



Disability
Rights
Oregon

TO: Senate Committee on Human Services

FROM: Disability Rights Oregon

DATE: February 7, 2024

RE: Support for SB 1522

Chair Senator Gelser Blouin, Vice-Chair Senator Robinson, and Members of the Committee,

Disability Rights Oregon (DRO) supports SB 1522 and the repeal of the statutes that allow a person to be ordered by a court to stay in a facility against their will on the basis of having an intellectual disability. DRO also strongly supports the bill's provision preventing a public body from denying services meant for persons with mental illness on the basis that a person also has an intellectual or developmental disability.

Oregon's civil commitment laws for individuals with intellectual disability violate Medicaid laws and the ADA. They must be repealed for the state to comply.

Under ORS 427.215-.306, if the court finds that an individual has an intellectual disability and is in need of a civil commitment for residential care, treatment and/or training, it orders the individual committed to ODHS Office of Developmental Disabilities Services (ODDS). ODDS is then responsible for assigning the individual to a facility best able to provide the purported treatment and training to the individual.

When ODDS holds individuals involuntarily, it violates the Medicaid and Home and Community-Based (HCB) rules that fund and govern its core services.¹ The state runs the risk of losing this vital funding.

¹ See OAR 411-004-0020 (1) Residential and non-residential HCB settings must have all of the following qualities: (e) The setting optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to: daily activities, physical environment, and with whom the individual chooses to interact.

ODDS also risks violation of the ADA and when it holds individuals with intellectual disability involuntarily. Oregon has made aggressive efforts to eliminate unnecessary segregation of individuals with developmental and intellectual disabilities to ensure that individuals receive services in the most integrated setting appropriate to their needs. Individuals with intellectual disabilities under a 427 civil commitment are forced to reside in settings more restrictive than they may need.

When the state holds individuals with intellectual disability involuntarily under the premise of *treatment*, it's under false pretense. Intellectual disability cannot be treated.

Intellectual disability means significant sub-average intellectual functioning with an IQ of 70 and under, or 75 and under with significant impairment in adaptive functioning, present before 18 years of age. Although supports and interventions can improve adaptive functioning, intellectual disability cannot be cured.

The majority of individuals with intellectual disability under a 427 civil commitment also have diagnoses of mental illness. There are no false pretenses of treatment here: ODDS is clear in its role of solely providing behavioral and adaptive functioning (daily living) supports. It does not provide mental health services for the individuals served.

The state should be mindful of due process implications of turning to civil commitments under ORS 426 for individuals with dual intellectual and mental health disabilities as an alternative to civil commitment under ORS 427. ORS 427 affords individuals the right to counsel for a hearing to consider re-commitment. This right is not afforded under ORS 426.

DRO strongly supports SB 1552's provision preventing a public body from denying services meant for persons with mental illness on the basis that a person also has an intellectual or developmental disability. Time and time again, individuals are denied necessary medical mental health care on the basis of having dual diagnoses of intellectual or developmental disabilities. This is blatant discrimination that the state must take action to end.

Conclusion

Disability Rights Oregon (DRO) supports SB 1522 and the repeal of the statutes that allow a person to be ordered by a court to stay in a facility against their will on the basis of having an intellectual disability. DRO also strongly supports the bill's provision preventing a public body from denying services meant for persons with mental illness on the basis that a person also has an intellectual or developmental disability.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.² 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".³ We are also mandated to "educate policymakers" on matters related to people with disabilities.⁴

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.

Respectfully,

Beth Brownhill
Managing Attorney
Disability Rights Oregon

² See ORS 192.517.

³ See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

⁴ See 42 U.S. Code § 15043(a)(2)(L).