



Presentation to the Interim Senate Human Services Committee

# ORS 427: Civil Commitment

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# Agenda

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- I. ODDS service system
- II. ORS 427 requirements and responsibilities
- III. Demographics of civil commitments
- IV. Conflict with Oregon's service system
- V. Other options for consideration
- VI. Resources
- VII. Questions

# Office of Developmental Disabilities Services (ODDS): Mission and vision

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- **Mission:** ODDS, partners and the intellectual and developmental disabilities (I/DD) community come together to provide services, supports and advocacy to empower Oregonians with I/DD to live full lives in their communities.
- **Vision:** People and families access quality supports that are simple to use and responsive to their strengths, needs and choices, while they live and thrive as valued members of their community.



# ODDS: History

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- Strong foundation of home and community-based services allowed for successful deinstitutionalization
- HCBS Medicaid funding authorities ensure services for all eligible individuals according to their level of need
- Person-centered, person-directed services
- Employment First state promoting competitive integrated employment for people with I/DD
- Serve all eligible individuals regardless of immigration status



# ODDS: Current service system requirements

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

- Person or their guardian must choose to access services — all services are voluntary.
- Person or their guardian has a choice of setting, services, and providers
- Protections of person's rights and freedoms.

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

- Services are intended to fully integrate individuals into their communities.



# ODDS: Home- and community-based services rights and freedoms

Individuals who receive I/DD services have the right under federal regulations and state rules to:

- Be free from restraint
- Freely access community
- Control their finances
- Privacy
- Control their own schedule and activities
- Have visitors
- And more

These rights can only be limited when consented to through an Individually-Based Limitation, regardless of whether a person is under 427 commitment.

**A legal guardian can consent to limit these freedoms. A person's needs and preferences must be considered.**

Consistent with 42 CFR 441.301, OAR 411-415-0070 states:

"Individually-Based Limitation" means any limitation to the qualities outlined in OAR 411-004-0020(1)(d) and (2)(d) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and **only implemented with the informed consent of the individual or, as applicable, their legal representative.**

# ORS 427: Requirements for civil commitment

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For the purposes of [ORS 427.235](#) to [427.290](#), a person with an intellectual disability can be involuntarily committed for residential care, treatment and training if the person:

- Experiences an intellectual disability, is determined eligible for developmental disability services under [ORS 427.104](#), and
  - Is dangerous to self or others, or
  - Is unable to provide for their basic personal needs, and
    - Is not receiving care necessary for health, safety, or habilitation ([ORS 427.215](#)), and
    - Is an adult, or a minor child being committed with consent of the minor's parent or legal guardian.

# ORS 427: Department delegated responsibilities

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- Civil commitment process gives authority to the court to “order the commitment of the person to the department for care, treatment or training.”
- “The Department of Human Services may, at its discretion, direct any person with an intellectual disability who has been committed under [ORS 427.290](#) to the facility best able to treat and train the person.”
- “The department, pursuant to its rules, may delegate to a community developmental disabilities program director or a support services brokerage the responsibility for assignment of persons with intellectual disabilities to suitable facilities or transfer between such facilities.”
- “Community developmental disabilities program director ... shall select some suitable individual to act as attendant in quarters suitable for the comfortable, safe and humane **confinement** of the person.”
- “The person shall be **detained** in the least restrictive setting consistent with the person’s emotional and physical needs and the protection of others.”



# Conflict: Civil commitments and the current system

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Civil commitments conflict with the current system's requirements.

- Directs 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.
- May place ODDS HCBS Medicaid funding at risk.

# Other options for consideration

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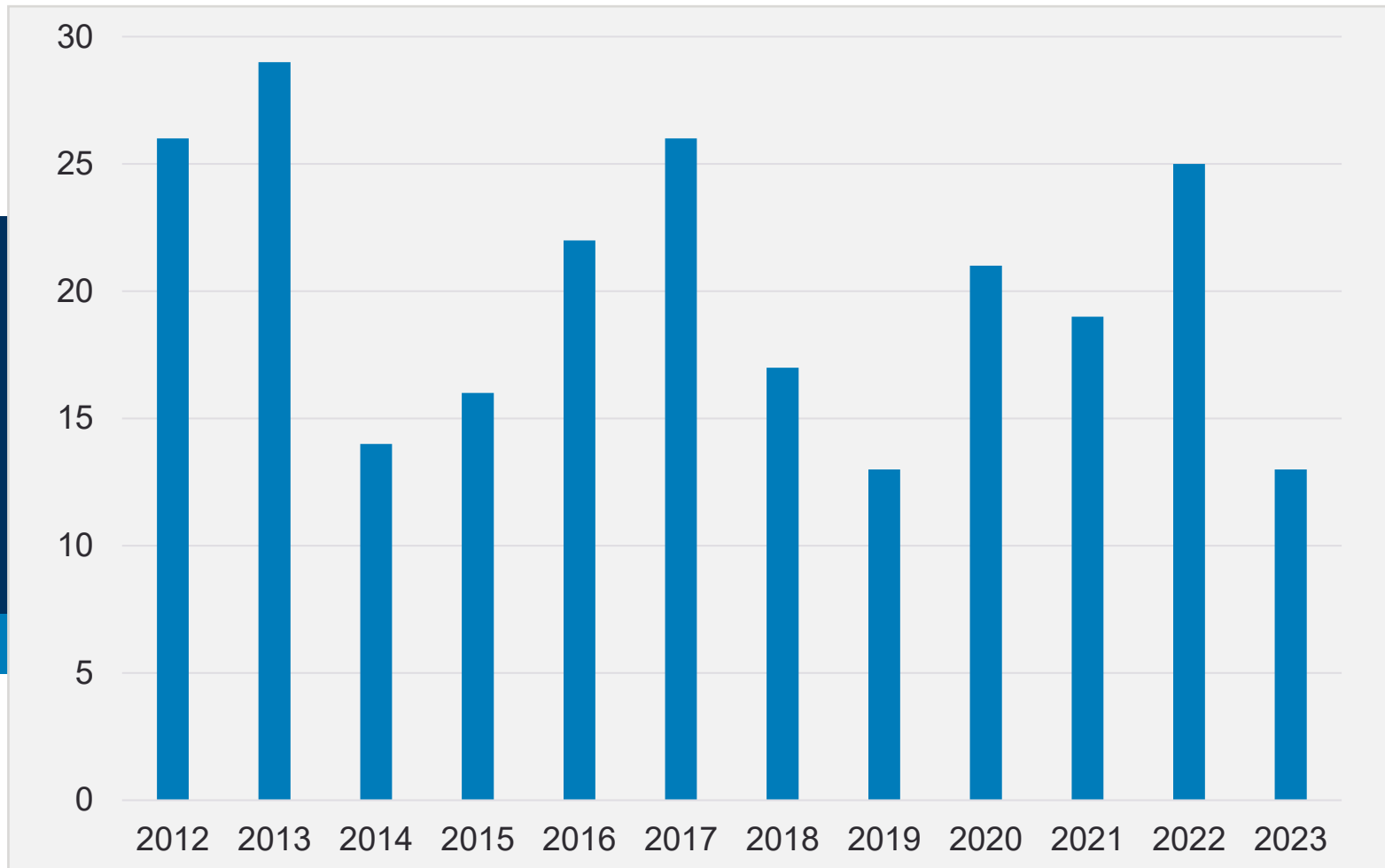
Guardianship is a more comprehensive way to help a person receive and remain in services.

- 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.

# Demographics: Completed civil commitments of Oregonians with I/DD



As of Jan. 11, 2024, there are 19 active civil commitments.

- Note: There is no automatic system that alerts ODDS when someone is committed.

# Demographics: Persons committed to ODDS in 2023

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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% served at the Stabilization and Crisis Unit managed by ODDS

# 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?

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



# Thank you

