



DISABILITY RIGHTS OREGON

February 19, 2013

Senator Floyd Prozanski, Chair  
Senate Judiciary Committee

RE: Senate Bill 421

Disability Rights Oregon (DRO) has provided advocacy for the residents of Oregon State Hospital (OSH) since 1986. Our goal has been to assure that the facility is safe, that residents receive effective treatment and that the constitutional and statutory rights of residents are honored.

DRO strongly opposes SB 421, a bill that runs directly counter to our organization's mission.

When OSH is required to house people who do not need intensive psychiatric services but are, instead, being held to serve the equivalent of prison time for alleged criminal behavior, the safety and quality of hospital services are diminished.

When our laws seek to skirt the constitutional rights of people who are accused of crimes to have the assistance of an attorney, to produce evidence on their own behalf, to cross-examine their accusers and to make decisions about their defense including whether to accept plea agreements or use the insanity defense, all of our constitutional rights are put at risk. All Americans have the right not to be incarcerated for a crime without trial and an opportunity to defend themselves.

SB 421 will take hospital discharge decisions away from the professional mental health treatment teams in the state hospital and give them to the 173 Circuit Court judges across Oregon. It will do so without stating the standard that the judges are to apply to discharge decisions and without providing clear definitions of terms like "dangerous" and "in need of commitment." The result will be lack of uniformity, reduced fiscal responsibility for the cost of care and increased political influence over decisions that should be driven by the clinical needs of the patient and objectively determined safety considerations.

SB 421 would create a criminal sentence masquerading as a civil commitment. Unlike existing civil commitment in which a person is committed to the Oregon Health Authority so that s/he can be placed in the most appropriate treatment environment, a SB 421 commitment is to the state hospital and only the state hospital. This is appropriate for a law that has a primary goal of incarceration, not one of treatment and recovery. In

designating OSH as a place of incarceration, SB 421 will assure that it becomes more prison-like.

Set out below is a chart of data from OSH showing the number of defendants at the hospital who have been found by a judge to be never able to aid and assist for the past 5 years and the number who have been civilly committed following that finding.

<b>Year</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Never-ables	40	56	42	76	78
Never-ables civilly committed	4	5	8	4	2

In total, 7.9% of the never-ables were returned to OSH under civil commitment. In 2012, the average length of stay for those never-ables who returned to OSH under civil commitment was 150 days. The range of these lengths of stay ran from 14 days to 708 days. The median stay (half above/half below) was 108 days.

This committee may wish to consider the number of people who will committed to terms from 2 to 5 years under SB 421, the cost of those commitments and the effect they would have on the safety of the community. Our expectation is that the number of people committed and the cost of their care and custody will rise significantly while public safety will not be affected.

DRO urges more care in upsetting our delicate mental health resources.