



March 21, 2023

Oregon Senate Committee on Human Services, Mental Health and Recovery

**RE: Opposition of SB823 -2 amendment**

The Oregon Alliance's goal is to promote and advocate for system change, creating principles of respect, inclusion, and access to equitable services for our children, youth, families, and the communities we serve.

We have serious reservations about Senate Bill 823 -2 amendment in its current form because it will allow the release of details from individuals' most traumatic experiences. We believe this has the potential to further traumatize Oregon's children and youth by allowing their personal and private information to be available for public consumption. Without permission, personal information and personal stories of children, youth and their families will be available to the public. This could include multiple pages of details describing the crisis, all of which could be exploited by anyone.

The reports are comprehensive. Even with names, date of birth, and other elements redacted, someone could identify a child or youth.

We share the desire to have accountability when a child or youth is harmed.

The bill appears to remove essential protections for staff working in community-based organizations. This will only further deteriorate access to essential crisis services for our children and youth.

Further, we believe there are legal implications that must be considered.

For example, proposed disclosure of these reports appears to be inconsistent with privacy protections located in other parts of the state public records law. For example, under ORS 192.398, disclosure of records less than 75 years old containing information about the physical or mental health or psychiatric care or treatment of a living individual is exempt from disclosure absent a showing by the requester that public release of the information would not constitute an unreasonable invasion of privacy. See also ORS 192.398(3) related to records of individuals in state custody or under state supervision and records of students. ORS 192.398(3). The bill



proposes a significant change in state law and based on current standards, would undermine the policy reasons favoring the existing statute.

It is noteworthy that the bill reduces the level of protection offered by the federal Health Insurance Portability and Accountability Act (HIPAA). Specifically, the handling of de-identification is much stricter than what is proposed in SB 823. We ask that you review the rules governing de-identification and in particular the safe harbor for de-identification - 42 CFR 164.514(b)(2). The rule recognizes that to truly de-identify you need to remove a long list of criteria including geographic subdivisions smaller than a state (identifying the location of the child or youth would be a HIPAA violation), all elements of dates including age and any other information if you have “actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.”

We suggest the legislature convene an appropriate committee. At the center of the committee work should be family and youth. Given the impact on the staff providing critical support and services every day, their voice should also be included in the committee’s work.

Thank you for the opportunity to provide written testimony and for your consideration of these concerns and solutions. I welcome further conversations about this bill and the problem it is trying to solve,

Royce Bowlin  
Oregon Alliance  
CEO  
503-750-4978