

March 18, 2019

TO: Senator Floyd Prozanski, Chair
Senate Committee on Judiciary
FR: Sarah Radcliffe and Bob Joondeph, Disability Rights Oregon
RE: SB 763

Disability Rights Oregon (DRO) is the designated Protection and Advocacy program for Oregon. DRO is mandated by federal and state law to advocate for the rights of individuals with disabilities. DRO sat on the so-called “Workgroup to Decriminalize Mental Illness” that the written bill states to have requested this bill. We did not vote in favor of this bill and do not recall that a vote was ever taken on the specifics of the bill.

Civil commitment is a tool of last resort to intervene in a person’s life because it is one of the most invasive infringements that the state can make upon individual rights. In Oregon:

- The person may be held for days or weeks in a spare, windowless room in the emergency department
- If admitted to inpatient, the person may be sent across the state – far from family and supports
- An abrupt confinement can result in the person losing their job, their housing, their service animal or pet, or temporary custody of children.
- People who are committed may be forcibly medicated or restrained

A robust and effective mental health system requires investments in a spectrum of services (see the *Oregon Performance Plan*). Setting aside the individual rights concerns, expanding civil commitment will not have a community impact unless the state supports the creation of adequate housing, residential services and community-based behavioral healthcare to support people once they are discharged from the hospital. And, until the state addresses the Aid+Assist crisis, there will be few available beds for civilly committed patients.

SB 763 defines “dangerous to self or others” as likely to inflict serious physical harm upon self or another person within the next 30 days, and clarifies that the court is to consider the severity and timing of past potentially harmful behavior. However, courts are already permitted to consider context and history in order to weigh the seriousness and credibility of the threat.

Recent case law requires that future violence be “highly likely” as opposed to simply “likely.” Under either standard, uncertainty is inevitably part of the equation. The court does not have a crystal ball. What’s important is to make sure that commitment is sought as a last resort and that there is a robust continuum of care to support people pre/post and instead of commitment.

While well-meaning proponents of SB 763 believe it will make a positive difference for Oregonians in need of mental health treatment, we at DRO believe that the risk it poses of misdirecting precious resources for temporary gains will ultimately serve as all poorly.