

June 19, 2017

The Honorable Jackie Winters, Co-Chair
The Honorable Duane Stark, Co-Chair
Members of the Joint Committee on Ways & Means Subcommittee on Public Safety

RE: House Bill 3078—Testimony in Support

Dear Co-Chair Winters, Co-Chair Stark, and Members of the Joint Committee:

My name is Brook Reinhard. I'm an Oregon native, a father to four small children, and an attorney who has worked at a prosecutor's office and public defenders' offices in two counties. I am the executive director of Public Defender Services of Lane County. During my career, I have worked on hundreds of property crime cases, including cases before Measure 57 took effect. I have represented clients who, quite frankly, needed a prison sentence to stop committing property crimes. But I have represented far more clients who either pled guilty to a crime they did not commit, or were incarcerated for far longer than their individual circumstances merited, simply because of the coercive effect of the property crime minimums currently in place in Oregon.

The current structure of ORS 137.717 has the unintended effect of labeling people as "repeat property offenders" who simply should not be in that category. For instance, if a person is on supervision for a shoplifting offense such as misdemeanor Theft II, and that supervision was either currently in place or had ended sometime within the last three years, 137.717(1)(b)(C) would impose a prison sentence of at least 18 months prison for a crime such as Theft I.

The current law also fails to model the structure of more concrete repeat offender laws like DUII, which does not increase penalties for criminal behavior until the person has already been convicted. A person with no criminal history who uses someone's credit card without permission and makes purchases at three separate businesses over a weekend could be charged with three separate counts of Identity Theft. The first two crimes would serve as a predicate for ORS 137.717(1)(b), causing a presumptive sentence of 18 months prison for the third credit card transaction.

I remember representing clients under the old repeat property crime statute. Imposing prison for someone who had four prior property convictions on their record more accurately distinguished between people who were causing substantial harm in the community and people who were simply dealing with issues of substance abuse or mental health crisis who had made some mistakes but did not actually deserve a prison sentence.

It is my hope that HB 3078 will also serve to curb the rampant over-incarceration of females in Oregon's prisons. I believe one of the core drivers of this trend is the overbroad language of the crime of Identity Theft, which allows almost any property offense, however minor, to fit under the umbrella of a felony property crime. While this bill does not address the language that

currently allows such broad prosecutorial discretion, it narrows the scope of who might receive a prison sentence and who should simply be facing intensive probation instead.

As the committee well knows, the vast majority of people who are incarcerated will get out and have to rebuild their life in their community. I ask for your support on HB 3078 because prison should be a last resort, and taxpayers shouldn't be paying \$40,000+ a year for prison beds for non-violent offenders who can be effectively rehabilitated in the community.

I urge your yes vote.

Sincerely,

/s Brook Reinhard

Brook Reinhard
Executive Director,
Public Defender Services of Lane County