

Chair Nosse, Vice Chairs Moore-Green and Reynolds, Members of the Committee,

My name is KC Lewis, and I am the managing attorney for the Mental Health Rights Project with Disability Rights Oregon. We recognize the vital importance of the issue that this bill is trying to address. Every child should have access to the mental health and substance use services that they need, and no parent should have to live in fear that harm will come to their child while they are waiting to receive those services.

Unfortunately, this is not a problem that can be solved by creating a new legal framework for the involuntary treatment of juveniles and attempting to force it upon our existing system. The rights of juveniles are currently governed by a number of statutes at the intersection of custody law, medical consent law, juvenile criminal justice, and child dependency. While this framework is certainly imperfect, HB 4085 would throw it out wholesale, rather than making measured and necessary changes to it. It contains a number of heretofore-unseen and undefined legal terms and standards, which could have drastically different impacts depending on how they are interpreted by practitioners and the courts.

For instance, the standard for involuntary treatment under this bill is that the child's "needs pose a risk of harm to the child or others." As far as we can tell, the concept analyzing the risk posed by a person's needs rather than the risk posed by the person themselves is a new one in Oregon law. This could potentially mean that a high-needs person with mental illness could be involuntarily forced into treatment based on the harm that those needs are causing on those around them, rather than any danger presented to the person themselves. The term "harm" is also problematic, as it is not defined in the statute. Does this encompass just physical harm, or emotional or psychological harm as well? If a child's mental illness is causing their grades to suffer, could they be put involuntarily into treatment due to the harm they are causing to their future?

We have significant concerns about the unintended consequences of this legislation. This body has done a great deal of good work on preventing the mistreatment of children by for-profit residential placements; this bill could inadvertently create another foothold for those bad actors in the system. It could also open the door for juveniles to be forced into discredited and potentially harmful treatments such as crisis pregnancy counseling and conversion therapy.

We do believe that this bill highlights a genuine need for a larger discussion around the rights of juveniles to be involved in decisions around their medical care. We appreciate the bill's sponsors for identifying this need, and would be happy to engage in a longer conversation about this issue with all of the appropriate stakeholders at the table. This is a complex issue and deserves to be done right.

In truth, the current barrier to a child receiving services is one of resources. There are currently only 34 beds available statewide in Young Adult in Transition Residential programs, and those beds are completely full. Children are not receiving treatment because there are too few beds, too few providers, and too little funding for those services. If those services became available, the problem that this bill is attempting to solve would likely vanish overnight.

Sincerely,
KC Lewis

Managing Attorney, Mental Health Rights Project