

HB 4142 Testimony
Cameron Taylor, Attorney at Law

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Chair Bynum, Vice Chairs Noble and Power, and Members of the Committee:

My name is Cameron Taylor. Thank you for allowing me to testify in opposition to HB 4142. I've been a public defender in Washington County for eight years. I am also Washington County's mental health court and civil commitment attorney.

I have great appreciation for our frontline healthcare workers. They work in incredibly difficult circumstances, which have only gotten worse during the COVID-19 pandemic. I see this daily when working beside them in psychiatric hospitals and emergency rooms. Nobody should be assaulted, period, much less healthcare workers on the front lines.

However, if the question is whether this bill will decrease assaults on healthcare workers, the clear answer is no.

In eight years as a public defender I have represented hundreds of individuals charged with assault. Of those, I've had maybe half a dozen cases involving healthcare workers. All of those defendants shared one unifying trait: they were profoundly mentally ill. This morning, I surveyed over 20 of my co-workers, and not a single one could recall a single case involving an assault on a healthcare worker where the defendant was not profoundly mentally ill.

An argument has been made that the inclusion of "intentional, knowing, or reckless" into this measure would exclude cases involving a mental health crisis from being charged. **Nothing could be further from the truth.** Across the state, district attorneys routinely charge cases and obtain convictions for "intentional, knowing, and reckless" crimes, particularly including assaults, even when it is obvious to everyone involved that the defendant was experiencing a mental health crisis. I know because I represent these people every single day. This is how HB 4142 will be implemented.

The effect of elevating these cases to felonies will be:

- More mentally ill persons sent to prison.
- More defendants sent to the already overwhelmed Oregon State Hospital for competency restoration or PSRB supervision for longer periods of time.

The bill will have no deterrent effect. Not a single assault will be prevented because a floridly mentally ill person experiences a sudden moment of clarity and says "this is now a felony – I better not do this."

Our healthcare workers absolutely deserve our protection. But that protection is achieved by actually enforcing existing laws, including already applicable felony assault statutes and Ballot Measure 11, rather than creating new laws that will disproportionately affect some of our most vulnerable and ill community members.

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At the hearing on this matter, Rep. Wilde requested that counsel provide the Committee with information regarding how this bill would be classified on the felony sentencing guidelines. I write additionally to provide that information.

Assault III (which this bill would move to include assaults on healthcare workers) is classified at Crime Seriousness **Level 6** on the Felony Sentencing Guidelines. As such, the presumptive sentence ranges from 3 years of formal probation (with up to 90 days jail) for an individual with no criminal history, up to a presumptive sentence of 25-30 months in the Department of Corrections for a person who scores as an "A" on the Felony Sentencing Grid. Those sentences can be doubled should the Court find "enhancement factors" to be proven or admitted. These "enhancement factors" include offender-specific facts such as being on probation/supervision at the time of the incident, or having a significant criminal history. It should come as no surprise that, given the long history of criminalizing mental illness, the majority of defendants facing this charge would qualify for enhancement factors.

Thus, the individuals experiencing mental health crises who will be charged under this bill, who likely have a criminal history of prior assaults or person crimes due to the symptoms of their mental illness, will face presumptive sentences of two and a half years in prison, with the potential for up to five years.

I would also like to correct a misunderstanding that Rep. Morgan expressed at the close of the hearing. Rep. Morgan relayed to the Committee that her understanding was that it would be difficult to actually face prison time on a Class C Felony such as this. This is untrue. Any individual who has, in their entire lifetime, either been convicted of a *single* C-Felony "person crime" or *two* misdemeanor "person crimes" is categorized as a "D" on the Felony Sentencing Grid. For a Level 6 crime, a "D" faces a presumptive prison sentence of 13-14 months in the Department of Corrections. So, even those with one prior felony assault, or two misdemeanor assaults, would be facing a prison sentence. Going further, an individual with *two* "person felonies" or four "person misdemeanors" would find themselves a "B" on the Guidelines, thus facing 19-24 months in the Department of Corrections.

It should come as no surprise that our mentally ill community members frequently and easily accrue such convictions due to the fact that actions such as spitting on a police officer (Aggravated Harassment) or shoving a security guard during a shoplift (Robbery III) constitute "person felonies" under Oregon law. While none of those are things anyone wants to see happen, the simple facts are that these behaviors are disproportionately committed by the mentally ill, which leads to their conviction (and, let's be clear, those are also crimes that include "intentional, knowing, or reckless" language) and will lead to their imprisonment under this statute.

Our healthcare workers must be protected, but we will protect them by adequately funding and staffing their places of employment and having law enforcement engage in quality investigations under already applicable statutes.

Thank you for your time.

Sincerely,

Cameron Taylor, OSB #154324
Attorney at Law