

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

Thank you for allowing me to testify. My name is Christine Breton, I am a public defender in Portland, Oregon handling felonies and I am testifying in opposition to HB 4142 because this bill will not address the harms it is intended to, and instead will punish some of our most vulnerable Oregonians.

My opposition to this bill is not meant to undervalue the work of healthcare professionals and the conditions under which they work. In preparing my testimony I spoke to my sister-in-law, who is an EMT in Denver and over the pandemic she worked for an organization focused on outreach to the homeless community and worked in a COVID hotel for houseless individuals. It was incredibly difficult work and both she and her colleagues were harassed and assaulted.

Our communities have long relied on healthcare professionals to be on the frontlines and often the first responders to several unaddressed social issues we face – mental and behavioral health, substance use, homelessness, and many others. Opposition to this bill is not because I think it is acceptable that hospital employees feel unsafe at work.

My opposition to this bill is because I have been a public defender in Multnomah County for 4 years and I have seen who gets charged with these kinds of assaults and what happens next. I have represented many people accused of assaulting hospital staff – for both misdemeanors and felonies. (It should be noted that our law already provides for felony charges for serious assaults. Where someone is seriously injured, or any kind of weapon is used, those are already felonies.)

The Oregonians I have represented charged with *reckless* assault of hospital staff have almost universally been suffering from untreated mental health issues, substance use and homelessness. Without consistent, proper care, these members of our community go to emergency rooms when they are in crisis; they are taken to hospitals against their will by police as an alternative to jail; some have been ordered to a hospital *because* of their acute mental health issues.

I listened to the testimony last week, and so I know the stated intent of this bill is to only penalize INTENTIONAL assaults on MEDICAL WORKERS. And that it is supposed to exclude individuals with mental illness, dementia, or coming out of anesthesia. This law as written DOES NOT DO THAT. To address stories like those that have been told by proponents of this bill. It doesn't only apply to intentional assaults when the language also includes knowing and reckless behavior. It does not exclude individuals suffering from mental illness because it DOES NOT SAY THAT, and that is not a part of our law in Oregon generally. And it is not limited to medical workers, when the definition of hospital worker is so broad as to include security guards. As written, this will be charging mentally ill individuals who resist being dragged out hospital beds by security guards after being discharged from care when they don't understand what's happening to them and don't understand why they can't stay. And this will charge them with FELONIES. I can say this because I have seen those cases charged as misdemeanor Assault 4's –

intentionally, knowingly, recklessly causing physical injury - which has the identical language to this proposed bill.

Increasing the penalty of a misdemeanor assault won't deter behavior that people don't intend or aren't fully aware of.

So what this bill *will* do is make it more likely that someone suffering from untreated mental illness will be housed in our jails and prisons. It will shift the responsibility of recognizing and seeking treatment for these individuals from health professionals to public defenders and the criminal system. Being charged with a violent felony makes it more likely they will be held in custody, and make it more difficult to release them to community mental and behavioral health services.

It will also be less likely someone will be able to establish any stability once they have been able to address their mental health needs. Once diagnosed, medicated, stabilized, they must still face a felony charge from the conduct from before they regained competency. Mental illness very rarely provide a defense to criminal charges, and that kind of conviction can keep someone from accessing housing, student loans, and employment.

Misdemeanor charges are not without consequence. The experience and trauma of being arrested, of being booked into jail, of having to appear in court, of facing a sentence, is not insignificant. And for the more serious cases – where someone acts intentionally, where someone uses a weapon, where someone is seriously injured, or has a history of multiple assault convictions – those can already be charged under other felony assault statutes.

Please do not make misdemeanor, un-intentional, non-serious assaults into felonies for individuals seeking care in our hospitals. The way to deter this behavior lies outside our criminal system – with robust mental and behavioral health services and access to housing and regular medical care. This bill will not deter the behavior, but rather further burden our criminal system and state hospital, further punish some of our most vulnerable Oregonians, and make it much harder for them to get the care they need.

It's for these reasons I ask you to vote NO on HB 4142.