



Legislative Testimony

Oregon Criminal Defense Lawyers Association

March 18th, 2019

The Honorable Representative Jennifer Williamson, Chair
House Judiciary Committee, Members

Re: Testimony in Support of HB 3201 and HB 2932

Good afternoon Chair Williamson and members of the committee.

My name is Kacy Jones. I am here to testify in support of both HB 3201 and HB 2932.

I am an attorney with Metropolitan Public Defenders. I have experience handling DUII Diversion cases and I handle all of the drug diversion cases, otherwise known as Treatment First cases, which my office gets appointed to.

Prior to my current position, I clerked for Judge Skye in Multnomah County. A large portion of my clerkship was spent clerking STOP Court, which is a drug diversion court.

House Bill 3201 would not drastically alter the current diversion courts and programs. They would still serve as a means to get people into treatment instead of sending them to jail and ending up with a conviction. HB 3201 would, however, make diversion more accessible, make treatment more accessible, and thereby make our communities safer.

Under the current scheme, the requirement that people plea guilty or no contest before entering diversion creates an obstacle for some people that is a non-starter; people who wish they could take advantage of these programs, but simply cannot because doing so would result in them being torn away from their life and loved ones.

No one I work with, defense attorneys nor district attorneys, likes this unnecessary obstacle. As such, we are constantly trying to find work-arounds to let people take advantage of these programs without jeopardizing the lives they have built here. These workarounds tend to be case specific and time intensive.

Both the district attorneys and our office have worked out understandings for certain types of cases that allow clients to not have to enter a plea, but we still run into novel situations frequently that require us to start over and use up additional court, DA and defense resources.

One of the more common solutions is to set a further proceeding out to the time the person would normally be completing their diversion. When we get to that further proceeding, the defendant would need to present proof that they have been in compliance with the requirements of diversion. If they are in compliance, then the district attorney moves to dismiss the case.

One client in particular comes to mind when I think of the time intensive attempt at problem solving that occurs each time a novel case comes up. For purposes of this hearing, I will call this client Ivan.

Ivan is a refugee from a war torn Eastern European country. He came here with his family and has built a life he is proud of in Oregon. Unfortunately, he has been charged with a substance-related crime.

On his own, he has found culturally specific, state accredited treatment that fulfills the drug diversion requirements. He very badly wants to make use of the resources that are available to him here that would not be available to him if he were to be deported back to the place he was born.

In order to problem solve Ivan's case, we have had to set over his hearings more than 10 times. We have had judicial settlement conferences, we have sent a novel's worth of emails between myself and the various district attorneys who have been willing to problem solve with me on Ivan's case. After utilizing all those resources, however, we still don't really have a good answer on how to resolve Ivan's case.

HB 3201 would make it so we would not have to waste time trying to find workaround solutions. It would allow everyone to work within the system instead trying how to circumvent the system.

My clients would benefit from this change because it would mean that they would be able to take advantage of the treatment resources available to the courts and it would mean that they could get the same second chance as their neighbors. The

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attorneys involved in these proceedings would appreciate it because it would give us a clear path forward; it would standardize the process and free up our resources. The courts would appreciate it because we wouldn't be having the same clients appear in front of them continuously, clogging up already overly burdened dockets. And lastly, communities at large would benefit because when more people are afforded the chance to get access to treatment instead of just getting a conviction, we all win.

For these reasons, I urge you to support HB 3201 and HB 2392. I am available to answer any of your questions.

Thank you.

s/ Kacy Anne Jones

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Metropolitan Public Defender

On Behalf of OCDLA

About OCDLA

The Oregon Criminal Defense Lawyers Association (OCDLA) is a private, non-partisan, non-profit bar association of attorneys who represent juveniles and adults in delinquency, dependency, criminal prosecutions, appeals, civil commitment, and post-conviction relief proceedings throughout the state of Oregon. The Oregon Criminal Defense Lawyers Association serves the defense and juvenile law communities through continuing legal education, public education, networking, and legislative action.

OCDLA promotes legislation beneficial to the criminal and juvenile justice systems that protects the constitutional and statutory rights of those accused of crime or otherwise involved in delinquency and dependency systems as well as to the lawyers and service providers who do this difficult work. We also advocate against issues that would harm our goals of reform within the criminal and juvenile justice systems.

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