



# KNOW YOUR RIGHTS

## Disability Rights in Oregon Jails

**DRO**

Disability  
Rights  
Oregon



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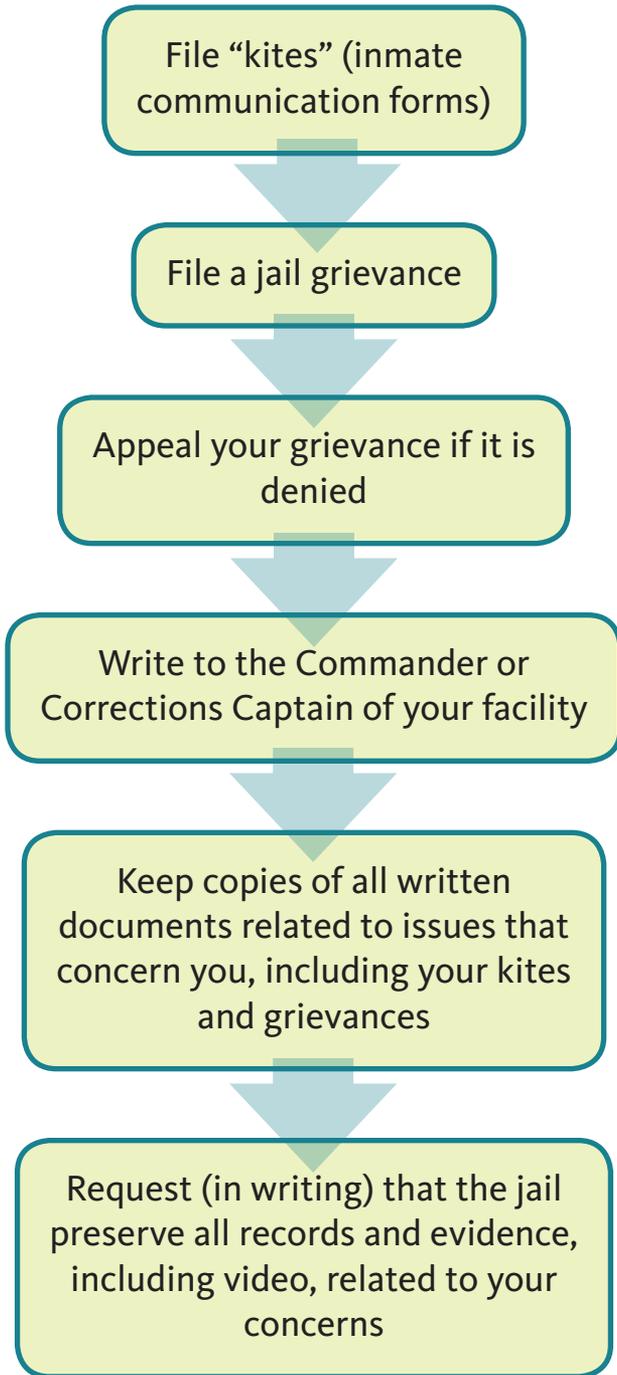
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# Protect Your Rights in Jail

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:



## Hire an attorney

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

## Preserve your ability to file a lawsuit

There are two options for filing a lawsuit: federal claims and state tort claims. The decision about whether to pursue a state or federal claim is complex. You may need advice from an attorney about your specific case. An attorney can give you specific time frames and requirements for filing these claims.

**Tip:** Before filing a federal claim against a correctional facility or county, you must generally do the following: File a grievance within the jail, and “exhaust” every possible

appeal opportunity that the jail allows.

Tip: Before filing a state claim against a correctional facility, county or city, an inmate must generally file a state tort claims notice within 180 days of the incident.

## Tort claim notice information

If you feel you have a legal claim against any public body, you must give notice of your claim to that body within certain time periods. This is called a tort claim notice. In most cases, you must give notice of your claim within 180 days of the occurrence of your injury or other legal claim.

You must do this in order to protect your right to sue. You must also file your lawsuit within applicable time limitations. Contact an attorney about time limitations that apply to your tort claim notice or case.

To file a notice against the county, city, or any of its departments, your notice should be the following:

- » Written
- » Labeled “a tort claim notice”

- » Dated

Your notice should do the following:

- » State that a claim for damages will be made
- » Name the parties or public bodies that you intend to sue
- » Give a description of the time, place, and circumstances giving rise to the claim, so far as you know
- » Give a mailing address where you can be reached

If your claim is against a public body or officer, employee or agent of a public body other than the state (such as a county or a city), your notice must be sent to:

- » The principal administrative office of the public body,
- » Any member of the governing body of the public body, or
- » The attorney for the public body

Keep a copy of your notice. For more information, see Oregon Revised Statutes 30.275.

# Your Rights Under the ADA

## What is an ADA reasonable accommodation?

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

Example: A jail cannot deny a person in a wheelchair access to recreational spaces because all of the recreational spaces are only accessible by stairs.

To avoid such discrimination, the ADA requires that jails provide “reasonable accommodations” to people with disabilities.

- » “Accommodations” mean that people 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.

Example: To access the recreational space, jail staff could take the person with a disability through an alternate entrance that has been secured.

## What should I include in a reasonable accommodation request?

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

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

They should agree to your request. If they don't, jail staff must have a conversation with you to reach a solution. This is called "the interactive process."

## Examples of ADA Requests

"I have a hearing impairment. Under the ADA, I request the following reasonable accommodation: Access to a certified ASL interpreter at generally available jail program activities and medical appointments, mental health appointments, and counselor appointments."

"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."

“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.”

## Where should I send a reasonable accommodation request?

If you want to request an ADA accommodation, send the request in writing to the ADA coordinator for your jail or county.

If there is no ADA coordinator designated for your jail, you may contact:

- » The corrections captain or the jail commander
- » The county attorney’s office

If you are not satisfied 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

If the jail or county 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 court.



# Your Right to Medical Care

You have a right to the following:

- » Reasonable medical treatment for any serious medical condition
- » Properly prescribed medications that you need to maintain your health
- » Refuse medications, except in rare cases (such as an emergency, guardianship, or specific court order)

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

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

- » Kite for medical attention and/or to see a mental health counselor or prescriber
- » Keep a log of symptoms that you are experiencing

- » Ask that medical staff talk to your outside doctor. You will have to sign a release to allow them to do so
- » Ask a family member to bring your medications and proof of prescriptions to the jail

Keep in mind that some classes of medications can be harder to get in jail (such as benzodiazepines and narcotics)

If you are prescribed a medication that 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. A jail may put a person in segregated housing for disciplinary or administrative reasons. These reasons could include: punishment for breaking jail rules, or when jail staff believes that a prisoner is at risk in general population.

## **What is solitary confinement?**

If you are locked down between 22-23 hours per day or if you are deprived of meaningful human contact during regular waking hours, you are being held in solitary confinement. The name of the unit doesn't matter.

You still have rights when you are in segregated housing:

- » You still have an ADA right to reasonable accommodation.
- » There is a growing legal and social consensus that prolonged solitary confinement is a human rights violation.
- » If you are in solitary confinement for a prolonged period of time and have suffered psychological or physical harm as a result, you can talk to an attorney about whether you should file a lawsuit.

## Mental health and segregation

Too many people with mental health needs are in segregation or solitary confinement in jail. You can request a reasonable accommodation under the ADA (see the ADA request section above) if segregation is harming you because of your disability.

Example: If you experience a mental health crisis while in segregation or solitary confinement, you can request to transfer to a different unit, or access counseling or family visits.

If lack of human contact, space to move around, or access to fresh air, is making your disability worse, you can request those accommodations also.

# Your Rights in the Aid and Assist Process

If the court has questions about whether you are competent to participate in your criminal case, then you may be evaluated and referred for treatment. See the Disability Rights publication “Know Your Rights: The Aid and Assist Process.”



# Your Right to Vote

Voting is an important opportunity to have a say on the laws. You can help choose 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. Elections are held up to four times a year. You are still eligible to vote in Oregon if one of the following is true:

- » You are in jail but have not been sentenced
- » You are serving a sentence for a misdemeanor conviction
- » You are on parole or post-prison supervision

You are not eligible to vote in the following cases, but your right to vote is restored after you are released:

- » You are serving a sentence for a felony conviction
- » You are incarcerated for a parole violation from a felony conviction

# Update your voter registration

Jail staff should give you voter registration forms on request.

- » You can vote while you are in jail, under the conditions listed above.
- » Before and on election day, jail staff should help you get a ballot and turn it in.
- » To get a ballot, you need to update your voter registration mailing address.

If you are concerned about your voting rights, contact Disability Rights Oregon.



## You have the right to vote during these times:



You have been charged with a crime and are in jail



You are being evaluated or receiving restoration treatment in the aid and assist process



You have been convicted of a crime but not sentenced



You are serving a misdemeanor sentence, even in jail



You served your sentence for a felony and are on parole or post-prison supervision in the community

You do not have the right to vote during these times:



You are serving your sentence for a felony conviction



You are incarcerated for a parole violation on a felony conviction



Your rights are restored after release.

# Your Public Benefits During Detention

If you received government benefits, such as SSI, SSDI, or the Oregon Health Plan, those benefits may be suspended, or may end, while you are in jail.

If you have a representative payee, you should contact that person regarding your benefits while you are in jail.

Some jails have a discharge planner who may be able to help you reinstate or sign up for public benefits. If not, you can contact the agencies below.

## Benefits contacts

Social Security Administration

Phone: 800-772-1213

Web: [www.ssa.gov/agency/contact/](http://www.ssa.gov/agency/contact/)

Oregon Health Plan Customer Service

Phone: 1-800-699-9075 or 711 (TTY)

Web: <https://www.oregon.gov/oha/HSD/OHP/Pages/apply.aspx#apps>





**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.

This information is available in alternate formats, including large print, Braille, audio format, or electronic text file.

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Disability  
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