



OREGON ASSOCIATION CHIEFS OF POLICE
EXCELLENCE IN POLICING

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OREGON STATE SHERIFFS' ASSOCIATION
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To: **Members of the House Judiciary Subcommittee on Equitable Policing**

From: Sheriff Tim Svenson, President
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Chief Jim Ferraris, President
Oregon Association Chiefs of Police
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Date: January 27, 2021

Re: **Testimony Raising Concerns re HB 2931 – Medical Assessment Requirement for Arrested Persons**

Chair Bynum and members of the committee,

On behalf of the Oregon State Sheriff's Association (OSSA) and the Oregon Association Chiefs of Police (OACP), thank you for the opportunity to provide testimony regarding HB 2931. We want to begin by affirming law enforcement's commitment to addressing the physical and behavioral health needs of persons we take into custody as a primary value and moral imperative. Our police agencies in Oregon have robust policies in place re the medical needs of persons in custody and our jails have a uniform standard requiring a medical evaluation prior to intake.

HB 2931 requires a peace officer, parole and probation officer, federal officer or private person who arrests a person to ensure that the person they arrest receives a medical assessment at the time of arrest or as soon as practicable after arrest. "medical assessment" means a physical examination by or under the direction of a licensed physician, physician assistant or nurse practitioner. We have the following concerns regarding this measure as drafted:

- According to this measure, the assessment would be required for every arrest without exception and regardless of the circumstances, including exigencies, other emergency calls, or the condition of the person subject to arrest.
- The medical assessment and the officers time to secure the required assessment would result in significant cost and would make officers unavailable to respond to other emergency calls for service while they wait for assessments to be completed. This is a significant impact to on-duty staffing numbers when many agencies are operating on minimum staffing levels. This would be especially problematic in small and rural jurisdictions

where additional officers aren't on duty and where a person qualified to do an assessment may not be nearby.

- In most cases, officers would take arrestees to the ER possibly impacting the ER for those who may need emergent care and, if there are no obvious medical concerns, the officer and arrestee will be forced to wait for an indeterminate period of time.
- In addition to Oregon peace officers and parole and probation officers, HB 2931 requires federal officers and private persons to secure a medical assessment when they make an arrest. The State of Oregon is not authorized to impose requirements on federal officers who operate under federal sovereignty. For private persons who effect a citizen arrest, which is very rare, awareness of this requirement and the ability to meet it would be difficult to imagine.
- Oregon police agencies already have robust policies and standards in place to ensure that individuals who are in custody (and in need of medical care) are evaluated by a medical professional. As an example, law enforcement agencies who use the Lexipol policy manual have specific policies where medical considerations are mentioned some 354 times throughout the manual. There are comprehensive policies that cover almost every conceivable event where an individual subject to arrest should be evaluated and provided medical attention as necessary.
- Oregon Jail Standards already include a policy for arrestees requiring immediate medical, dental or mental health attention at the time of booking that is in place in all Oregon jails. The jail standard provides that an arrestee in need of immediate attention for a serious medical, dental, or mental health problem must not be admitted to the jail until examined by a physician, nurse practitioner, or physician's assistant. We include the jail standard below for reference.
- Oregon law enforcement resources are already strained, the cost of a medical assessment for every person arrested would be extraordinarily expensive and conducting medical assessments for arrestees that have no apparent need for one would divert limited medical resources away from other priorities.

Thank you for your consideration

Oregon Jail Standard:

B-107 Arrestees Requiring Immediate Medical, Dental or Mental Health Attention.

The jail must have policies and procedures that require arrestees in need of immediate attention for a serious medical, dental, or mental health problem must not be admitted to the jail until examined by a physician, nurse practitioner, or physician's assistant. (A medical need is serious if it has been diagnosed as such by a physician or if it were so obvious that a layman would recognize the need for medical care as a serious need.) Jails must not admit arrestees who are—unconscious; seriously injured; or seriously ill and in need of urgent medical care. seriously mentally ill and gravely disabled (demonstrating a lack of judgment or understanding to the point that his or her health and safety are significantly endangered and lacks the capacity to understand that it is the case).

Rationale. Arrestees with serious medical, dental, or mental health problems must not be admitted to the jail prior to being examined and treated by a physician. In some cases, it will not be clear whether an inmate is seriously injured or seriously ill. If a jail has on-site medical providers, the providers may be consulted to determine if the inmate should be examined by a physician prior to being admitted. If it is unclear and no medical provider is available to assist, jails should err on the side of caution and require the inmate to be seen prior to admission.

If the medical need is serious, the time required to complete admission procedures may be critical to the welfare of the arrestee.

Unreasonable delays in providing medical, dental or mental health care for persons in need of immediate care or serious medical attention may result in a finding of deliberate indifference in the event of litigation.

Compliance. Compliance with this standard can be achieved by adopting policies and procedures that require arrestees to be examined and, if necessary, treated by a physician before being cleared for jail admission.