

March 29, 2019

Kristen N Anderson

1125 16th St SE
Salem OR 97302

RE SB 762

Chair Senator Prozanski

Vice Chair Senator Thatcher

Senator Bentz

Senator Fagan

Senator Gelser

Senator Linthicum

Senator Manning

I live with Bipolar 2 Disorder. My son lives with Bipolar 1 Disorder and has been diagnosed on the Autism Spectrum. I have faced challenges as a parent who has had to call the police in the face of a mental health crisis for my son and in accessing care for myself. Also, I have worked in Oregon's child and adult mental health care systems. The former as a Family Peer Support Specialist and the latter as a Peer Support Specialist. I was the Statewide Training Coordinator for Oregon Family Support Network and in 2008-2009 I was a member of the Project Team for implementing the Governor's Wraparound Initiative. I was connected with providers, families, and young people across the state. I was employed by the Oregon Center of Excellence for Assertive Community Treatment and connected with ACT team staff and participants across the state. Currently I work at the Oregon State Hospital and work with people of all commitment types.

My experience in using and working in both our child and adult behavioral health systems leads me to believe our systems are fundamentally flawed in many ways which requires a close analysis of our systems, across the lifespan. As well as how these systems intersect and operate with other systems. Our social service and justice systems, intended to protect and help people all too often traumatizes and retraumatizes the people being served, their friends and family, as well as the people providing services and supports.

My understanding of SB 762 is that it will increase the wait time for a civil commitment hearing from 5 to 15 days, and does nothing to address challenges in accessing services/supports in the community that may have prevented someone from getting to such a crisis point in the first place.

If one considers that most people "wait" in a community hospital setting, at a conservative cost estimate of \$1000/day. That will be at least \$10,000/civil commitment hearing in additional costs. At work, the use of seclusion and restraint is considered a treatment failure. Forced treatment is expensive and does not provide for long term success. Research supports the premise that forced treatment, such as a civil commitment, needs to be considered a failure within our community systems,. Also, as an advocate, parent, and person at risk of civil commitment, the compromised due process rights in SB 762 are alarming.

I ask that this committee does not pass SB 762, and considers significantly amending SB 374, which sits with this committee, but has not had a hearing yet, to create a task force that takes a comprehensive look at how our behavioral health care system is funded, operates, and intersects with other systems,

such as judicial and corrections, the psychiatric security review board, housing and self-sufficiency, aging and people with disabilities, child welfare, etc. We desperately need system transformation that SB 762 does not adequately address.

The following are some suggestions to consider for amending SB 374 to address our complete behavioral health system and how it interfaces with other systems:

Senate Bill 374

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Disability Rights Oregon)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes Task Force on the Decriminalization of Persons living with a behavioral health challenge ~~termination of a Defendant's Fitness to Proceed by Reason of Incapacity~~ for the purpose of studying issues related to **funding and accessing of behavioral health care services and supports** and procedures and processes for **coordinating with other state, federal, and tribal agencies and judicial systems.** ~~determining defendant's fitness to proceed.~~ Requires task force to make certain recommendations and submit report, including recommendations for legislation, to interim committees of Legislative Assembly related to criminal justice no later than September 15, 2020. Sunsets task force on December 31, 2020. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to task force for determining defendant's fitness to proceed; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Task Force on the Decriminalization of Persons living with a behavioral health challenge ~~termination of a Defendant's Fitness to Proceed by Reason of Incapacity~~ is established.

(2) The task force consists of 11 27 members appointed jointly by the Oregon Health Authority, Department of Human Services, Psychiatric Security Review Board, and the Judicial Department as follows:

- (a) One member who is a district attorney.**
- (b) One member who is a criminal defense attorney.**
- (c) One member who is a sheriff or public safety officer.**
- (d) One member representing the Department of Justice.**
- (e) One member representing an association of community mental health programs.**

- (f) One member representing the Judicial Department.
- (g) One member who is **with developmental disabilities** ~~a public safety officer.~~
- (h) One member representing a nonprofit organization that advocates for individuals with disabilities.
- (i) One member who is a person with lived experience of mental illness **and placement in a secure facility.**
- (j) **One member who is a person with lived experience as the parent or guardian of an adult person with mental illness and placement in a secure facility.**
- (k) **One member who is a person with lived experience as the parent or guardian of a minor person with mental illness and placement in a secure facility.**
- (l) **One member who is a person with lived experience as a young adult (14-25 years of age) with mental illness and placement in a secure facility or the foster care system.**
- (m) **One member who is a person with lived experience of mental illness and developmental challenges.**
- (n) **One member who is a person with lived experience of mental illness and substance use challenges.**
- (o) ~~Two~~ **Five members representing the Oregon Health Authority, with one from the Oregon State Hospital, one from the Children's Mental Health System, one from Public Health, one from the office of equity and inclusion, and one from health systems division.**
- (o) **Five members representing the Department of Human Services, with one from Self Sufficiency, one from the Children's Developmental Disabilities, one from Foster Care, one from Senior Services, and one from Adult disabilities.**
- (p) **One member who is a tribal leader.**
- (q) **One member who is an advocate for the houseless.**
- (r) **One member who from the psychiatric security review board.**

(Or consider representatives from existing Advisory Boards/Councils such as from CCO's, OCAC, OEI, HAB, THW Commission, CSAC, AMHPAC, OCHAG, OPHAB, OCEACT/OSECE, MAC, CCBHC, etc)

(3) The task force shall study issues relating to **funding, access, and procedures for **coordinating with other state, federal, and tribal agencies and judicial systems across the lifespan** ~~determining a defendant's fitness to proceed and make recommendations~~ regarding:**

- (a) **Improvements to procedures for conducting examinations that are used to determine whether a person requires civil commitment or as a defendant is fit to proceed or eligible for a guilty except for insanity defense and other assessments used to access services/supports and for risk mitigation plans;**
- (b) **The organization of services that are necessary to restore the defendant's fitness after a determination has been made that the defendant lacks the fitness to proceed;**

(c) The organization of services that are necessary for a person to live in the community rather than in an institutional setting;

(d) Increased timeliness in completing **assessments and risk mitigation plans** ~~the determination of fitness process;~~

(e) An economical method for using state mental hospital **and community based** resources; and

(f) Improvements in assessing **and meeting** a ~~defendant~~ **person's** mental health treatment needs.

(4) The task force may adopt rules necessary for the operation of the task force.

(5) The task force may accept donations of moneys and nonmonetary assistance from any public or private source for the purpose of carrying out the duties of the task force.

(6) A majority of the members of the task force constitutes a quorum for the transaction of business.

(7) Official action by the task force requires the approval of a majority of the members of the task force.

(8) The task force shall elect ~~one~~ **two** of its members to serve as **co-chairpersons, one chair representing systems and one chair representing people who use those systems.**

(9) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(10) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(11) The task force may ~~adopt rules~~ **form subcommittees with subject matter experts from outside the task force** necessary for the operation of the task force.

(12) The task force shall submit a report, including recommendations for legislation, in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to criminal justice, no later than September 15, 2020.

(Consider similar structure and support used in Children's System of Care change initiated by Executive Order 07-04 which provided for staffing by a project team and compensation for people with lived experience using current systems)

(13) The Oregon Health Authority shall provide staff support to the task force.

(14) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(15) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 2. Section 1 of this 2019 Act is repealed on December 31, 2020.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

LC 1873