HB 3234 Testimony

My name is Jasper Smith and I am with the Benton County Developmental Diversity Program. We support people with intellectual and developmental disabilities in our community. I am neutral on this bill and would like to provide some background as my testimony.

Oregon has had a civil commitment law for over 160 years. The intention of the law has been and continues to be to order care and treatment in a hospital for persons the 1862 law called "insane or idiotic". People with intellectual disabilities or mental health conditions were both housed at the Hawthorne Asylum in 1862 and would be housed together at what would later become the Oregon State Hospital until a separate institution, Fairview Hospital was established for people with intellectual and developmental disabilities and with a separate institution came a separate civil commitment law for the DD population, 427 vs 426.

The civil commitment statute is for commitment to an institutional hospital. Fairview Hospital closed in 2000 and Eastern Oregon Training Center closed in 2009 leaving no institutions for people with I/DD in Oregon. At that point, it would have made sense to repeal the 427 statute since there is no institution to civilly commit people with intellectual disabilities to.

I support the bill in that I support not civilly committing children with intellectual disabilities without their parents' consent. I would hope we could go further and not civilly commit any children with intellectual disabilities and I would go even further to say we no longer need to civilly commit anyone with an intellectual disability based upon their having an intellectual disability. There is no longer any need for the 427 statute. If a person with an intellectual disability was a danger to themselves or others due to a mental health condition, they could still be committed under the 426 statute.

In 2013, the Oregon Developmental Disabilities system adopted the Community First Choice Option or K Plan under the Affordable Care Act which made access to services for qualifying people with an intellectual or developmental disabilities an entitlement under our Medicaid state plan. This means everyone in the DD system should have access to the care and support they need to not be a danger to themselves or others or lack care needed for their safety and meeting basic needs. Furthermore, under Medicaid, the services must be voluntary and chosen by the

person or their legal representative. There should be no need to civilly commit anyone because they have an intellectual disability. If they qualify for services, they have home and community based supports available to them. If they do not qualify, we don't have a way of providing them the supports they would be committed for. For much of its 160 year history, the civil commitment law has had an avoidance of commitment provision which states if there are other viable options for people's safe keeping, commitment can't be pursued. With K plan, people with intellectual disabilities have viable options to where they should not need to be committed.

Section 10 number three of this bill states that the Community Developmental Disabilities Program Director, which would be me for Benton County, is responsible to assign a person to a suitable facility. I don't see how state law allowing me to do this trumps federal Medicaid law which does not allow me to do this for the facilities we have available. And as stated already, we do not have a hospital or institution for people with intellectual disabilities to which we can commit people. The services we do have must be voluntary. The Aging and People with Disabilities system never had an institution and never had a commitment statute. The 427 statute has not really made sense since 2009 and made even less sense since 2013. It is probably time to begin thinking about repealing the 427 statute altogether which would make this bill unnecessary.