needs, and ensuring timely access to appropriate care.
- Medical Necessity and Transition: Develop criteria for determining medical necessity for in-patient restorative services and ensure youth receive suitable treatment for their needs. Additionally, create pathways for youth transitioning from inpatient to community-based services when clinically appropriate.
- Equity: Develop guidance for partners to collaborate and meet the unique needs of the culturally and linguistically diverse community members they serve.

The task force should include representation from multiple stakeholders, including the relevant state agencies, criminal justice partners, advocates for youth with behavioral health concerns or disabilities, and the Nine Federally Recognized Tribes of Oregon, with diversity in geographic location, race/ethnicity, and disability status s to reflect the needs and perspectives of all communities.

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