

TO: Senate Committee on Judiciary
FROM: Disability Rights Oregon (DRO)
DATE: March 21, 2025
RE: Support for SB 1114

Chair Prozanski and Vice-Chair Thatcher,

SB 1114 corrects a long-standing issue in the Oregon forensic mental health system and Disability Rights Oregon is in strong support of its passage.

Individuals who are found “Guilty except for Insanity” are currently sentenced to a term not to exceed the maximum sentence provided by statute for the crime for which they committed. Contrastingly, individuals found “Guilty” are sentenced using guidelines established by the Oregon Criminal Justice Commission. SB 1114 levels the field for everyone.

Disability Rights Oregon supports this bill for several reasons:

Individuals found guilty of a crime in Oregon are sentenced based on the severity of the crime, as well as the individual’s criminal history. Further, there are ranges within individual cells in the sentencing grid. Finally, a sentencing judge in these cases could depart from the grid for certain circumstances or even place the person on probation. Individuals found guilty except for insanity are sentenced up to the maximum sentence for that crime. Our experience is that, while the statute allows sentence *up to the* maximum, judges typically read that as sentenced *to the* maximum. As a result, individuals in the GEI system serve much longer sentences than those in the typical criminal justice system.

The long hospital stays would be more palatable if anyone believed that they were therapeutic. Many of the individuals in the GEI system are simply warehoused at the Oregon State Hospital (OSH) for long periods of time because of their sentence. Instead of a system that encourages community integration in a way that complies with the *Olmstead* mandate, individuals at OSH are housed in an isolated campus often far from their natural support systems. Patients at that hospital face severe restrictions on visits (if these are permitted at all), are frequently awakened throughout the night for bed checks, are limited to the vendors from which they may purchase clothing and other personal items, rarely are permitted outside trips to the community, and are not allowed to receive packages from their loved ones. In fact, the restrictions at the OSH are in many ways more restrictive than those a short distance away at the Oregon State Penitentiary.

Continuing to hold individuals for long periods is also unreasonably expensive. Data from the Oregon Health Authority clearly shows that many people remain well past their need for a hospital level of care. Most recent numbers show that 47 people are being kept beyond their

need for OSH for an average of 254.6 days. If one calculates a conservative cost of \$500,000 per year for OSH, this represents a cost of \$16.4 million. Further, that unnecessary use of OSH beds contributes to the overcrowding of the hospital and makes it much more difficult to comply with the federal court order in *Mink*.

DRO has concerns regarding the fundamental fairness of a system that is vastly different for individuals who have disabilities and those that do not have disabilities. While a complete legal analysis is not the aim of this testimony, the inequities of this system hints at a due process issue, an equal protection issue, and a possible Americans with Disability issue. A simple change that harmonizes the sentencing process won't fix the system, but it will be a move towards equity.

We ask for your support of SB 1114.

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 contact Ben Gurewitz via email: bgurewitz@gmail.com

Sincerely,

Dave Boyer
Managing Attorney
Mental Health Rights Project

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).