

## CARINI & FRANCIS

ATTORNEYS  
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April 16, 2015

Re: HB 2936

To the Members of the House Committee on Judiciary:

In Oregon, a “jail” or “prison” has been defined as “any facility or location where individuals are regularly and lawfully detained against their will.” This definition includes “temporary holding facilities” (also referred to as “police lock-ups” or “drunk tanks”), which are used to detain people prior to arraignment.

HB 2936 would expand the meaning of these terms by bringing private jails to Oregon. Under its provisions, there would be no detention “prior to arraignment.” Instead, this bill would allow private companies to take private citizens into custody and hold them in locked cells against their will for indefinite periods of time – with no arraignment and no review by any magistrate at any time. Private jails would be unlicensed and unregulated. With immunity – and with impunity – owners of private jails would be allowed to operate completely outside the reach of any civil or criminal law.

HB 2936 would strip private citizens of fundamental liberties and protections guaranteed by the Fourth Amendment of the United States Constitution and article 1, section 9 of the Oregon Constitution. Virtually anyone could be taken into custody and held in a private jail under the provisions of this bill. Persons unfortunate enough to be taken to private jails could be confined in locked cells with dangerous offenders. If they were abused, neglected or injured, either by other prisoners or by persons employed at private jails, they would be denied any legal remedy.

On March 16, I traveled to Salem, submitted written testimony and spoke at length to the Committee about the troubling provisions of this proposed legislation. My concerns have not been acknowledged or addressed. I return today to tell you again that the Committee should summarily reject this ill-conceived and short-sighted bill.

Respectfully submitted,



William Francis

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To the Members of the House Committee on Judiciary:

I object to the secrecy provisions embedded in the language of HB 2936. As drafted, this bill would permit the owners of private jails to hold persons in custody without disclosing the identities of the persons being held.

This provision is an insult to the public and a danger to a free society. It circumvents the purpose of Oregon's public records law. It does not protect the privacy of patients. Rather, it protects the interests of the owners of private jails. It allows them to operate these facilities with no accountability, out of the reach of the public, the press and the government.

Everywhere in Oregon, the names and addresses of persons who are arrested for crimes and placed in a jail are fully available to the public and the press. No less should be required of a private jail where a person is held at the request of police.

Supporters of this bill have made the preposterous assertion that the identity of a person being held in a private jail should not be revealed to the public unless the person being held requests it. The gist of this argument is that keeping this information secret would protect such persons from embarrassment. Supporters of private jails also have argued for secrecy by suggesting that a person who is held in a private jail is similar to a patient at a medical facility.

A person who is being held in custody at the request of the police is not in a position to waive the public's right to know what the police are doing. A person who is being held in custody at the request of police has no reasonable expectation of privacy. There is no right to not be known.

And, unlike medical facilities that have an obligation to protect the confidentiality of their patients, private jails would provide no medical treatment. Federal and state confidentiality provisions would not apply to them in any event.

No jail can operate outside of the public's scrutiny. This information is essential and must be made available to the public. The public interest requires the disclosure of this information if we are to remain a free and democratic society.

Respectfully submitted,



William Francis