



Presentation to the Interim Senate Human Services Committee

ORS 427 Civil Commitments

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Office of Developmental Disabilities Services (ODDS)

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Agenda

- I. ODDS history
- II. ORS 427
- III. Departmental requirements
- IV. Recent changes
- V. Demographics
- VI. Conflict with Oregon's service system
- VII. Other options for consideration
- VIII. Resources
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Office of Developmental Disabilities Services (ODDS): History

- Strong foundation of home and community-based services that allowed for successful deinstitutionalization
- Medicaid funding authorities that ensure services for all eligible individuals according to the level of need
- Employment First state promoting competitive integrated employment for people with intellectual and developmental disabilities (I/DD)
- Serve all eligible individuals regardless of immigration status



ORS 427: Need for civil commitments

For the purposes of ORS 427.235 to 427.290, a person with an intellectual disability is in need of commitment for residential care, treatment and training if the person:

- Has an Intellectual Disability **and**
- Is determined eligible for developmental disability services under ORS427.104; **and**
- Is dangerous to self or others; **or**
- Is unable to provide for the person's basic personal needs and is not receiving care necessary for the health, safety or habilitation of the person.

Departmental requirements

When a person is determined:

1. To be a danger to themselves or others **and**
2. Has an intellectual disability confirmed with an evaluation less than 12 months old **and**
3. Is eligible for ODDS services in Oregon with an Intellectual Disability **and**
4. The court has ordered a civil commitment.

Then the Department is delegated responsibility: ORS 427.300 — The Department may delegate responsibility of the person's assignment to a suitable facility to either a CDDP or support services brokerage, at the Department's discretion.

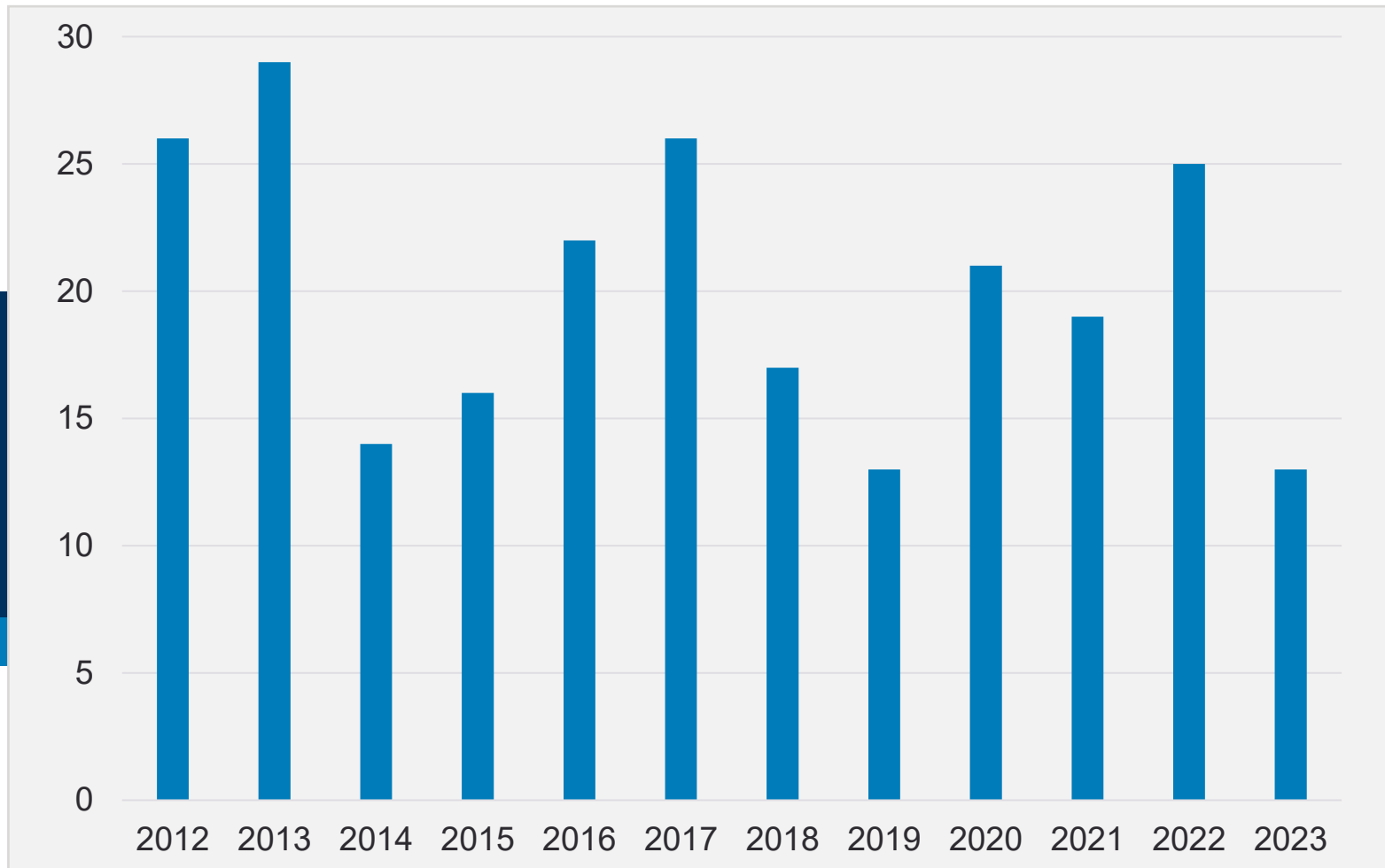
- When a person enrolled in a brokerage is committed, CDDP and brokerage coordinate facility assignments and consider a variety of settings, including residential settings, to select an appropriate setting to maintain the person's safety, health and training needs.
- For the person who is committed, ORS 427.306 requires the least restrictive environment suitable for the emotional and physical needs and protection of others.

Recent changes: Oregon House Bill 3234

HB 3234 passed in 2023, which declares an emergency, effective on its passing, and revised [ORS 427.235](#) through [427.290](#), Civil Commitments, with these changes:

1. Prohibiting the commitment of children with intellectual disabilities without consent of parent or legal guardian
2. As a condition of commitments, a person must be determined to have an intellectual disability and determined eligible for developmental disability services through Oregon Department of Human Services
3. After the first commitment, removes the requirement for a new diagnostic evaluation within the past 12 months for re-commitments
4. Adds brokerages as an entity that may be responsible for assignment of the person to suitable facilities or transfers between facilities

Demographics: Civil commitments of Oregonians with I/DD



Note: In 2023, there have been 19 active civil commitments.

- 13 completed in 2023
- 6 commitments are 2022 orders or re-commitments

Demographics: Persons committed to ODDS in 2023

All but one person have confirmed mental health diagnoses

- Schizophrenia, mood disorders, bipolar disorder, risk of suicide, etc.

Geographic location

- Four counties: Lane, Linn, Marion and Multnomah
- Majority in Marion County

Gender

- 42% female
- 58% male

Residential location

- 42% in the Stabilization and Crisis Unit managed by ODDS

Conflict: Current service system requirements

Medicaid authorities that fund Oregon's home- and community-based system (HCBS) require:

- Person or their guardian must choose to access services.
- Person or their guardian has a choice of setting and services.
- Protection of person's rights and freedoms.

Additionally, Oregon no longer has institutions for people with I/DD.

- All services are home and community based and voluntary.
- Services are intended to fully integrate the individual into their community

Conflict: Civil commitments and the current system

Civil commitments conflict with the current system's requirements.

- Don't assign a guardian, but instead direct ODDS or local CDDP director to assign a facility and an attendant to confine and detain the individual.
- Don't prevent a person from leaving services
- Don't guarantee a person who does leave will be returned to a service setting.
- No requirement for law enforcement to respond.
- Providers can refuse to serve a person, regardless of whether they are involuntarily committed.
- Don't help someone access necessary mental health and crisis supports that could help individuals be served successfully in the community.
- Remove civil rights and are a form of institutionalization: **People involuntarily committed may not have been charged with any crimes and still have their rights taken away.**

Other options for consideration

Guardianship is a more comprehensive way to help a person receive and remain in services.

- Additional guardianship options are currently limited in our system when guardianship is needed due to a person's risk to themselves or others.
- Support for expedited access or support for families to acquire guardianship is limited for when it is needed due to a person's risk to themselves or others.

Other alternatives

- Power of attorney
- Protective order
- Commitments through the mental health system (426 commitments) will remain an option for persons with mental health diagnoses.

Resources

Civil commitment stories and history

John Calhoun story:

- <https://www.facebook.com/OrCouncilDD/videos/the-john-calhoun-story/350605882218832/>

OPB In Shadow of Fairview Training Center:

- <https://www.youtube.com/watch?v=jrlmlAJIV7c>

Voices from Fairview:

- <https://www.youtube.com/watch?v=GP85plcBQQ8>



Oregon State Hospital | Mental Health Association of Portland

Questions?

- Email us: DD.DirectorsOffice@odhsoha.oregon.gov
- Sign up for updates: <https://bit.ly/3BuajUe>

Thank you

