

# DRO

Disability  
Rights  
Oregon

## CRIMINAL JUSTICE REFORM CLINIC



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Law School

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Disability Rights Oregon upholds the civil rights of people with disabilities to live, work, and engage in the community. The nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential. For 40 years, the organization has served as Oregon's Protection & Advocacy system.

**Disability Rights Oregon**

511 SW 10th Ave., Suite 200

Portland, OR 97205

[welcome@droregon.org](mailto:welcome@droregon.org)

[www.droregon.org](http://www.droregon.org)

Phone: 503-243-2081 or 800-452-1694

**Criminal Justice Reform Clinic**

Lewis & Clark Law School

10015 SW Terwilliger Blvd.

Portland, OR 97219

# Know Your Rights: Disability Rights in Oregon Prisons

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## Introduction

The purpose of this brochure is to provide general information about the rights of people with disabilities who are incarcerated in Oregon Department of Corrections (“ODOC”) facilities. A disability is a physical or mental impairment that substantially limits one or more major life activities.

This is general information that we hope is helpful. This information is provided as a public service and is not legal advice.

## Protecting Your Rights

There are certain requirements, time limits, or deadlines to take legal action, including filing complaints and lawsuits. If you fail to act under these requirements or time frames, you may lose your right to pursue these “remedies.”

Generally, to protect your rights (including the right to file a lawsuit), you should exhaust every remedy available. You can take the following steps:

- File “kites” (inmate communication forms)
- File a prison grievance
- Appeal your grievance if it is denied
- Contact the superintendent of your facility
- Keep copies of all written documents related to issues that concern you, including your kites and grievances
- Request (in writing) that ODOC preserve all records and evidence related to your concerns

## Preserving Your Ability to File a Lawsuit

There are two options for filing a lawsuit: federal claims and state tort claims. ODOC does not allow an inmate to pursue both remedies at the same time.

The decision about whether to pursue a state or federal claim is complex. You may need to get advice from an attorney about your specific case. An attorney can give you specific time frames and requirements for filing these claims. The Oregon State Bar can give you names of attorneys who work on prisoner issues.

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**Example:** Before filing a federal claim against ODOC, an inmate must generally do the following: File a grievance within the prison, and “exhaust” every possible appeal opportunity that the institution allows.

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**Example:** Before filing a state claim against ODOC, an inmate must generally file a state tort claims notice within 180 days of the incident.

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# Making an ADA Reasonable Accommodation Request

## Definition of ADA Request

The Americans with Disabilities Act (“ADA”) prohibits ODOC from discriminating on the basis of an inmate’s disability. ODOC cannot exclude you from programs, services, or benefits that you would otherwise be eligible for, due to your disability.

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**Example:** A prison cannot deny an inmate in a wheelchair access to recreational spaces because all of the recreational spaces are only accessible by stairs.

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To avoid such discrimination, the ADA requires that institutions provide “**reasonable accommodations**” to inmates.

“**Accommodations**” mean that inmates with disabilities can participate equally in a program, service, or benefit. “**Reasonable**” means that it does not create an undue financial or administrative burden, or fundamentally alter the nature of the program or service.

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**Example:** To access the recreational space, prison staff could take the inmate through an alternate entrance that has been secured.

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## Submit an ADA Request

You may submit an ADA request for a reasonable accommodation to the prison if you need an accommodation for your disability to participate in a program, service, or benefit of the ODOC.

The requested accommodation must be both reasonable and related to your disability.

That request should trigger a conversation with ODOC in order to reach a solution. You may also wish to submit a request with the ODOC ADA Coordinator.

If ODOC denies you a reasonable accommodation or you are provided with an unresponsive or ineffective accommodation, you may pursue your legal rights under the ADA in federal court.

## Examples of ADA Requests

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“I have a hearing impairment and pursuant to the requirements of the ADA, I request the following reasonable accommodation: Access to a certified ASL interpreter at generally available ODOC program activities and medical appointments, mental health appointments, and counselor appointments.”

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“I have a mobility impairment that makes it difficult for me to get around. As a reasonable accommodation of my disability, I request an accessible cell and a bottom bunk.”

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“I have a psychiatric disability that gets worse when I am isolated and locked down. As a reasonable accommodation for my disability, I am requesting a prompt transfer out of segregation.”

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## **ADA Contact Information**

If you want to request an ADA accommodation, contact the ODOC ADA coordinator:

Marica Ventura  
ADA Coordinator for Department of Corrections  
2575 Center St. NE  
Salem, OR 97301  
Phone: 503-945-9278

If you are dissatisfied with the response to your request, you can also contact the ADA Hotline with the U.S. Department of Justice to request a complaint form:

U.S. Department of Justice - Civil Rights Division  
950 Pennsylvania Avenue NW  
Disability Rights Section-NYAZ  
Washington, D.C. 20530  
Phone: 800-514-0301

## Your Right to Medical Care

Your institution has a legal obligation to provide you with reasonable medical treatment for any serious medical condition.

If you need medical care, you can do the following:

- Write for medical attention and/or to see a mental health counselor or prescriber
- Keep a log of symptoms that you are experiencing
- Request that medical staff consult with your outside doctor and sign a release to allow them to do so
- Ask a family member to bring your medications and proof of prescriptions to the facility
- Keep in mind that some classes of medications can be harder to obtain while incarcerated (such as benzodiazepines and narcotics)

You generally have a right to receive properly prescribed medications that you need to maintain your health.

You do not have a right to particular medication, even if it has been effective in the past.

If you feel that the currently prescribed medication is ineffective or causes serious avoidable side effects, follow the above steps.



## Your Rights in Segregated Housing

There are different types of segregated housing. Many are forms of solitary confinement. ODOC may put a prisoner in segregated housing for disciplinary or administrative reasons. These reasons could include: punishment for breaking prison rules, or when ODOC believes that a prisoner is at risk in general population.

You still have rights when you are in segregated housing:

- You still have an ADA right to reasonable accommodation.
- Prisoners who are diagnosed with serious mental illness may not be placed in Disciplinary Segregation for more than 30 days.
- There is a growing legal and social consensus that prolonged solitary confinement is a human rights violation. The Vera Institute is working with ODOC to reduce the use of solitary confinement.
- If you are in solitary confinement for a prolonged period of time and have suffered psychological or physical harm as a result, you may wish to talk to an attorney about whether you should file a lawsuit.

## Mental Health and Segregation

Too many people with mental health needs are in disciplinary segregation.

After completing a disciplinary segregation sanction, prisoners may be placed in mental health housing.

Possible placements might include the following:

- Mental health units
- Day treatment units
- The Intermediate Care Housing (ICH) unit
- The Behavioral Health Unit (BHU)
- The Mental Health Infirmiry (MHI)

Any individual who is experiencing a mental health crisis while serving a disciplinary segregation sanction should notify a staff member and kite to request a transfer out of the segregation unit and into one of the mental health units.

## Who to Contact with Concerns

If you are concerned with your treatment while in prison, contact the Inspector General Hotline. You can report abuse, fraud, and staff or inmate misconduct:

Phone for inmates: Direct dial from inmate phone system

Phone for public and staff: 877-831-0389

If you have concerns about the ODOC's behavioral health (mental health and addiction) treatment services, contact behavioral services for ODOC:

Dawnell Meyer  
Behavioral Health Services Administrator  
Oregon Department of Corrections  
2757 22nd Street SE  
Salem, OR 97302  
Phone: 503-930-2244

If you want to hire a private attorney, contact the Oregon State Bar Lawyer Referral services:

Oregon State Bar  
Lawyer Referral Service  
P.O. Box 1689  
Lake Oswego, OR 97035-0889  
Phone: 503-684-3763 or 800-425-7636

For more information, contact us at:

Disability Rights Oregon  
511 SW 10th Ave., Suite 200  
Portland, OR 97205  
welcome@droregon.org  
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## Your Right to Vote after Incarceration

While you are incarcerated as a result of a felony conviction, you do not have the right to vote in Oregon.

However, when you are released from prison, **your right to vote is restored**. You can vote, even if you are on parole or post-prison supervision.

Voting is an important opportunity to have a say on the laws and elected officials who make decisions about public services, housing, education, the criminal justice system, mental health services, health care, and more. **Your voice is important.**

You must register to vote, or update your previous voter registration.

### How to Register to Vote

- You can register for the first time with a paper registration form, at the Department of Motor Vehicles (DMV), or at any state office that services people with disabilities (Self Sufficiency, Aging and Disability Services).
- You can update your voter registration with the paper registration form, online with your name and birthdate at [oregonvotes.gov](https://oregonvotes.gov), or any of the other places listed above.

If you need accommodations to register because of your disability, call 866-ORE-VOTE (866-673-8683).

If you are denied accommodations to register, call Disability Rights Oregon at 800-452-1694.