

HB 3347 Testimony
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I am a retired Psychologist who provided forensic clinical services at Oregon State Hospital for 19 years, and also administered community mental health programs spanning another 19 years in Oregon and three additional states.

HB 3347 proposes modifications of the civil commitment statute to reduce incidents of citizen harm towards themselves or others due to seriously diminished functioning secondary to severe symptoms of mental illness. Much thoughtful and heartfelt testimony has been provided to underscore the rationale for this suggested modification. The proposed language modifications would expand the time framework for estimating a person's likelihood of doing such harm and redefine the qualification for providing for their basic needs to "that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm." On the surface, the proposed modification seems reasonable for preventing danger to all individuals involved.

While there might be some advantages to implementing the proposed modifications, there are tradeoffs made that are not so readily seen, and these tradeoffs actually stand to make the intended improvements in safety harder to achieve. We must check our intentions for a moment and step back to consider the unintended consequences of such modifications.

1. The primary reason that mental health crises of the nature targeted in our civil commitment law progress to an emergent status is due to the lack of availability of proven and effective less restrictive services in the community. Such services, such as acute residential crisis services and peer respite services, have been shown in studies and in practice to be attractive to individuals in crisis and provide the framework needed to obviate the potential dangers to the individual.

Not only does this bill do nothing to provide these less costly and effective alternatives to hospital commitment, but the bill does nothing to change the reality that a citizen no longer has a voluntary hospitalization option available in the vast majority of mental health crises. Hospital bed space is reserved for the inevitable involuntary commitment circumstances produced by the lack of earlier and less restrictive intervention services. There was a time when individuals could voluntarily avail themselves of hospital-level relief and safety when they experienced serious declines in their functioning in advance of imminent danger to themselves or others, and they did. And, as already mentioned, there is now available equally effective community service crisis alternatives which could affordably be implemented in lieu of costly hospitalization. An unfortunate byproduct of this bill will be an increase in the use of dehumanizing involuntary detention processes in place increasing the availability of humane and initiative-supporting community alternatives for seeking safety and healing in a mental health crisis.

2. The result of expanding the criteria for those qualifying as requiring civil commitment (no longer just those "imminently" in danger, but now also those estimated to possibly be in danger sometime "in the near future") will be to cause an increase in court activity and the needed costly capacity of courts to process the increased incidents of civil commitment adjudication.

The increased incidents of civil commitment processing will either significantly burden the current court capacity, or counties will have to increase their court expenditures to increase that capacity.

3. Another result of expanding the civil commitment criteria will be the need for increased costly emergency department and hospital bed capacity. More individuals being detained, evaluated, and treated within our current service structure will increase hospital and payer costs significantly. The number of hospital beds will need to be increased, and the number of staff needed to provide services will increase accordingly.
4. Several individuals providing testimony in support of HB 3347 talked with hope and expectation that increased detention of individuals suspected to be dangerous sometime “in the near future” would finally provide a framework for referral to appropriate services. Yet, there is nothing in this bill by which aftercare services will be increased and become available. Our mental health system is already stretched, let alone able to provide for an increased number of individuals needing services post-discharge.
5. Many more individuals who would not become dangerous “in the near future” will be detained and subjected to involuntary processes as the natural outcome of expanding the length of time within which a person would be estimated to become so dysfunctional and dangerous to themselves and others. The predictive validity for estimating the current “imminent” temporal risk factor is poor, and as the length of time being used in which to predict is lengthened, the predictive validity decreases and more individuals who would not have become so dysfunctional and dangerous will be erroneously detained. Such unnecessary detentions breed mistrust of a system which can only function successfully under the circumstances of trust, and many more individuals will not present themselves to a provider at earlier points in their decompensation out of fear of being misperceived as requiring involuntary detention and treatment.
6. And finally, Oregon is being monitored by the United States Department of Justice for compliance with the United States Supreme Court’s “Olmstead decision” which requires that individuals be treated for mental health needs in the least restrictive environment. Oregon has received mixed feedback at best about their current efforts to reduce the number of individuals cared for in restrictive hospital and community treatment environments, and has much work to do to comply with USDOJ directives. By increasing the number of individuals hospitalized under the expanded civil commitment criteria in HB 3347, and allowing the current level of community services to remain unchanged, Oregon will become even further out of compliance with the requirements of Olmstead and the USDOJ. Oregon does not want to invite being perceived as being oblivious to the requirements of Olmstead.

Thank you for considering these points. I strongly urge the rejection of HB 3347, and a reconsideration of strategies by which equally effective services can be provided to implement humane, safe, and cost-effective options for crisis intervention.

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