



Comments in Support: House Bill 2467 with Dash-3 Amendment

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House Judiciary Committee

NAMI Oregon wishes to express its support for HB 2467 with the Dash-3 amendments. This is NAMI Oregon's legislation that we believe alters Oregon's criteria for civil commitment enough to help address the state's "aid and assist" crisis without loosening criteria so much that the state inappropriately utilizes what should be an intervention of last resort.

As background, NAMI Oregon is a grassroots, membership-governed organization with about 2,000 members. Our membership is almost entirely composed of individuals who live with mental health disorders, family members with loved ones living with disorders, or parents/caregivers raising children living with behavioral health issues. Many of us check multiple boxes. With our 17 local chapters, we annually serve more than 15,000 Oregonians through our free education, support, and awareness programs.

This is a difficult issue for NAMI Oregon. We serve and represent the entire family living with mental health disorders — the individuals who live with mental illnesses and the family members who sometimes struggle to find help for their loved ones. We're mindful of the catastrophic outcomes of an indifferent health care system that allows someone to deteriorate to extreme acuity and, even then, still does nothing. We also are mindful of the civil rights violations that people under commitment experienced when Oregon had more expansive abilities to civilly commit people.

But the question today isn't whether to utilize commitment. Oregon is doing so right now. Only we are waiting for people with severe symptoms to be arrested for a crime, and then we are compelling them into care. The goal of "aid and assist" restoration, however, isn't recuperation and recovery. It's to get someone well enough to prosecute them.

Whether because of actual caselaw or the perception of caselaw, if I'm experiencing acute symptoms of my mental health disorder and I'm in the emergency room, I'm unlikely to get help. As practiced day-to-day across Oregon, if I'm not an immediate threat to myself or an immediate threat to others, I don't usually qualify for an evaluation for civil commitment. But with no other change in my condition, if I walk out of the ER and get arrested, it's almost guaranteed that I will be compelled into care.

On our Resource Helpline, we counsel families that they have two choices when their loved ones have completely decompensated. They can either watch their loved ones further deteriorate, or they can call law enforcement and hope to have their loved ones arrested. This is an unacceptable choice between two bad outcomes.

This situation became untenable for NAMI Oregon about 15 months ago when we called together an internal workgroup to tackle a narrow question — if we are going to compel someone into care, could we spare them a criminal record and serve them in the civil system instead? Because if we can, we attach long-term health outcomes to their care.

NAMI Oregon's workgroup included individuals living with mental illness, family members, hospitals, providers, judges, attorneys and others who gave us their time over several months of meetings. We didn't ask for endorsements. We asked for their best thinking. Several participants are fundamentally opposed to lowering criteria, but they gave us their best thinking nonetheless, for which I'm grateful because it made our proposal more likely to meet our narrow goal.

Since then, more than 35 individuals and organizations have provided feedback as our legislation went through several iterations. We started with one set of words in our original bill only to end up with another set of words that is the Dash-3 amendment before the Committee today.

These are words that have to speak to judges and attorneys, but they also have to speak to clinicians and providers. They have to express the caution that NAMI brings to this discussion. Civil commitment must be an intervention of last resort, and it should only be used in specific circumstances. At the same time, these words must allow the health care system to intercede when it becomes clear a catastrophic outcome is near.

The Dash-3 amendment contains words I can confidently defend to NAMI's membership. We believe these words do, indeed, thread the needle we set out to thread 15 months ago.

HB 2467-3 borrows from past proposals in that it provides better elaboration of what key terms mean in Oregon's statutes. In short, the legislation:

- Creates separate definitions for danger to self and danger to others. These are separate categories that have their own specific factors when being clinically evaluated.
- Defines serious physical harm as it pertains to danger to self and to basic personal needs to better guide clinicians and to better protect people from catastrophic outcomes.
- Adds a definition of "near future" to clarify how far into the future a court and clinicians may look when evaluating an individual for civil commitment.
- Adds factors the court may consider specific to danger to self and specific to danger to others. Danger to self is about harm to the individual. Danger to others is about public safety risk. As such, both need separate assessments clinically and legally.

There are others at today's public hearing with more expertise who can provide a better technical explanation. Ultimately, what the legislation accomplishes is to reset the state's criteria to a reasonable level.

And ultimately, what we hope this legislation does is prompt clinicians and others to do the hard work of engaging people who need help. Instead of throwing up their hands and saying there's nothing we can do, they will actually do clinical evaluations and engage with people in crisis. That first responders will actually transport people to emergency rooms instead of jails because they know something will happen in the ER. And, in the end, that commitments of any kind become rare because our health care system will actually look at individuals and families and their needs when in crisis vs. what we do today, which is largely nothing.

I end with a word of caution that NAMI Oregon has shared before. If all we do is change criteria, we've accomplished nothing. Without investing in services, we will have the logjam we have today. Simultaneous to changing criteria, the Legislature must also pass NAMI's companion legislation (HB 2015-3/SB 1195) that will more quickly add community residential treatment capacity. Lawmakers need to pass HB 2059-2, which is the governor's request to invest another \$90 million to develop new residential facilities.

And we as a state need to focus on helping people well before they ever reach criteria for commitment. Like any health care condition, if left untreated, mental health conditions get worse. We know we can be successful if we intervene sooner in the trajectory of a mental illness. We need to turn that knowledge into tangible action.

Thank you for this opportunity to express support HB 2467-3. We hope the Committee will support this important legislation.