



TO: Sen. Floyd Prozanski and Rep. Jason Kropf, Co-Chairs
Members of the Joint Committee on Addiction & Community Safety Response

FR: Oregon District Attorneys Association

RE: Opposition to HB 2005

June 12, 2025

Oregon's District Attorneys Oppose HB 2005 as insufficient if not implemented in its entirety.

The Oregon District Attorney's Association opposes HB 2005 and instead encourages the Legislature to enact comprehensive solutions including a version of HB 2005 with "triggering repeal" language. This language will help ensure HB 2005 remains intact and functions as intended.

ODAA believes the greatest risk associated with HB 2005 lies in the uncertainty of the impact of any new federal court order. Were HB 2005 to be implemented only in part due to the federal court order, or new order, public safety will be significantly compromised and our ability to safely restore mentally ill defendant greatly diminished. We strongly encourage the Legislature to move forward with HB 2005 ONLY IF the repeal triggering language is included, thereby ensuring responsible policy that can be implemented in its entirety and thus preventing possible judicial remedial interference in legislative action and negative impacts on public safety.

There is widespread agreement that Oregon's mental health system is anemic and broken. We have too few resources for individuals and families struggling with mental illness, leading many to rely on the criminal justice system as the only means to provide treatment and ensure safety. This problem has been years in the making, but answers are not out of reach. ODAA has proudly joined with key stakeholders on numerous workgroups and identified solutions to improve our mental health system, including solutions relating to the Oregon State Hospital (OSH).¹ While what must be changed is apparent, implementation of these changes has been frustratingly slow to occur.

¹ In addition to numerous workgroups, three elected district attorneys (Washington County DA Barton, Clackamas County DA Wentworth, and Marion County DA Clarkson) joined the federal court case as *amici* parties to help ensure solutions prioritized victim rights and public safety.

Against this backdrop, a federal judge last week found Oregon in contempt for failing to provide mental health treatment in a timely manner to defendants in jail who are unfit to stand trial. While this decision is disappointing, it is not surprising. It is the result of longstanding neglect of Oregon's mental health system on many levels, most particularly relating to insufficient bed capacity at OSH and in secure facilities.

While it is true that Oregon has failed to comply with federal rulings requiring timely admission to OSH, it is not true that an effective solution is to simply push patients out the back door so that new patients may come in the front door. In essence, this shortsighted approach provides a false promise of a solution. Defendants discharged from OSH while still unfit to stand trial will end up in communities across Oregon presenting safety challenges to victims and the public as they are likely to cycle back into the system again and again. This is not a prediction of what might occur in the future; rather, it reflects what we district attorneys have seen over and over again the last three years.

For nearly three years, the federal court has imposed its will on Oregon's mental health system, overriding our legislatively enacted laws with policies and timelines crafted by an out-of-state doctor. However, despite this incredible federal involvement in what should be a state function, the desired result continues to remain elusive—OSH remains out of compliance with the 7-day admittance rule.

Widespread agreement was reached by those working at the ground-level on HB 2005 for a far more public safety focused package that would have been implemented in its entirety and addressed the current unacceptable wait time for OSH bedspace but still prioritized the safety of all Oregonians. ODAA proposed a series of additional realistic solutions that would have resulted in an immediate and drastic impact on the OSH population and waitlist. Implementation of these solutions would bring Oregon into compliance with the federal court order much faster than any of the provisions contained in HB 2005. Regrettably, those solutions are not included.

Unfortunately, HB 2005 presents legislators with the false impression that it is a comprehensive package when the reality is that it can instead be selectively implemented by the federal court. To address this concern, ODAA proposed including triggering repeal language, which would essentially suspend the legislatively adopted timelines and not allow the federal court to line item veto the parts they like and don't like. Without the recommended repeal triggering language, nothing prevents a scenario in which the Legislature adopts the comprehensive package, only for the federal court to selectively implement parts of it. Each component of the package has been carefully and exhaustively negotiated over the past five months and is intrinsically interconnected. The triggered suspension language restores the Legislature's role as the primary policymaker—allowing the federal court to order shorter timelines if it believes appropriate, but not selectively altering or dismantling the informed work of the legislative branch.

Oregon must do more through legislation than simply try to protect itself from continued federal court contempt findings. We must take tangible steps to implement the solutions identified by local experts and practitioners to make our system work. These solutions balance the due process rights of defendants with the public safety rights of crime victims and the community.

Solutions include:

- Support for HB 2467 (Civil Commitment Reform)
- Support for Sections 1-5 of HB 2481 (Funding for expansion of the Public Guardian Program)

- Funding for continued expansion of SRTFs and RTFs in the community
- Funding for custodial behavioral health treatment opportunities so that people do not suffer needlessly while awaiting an OSH bed or a trial
- Increasing without delay bed capacity at the Oregon State Hospital.

Most urgently, the Legislature must ensure that HB 2005 remains intact so that it may function as intended. ODAA opposes HB 2005 as drafted but supports HB 2005 if it were to include “triggering repeal” language to protect it to the extent possible from being broken apart by the federal court.

We believe implementation of the solutions identified above, including HB 2005 with the triggering repeal language, would bring Oregon into compliance with the federal court order while ensuring victim rights and public safety are prioritized.