



Disability
Rights
Oregon

TO: House Committee on Judiciary

FROM: Disability Rights Oregon

DATE: February 13, 2024

RE: Opposition to HB 4088

Chair Representative Kropf, Vice-Chair Representative Andersen, and Members of the Committee,

Disability Rights Oregon (DRO) opposes HB 4088; specifically the proposed amendment to Oregon's assault statute, ORS 163.165.

HB 4088 makes it an enhanced crime to physically injure a hospital worker. Under current law it's a misdemeanor crime of assault in the fourth degree to physically injure a hospital worker. This bill would make it assault in the third degree, a felony.

Enhancing the assault crime to a felony would have a disparate impact on people with disabilities, and it would not meet the intended goal of making hospital workers safer.

The enhanced crime would discriminate against people with disabilities in at least three ways. First, it would create an additional barrier to accessing health care. Second, it would create a disincentive for hospitals to train and support staff to work with patients with disabilities in crisis. Third, it would increase criminalization of disability.

Enhancing the crime will create an additional barrier to accessing health care.

Individuals with disabilities face many barriers to accessing health care, including: communication failure between professionals and patient/caregiver; financial limitations; attitudinal/behavioral issues; scarce service provision; and organizational and transport barriers. Many people with disabilities don't access medical care until it's an emergency or crisis. This can create a Catch-22. Lack of care culminates in a crisis, and being in crisis complicates their much-needed

care. Caregivers for individuals with disabilities will be less likely to help them seek care if they might face a felony for behavior that manifests from a crisis.

Enhancing the crime will create a disincentive for hospitals to train staff to support patients in crisis.

Hospital workers should receive training and support to respond to mental health crises to ensure a proper response and prevent criminalization where medical treatment is more appropriate. Resources should not be diverted from this effort.

Enhancing the crime will increase the criminalization of disability.

Oregon must take steps to eliminate the criminalization of disability. The bill fails to offer necessary protections for individuals whose behavior manifests in crisis and disability.

Actions and protections must be in place to not criminalize behavior embedded in disability. The state must avoid actively funneling individuals with disabilities through the criminal system. Individuals with disabilities are especially vulnerable to increased criminalization. Criminalizing individuals with mental health issues often creates a never-ending revolving door into the criminal justice system where many mental health issues never receiving appropriate care.

Enhancing the crime will not make hospital workers safer.

In addition, the enhanced crime will not deter the act or increase the safety of hospital workers. Individuals with disabilities who are in crisis are extremely unlikely to change their behavior because of enhanced legal consequences.

Conclusion

We strongly endorse committing additional resources to make hospital workers safer on the job. Unfortunately, this bill does not achieve this objective and will only further discriminate against people with disabilities who are in crisis.

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.

Respectfully,

Beth Brownhill
Managing Attorney
Disability Rights Oregon

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).