

Chair Bynum, Vice Chairs Noble and Power, and Members of the Committee:

Thank you for allowing me to testify. My name is Christine Breton, I am a public defender in Portland, Oregon handling felonies and I am testifying in opposition to HB 4142 because this bill will not address the harms it is intended to, and instead will punish some of our most vulnerable Oregonians.

My opposition to this bill is not meant to undervalue the work of healthcare professionals and the conditions under which they work. In preparing my testimony I spoke to my sister-in-law, who is an EMT in Denver and over the pandemic she worked for an organization focused on outreach to the homeless community and worked in a COVID hotel for houseless individuals. It was incredibly difficult work and both she and her colleagues were harassed and assaulted.

Our communities have long relied on healthcare professionals to be on the frontlines and often the first responders to several unaddressed social issues we face – mental and behavioral health, substance use, homelessness, and many others. Opposition to this bill is not because I think it is acceptable that hospital employees feel unsafe at work.

My opposition to this bill is because I have been a public defender in Multnomah County for 4 years and I have seen who gets charged with these kinds of assaults and what happens next. I have represented many people accused of assaulting hospital staff – for both misdemeanors and felonies. (It should be noted that our law already provides for felony charges for serious assaults. Where someone is seriously injured, or any kind of weapon is used, those are already felonies.)

The Oregonians I have represented charged with *reckless* assault of hospital staff have almost universally been suffering from untreated mental health issues, substance use and homelessness. Without consistent, proper care, these members of our community go to emergency rooms when they are in crisis; they are taken to hospitals against their will by police as an alternative to jail; some have been ordered to a hospital *because* of their acute mental health issues.

I listened to the testimony last week, and so I know the stated intent of this bill is to only penalize INTENTIONAL assaults on MEDICAL WORKERS. And that it is supposed to exclude individuals with mental illness, dementia, or coming out of anesthesia. This law as written DOES NOT DO THAT. To address stories like those that have been told by proponents of this bill. It doesn't only apply to intentional assaults when the language also includes knowing and reckless behavior. It does not exclude individuals suffering from mental illness because it DOES NOT SAY THAT, and that is not a part of our law in Oregon generally. And it is not limited to medical workers, when the definition of hospital worker is so broad as to include security guards. As written, this will be charging mentally ill individuals who resist being dragged out hospital beds by security guards after being discharged from care when they don't understand what's happening to them and don't understand why they can't stay. And this will charge them with FELONIES. I can say this because I have seen those cases charged as misdemeanor Assault 4's – intentionally, knowingly, recklessly causing physical injury - which has the identical language to this proposed bill.

Increasing the penalty of a misdemeanor assault won't deter behavior that people don't intend or aren't fully aware of.

So what this bill *will* do is make it more likely that someone suffering from untreated mental illness will be housed in our jails and prisons. It will shift the responsibility of recognizing and seeking treatment for these individuals from health professionals to public defenders and the criminal system. Being charged with a violent felony makes it more likely they will be held in custody, and make it more difficult to release them to community mental and behavioral health services.

It will also be less likely someone will be able to establish any stability once they have been able to address their mental health needs. Once diagnosed, medicated, stabilized, they must still face a felony charge from the conduct from before they regained competency. Mental illness very rarely provide a defense to criminal charges, and that kind of conviction can keep someone from accessing housing, student loans, and employment.

Misdemeanor charges are not without consequence. The experience and trauma of being arrested, of being booked into jail, of having to appear in court, of facing a sentence, is not insignificant. And for the more serious cases – where someone acts intentionally, where someone uses a weapon, where someone is seriously injured, or has a history of multiple assault convictions – those can already be charged under other felony assault statutes.

Please do not make misdemeanor, unintentional, non-serious assaults into felonies for individuals seeking care in our hospitals. The way to deter this behavior lies outside our criminal system – with robust mental and behavioral health services and access to housing and regular medical care. This bill will not deter the behavior, but rather further burden our criminal system and state hospital, further punish some of our most vulnerable Oregonians, and make it much harder for them to get the care they need.

For example, here are some relevant excerpts from police reports:

“[Security guard] said [Defendant] hit him in the stomach as he was walking away. [Guard] told [him] he was under arrest and placed him in handcuffs... I read [him] his rights and asked him for his side of the story. [He] did not make any sense for the most part. He seemed to be reacting to some internal stimuli.”

“I arrived and found [security officers] holding [Defendant] down on the north side of the platform. [He] was completely naked and in handcuffs.”

“Upon my arrival, I contacted [witness] who is a nurse at [the hospital]. [He] told me he was assaulted by a patient. [He] said [Defendant] pulled out the IV and started walking out of the hospital. [Nurse] said [Defendant's] blood was dripping as she walked to the exit. [He] said he tried to grab her and stop her from leaving since she still needed medical care. He said she swung back and hit him on the left cheek (open hand).”

“He told me [Defendant] was recently released from UNITY center around Thanksgiving as a result of a mental health crisis. He said [Defendant] is diagnosed as Bi-Polar Manic with

Anxiety. He told me [Defendant]'s medication was recently changed and her behavior has become more aggressive. He said [Defendant] began throwing water on him and their electronics.... He told me he tried to get [Defendant] to stop and she began kicking and scratching at him.”

“Upon arriving I was met by [witness] who told me [Defendant] had just punched him in the face on the left side. He told me [defendant] suffers from schizophrenia and has been working with project respond.”

“Upon arrive I made contact with [witness] who explained [defendant] has a history of mental illness and had been released from [hospital] psych ward last Sunday after being committed there for a week.”

“I waited at the hospital until [Defendant] woke up from the sedation that medics administered prior to transport. Once a quick evaluation was done by a doctor, [Defendant] was released. He demanded to know why he was being arrested.”

From an OSH Evaluation finding someone unable to A&A due to mental illness: “It is alleged that [Defendant] was causing a disturbance in a McDonald’s restaurant.... Police reportedly informed him he was no under arrest but needed to leave the restaurant and not return. [Defendant] allegedly became “agitated” and tried to go back in the restaurant. When police tried to stop him, he allegedly assaulted the police officer and resisted arrest. He is currently incarcerated at the Multnomah County Jail.”

“I then spoke to the witness. He told me that he witnessed the entire thing. He said “[Defendant] was “Having a melt down for awhile. Then the lady (victim) walked by without looking at her” and that’s when “She just got up and hammered her with a closed fist.”

**It’s for these reasons I ask you to vote NO on HB 4142.**