

TO: Joint Committee on Addiction and Community Safety

FROM: Disability Rights Oregon

DATE: June 16, 2025

RE: Opposition to HB 2005 -1 Amendment

Co-Chairs Prozanski and Kropf, Vice-Chair Mannix, and Members of the Committee,

Disability Rights Oregon (DRO) opposes HB 2005. This new proposal combines the substance of two prior bills relating to the aid-and-assist process and to the civil commitment process. The entity at the focus of these bills—the Oregon State Hospital—is in collapse and is failing to serve patients. Not only does the hospital not admit patients in a timely manner, the hospital also has had numerous concerning deaths of patients from a lack of supervision and a lack of medical intervention. It has been unable to find a permanent superintendent for more than a year and is now on its third acting superintendent in that time. Instead of alleviating the problems in the state hospital specifically and the mental health system generally, the bill would restrict the movement of patients through the hospital and further increase the press of patients into the hospital.

Process Concerns

Before discussing the bill's substance, DRO must comment on our dissatisfaction on the process leading up to this hearing. A 142-page bill amendment was publicly released at 3:17pm on June 16, in advance of a 5:00 hearing the same day. DRO understands that the bill language resembles that previously put forward in other bills this section, but the extremely short time for review does not allow us to even verify how, if at all, the amendment language may have changed from prior bill drafts. The committee has a work session tomorrow at 1:00pm, possibly the only hearing a bill altering significant elements of the mental health system will ever get.

Aid and Assist Process

The state of Oregon has been in violation of its constitutional obligations for seven years, needlessly leaving people in serious mental health crisis sitting in jail cells. It was recently found in contempt of court for these violations. Instead of alleviating these harms, the -1 amendment would make it harder to move people through the hospital. For instance, the bill would allow district attorneys to place people charged with mere violations—like speeding tickets—into the limited community restoration beds of the state, rather than reserving those spots for people charged with more serious offenses. The bill would also allow greater extensions of time for confinement in the hospital, even where a person had shown little progress towards restoration after many months of treatment.

Civil Commitment

Oregon's mental health system is overloaded and cannot serve even those currently in civil commitment placements. The state hospital's services continue to degrade. More and more patients are left in private hospitals, sometimes spending long times housed inside emergency departments and other inappropriate settings. Instead of attempting to fix this problem, the amendments would just put more patients in the queue for limited and already overwhelmed resources. For instance, this bill would allow civil commitment on the mere showing that a person might cause *any* nontrivial injury to someone. The projected injury does not necessarily need to be any kind of serious injury, nor does it need to be imminent. An elderly woman with dementia who sometimes shoves her caregiver, but who is physically incapable of causing serious injury to the caregiver, could be civilly committed. Not only would this commitment pointlessly confine someone who is not a serious danger to the public—nor fundamentally experiencing an illness likely to improve with treatment, it would take a bed that might be used for some in acute need. The amendment would compound the current dysfunction in the behavioral health system by pushing patients who do not need and would not benefit from psychiatric care to the front of the line for the limited resources that do exist.

Furthermore, DRO would like express our concern that that there are several undefined terms in Section 2 of HB 2005 that is likely lead to continued litigation.

Sections 2(2)(b), 3(b), and 4(a): These sections include the phrase "even if such behavior is not imminent." We are concerned that this language could conflict

with the holding in *Suzuki v. Yuen*, 617 F.2d 173 (9th Cir. 1980), which found a commitment statute unconstitutional for permitting confinement without an imminent threat. While some precedent allows for predictive assessments of future dangerousness (see *Sahhar v. United States*, 917 F.2d 1197 (9th Cir. 1990)), the tension between these cases suggests that this issue could ultimately be resolved by the Ninth Circuit. As currently written, HB 2467-6A is likely to create a period of constitutional uncertainty that could expose the State of Oregon to extensive litigation.

Additionally, the revised definitions of Danger to Self and Others now include threats to engage in dangerous behavior. This language is expansive and open to broad interpretation, which may invite legal challenges. Absent additional clarification, the application of this standard could be overly broad that could pose have significant liberty implications for individuals undergoing civil commitment.

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 at bgurewitz@droregon.org.

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).