



Disability Rights Oregon

TO: House Committee on Judiciary
FROM: Disability Rights Oregon
DATE: March 13, 2023
RE: HB 2345-1 and Solitary Confinement

Chair Kropf, Vice Chairs Andersen and Wallan, and members of the Committee,

Thank you for the opportunity to address the Committee on the importance of eliminating the misuse of solitary confinement. At Disability Rights Oregon, we have worked for decades to ensure that people with disabilities are not gratuitously exposed to solitary confinement and maltreatment in prisons and jails. DRO supports HB 2345-1 as amended and encourages the legislature to consider a further definition of segregation to clarify the bill's meaning.

In 1890, the United States Supreme Court discussed the use of solitary confinement: "The peculiarities of this system were the complete isolation of the prisoner from all human society, and his confinement in a cell of considerable size, so arranged that he had no direct intercourse with or sight of any human being, and no employment or instruction. . . . A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community." *In re Medley*, 134 U.S. 160, 170 (1890).

The truth of solitary confinement and isolation in prisons and jails across the nation and throughout Oregon has not changed greatly in more than a century. Prisoners isolated for a protracted time remain much more likely to develop a mental illness if they do not already have one. Those who already experience mental illness are likely to get worse in isolation. People in isolation are more likely to injure or kill themselves. The United States Department of Justice advised in 2017 that isolation should be "used rarely, applied fairly, and subjected to reasonable constraints."

Many states have adopted statutes or administrative rules substantially ending long-term solitary confinement, including New York, Colorado, and New Jersey. States limiting or eliminating long-term solitary confinement have not seen any meaningful decline in prison discipline or increase in danger to staff or other prisoners. In the

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Behavioral Health Unit in Oregon State Penitentiary, staff and prisoner safety and well-being increased dramatically as isolation decreased.

In considering this policy, the committee must ensure that word games do not subvert the benefits of the bill. Prison officials must not be able to dodge the mandate by relabeling isolation, segregation, and solitary confinement as “disciplinary management” or “restrictive housing.” Prison isolation has a simple, common definition: confinement to a single, small cell for 22 hours or more each day. For that reason, DRO encourages the committee to adopt a further amendment clarifying what “segregated housing” means in the context of this bill.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and “pursue administrative, legal, and other appropriate remedies”.² We are also mandated to “educate policymakers” on matters related to people with disabilities.³

If you have any questions regarding DRO’s position on this legislation, please call Meghan Moyer at 503-432-5777 or email her at mmoyer@droregon.org.

¹ See ORS 192.517.

² See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

³ See 42 U.S. Code § 15043(a)(2)(L).

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