

TO: Chair Gelser and Members of the Senate Committee on Human Services and Early Childhood

FROM: Bernadette Nunley, Assistant County Attorney
Nancy Griffith, Corrections Health Director

SUBJECT: HB 2363 Clarification

DATE: April 22, 2015

Thank you for the opportunity to submit written testimony to clarify the intent of HB 2363 as it relates to mentally ill inmates being held in county jails.

Multnomah County has received assurance from the Oregon Health Authority's legal advisor that a county jail is not contemplated as a "facility" or "nonhospital facility" under Oregon Revised Statute 426.005(1)(c) or (d). Specifically, neither definition expressly includes a "jail." Furthermore, Oregon Health Authority would not include a jail as a place approved to provide services to a person committed to the OHA under ORS 426.130; ORS 426.130 describes the process to commit a person with mental illness into an institution for treatment and services.

In addition, a person with mental illness may not be "committed" to a jail under ORS 426.130 without risk of violating the person's constitutional rights and the Americans with Disabilities Act. (See *Olmstead v. L.C.* 527 U.S. 58, 1999, which holds that a State must consistently review a person's institutional placement to ensure integration within the person's community.) A jail is a penal institution, and while many people in jail custody may be mentally ill, they are incarcerated based on potentially criminal activity, and not for mental health treatment and services.

Thank you for the opportunity to clarify the bill's intent.

If you have questions, please contact Sami Jarrah, Deputy Director for Integrated Clinical Services, at 503-988-4826 or sami.jarrah@multco.us.