



Support for SB 1114

Chair Prozanski and Vice-Chair Thatcher and members of the Senate Judiciary Committee,

We are members of the Multnomah County Democrats' Criminal Justice Study Group and we support SB 1114.

SB 1114 corrects a long-standing issue in the Oregon forensic mental health system and we are in strong support of this correction. 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" of that same crime are sentenced using guidelines established by the Oregon Criminal Justice Commission. SB 1114 levels the field for everyone.

Furthermore, there are significant differences in each person's case related to their dangerousness, course of mental disorder, responsiveness to treatment, and other variables. Unfortunately, these differences are not reflected in the current application of ORS 161.295, Guilty Except for Insanity (GEI). Individuals adjudicated GEI almost always receive a jurisdictional sentence that is the maximum time allowed based on the offense(s) in question. This sentencing practice, paired with the Oregon Psychiatric Security Review Board's practice of maintaining jurisdiction for the maximum time allowable, frequently results in an individual's unnecessarily remaining in the custody of the State well beyond the time their mental health providers think it is clinically justified.

Research done by Disability Rights Oregon has shown that while the statute allows for a sentence **up to** the maximum, judges typically read that as an instruction to impose a sentence **to the maximum**. As a result, individuals in the GEI system serve much longer sentences than those in the typical criminal justice system. This results in many of the individuals in the GEI system being 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 (the 1999 Supreme Court case), 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 person per year for OSH, this represents a total unnecessary cost to the State of Oregon 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 the Mink case, which requires that OSH admit individuals unable to stand trial due to mental illness within seven days.

A person who has been adjudicated GEI, by statute, either didn't understand the wrongfulness of their actions or were unable to conform their behavior to lawful conduct due to a qualifying mental disorder. The actions taken to protect the public should be nonpunitive, least restrictive, and as time-limited as possible.

A system that is vastly different for individuals who have disabilities and those that do not have disabilities lacks fundamental fairness. 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.

Rachel Philips
Sally Joughin
Tony Fischer
Laura Locker
Deanna Cintas
Layla Assem
Nader Absood