



# Legislative Testimony

## Oregon Criminal Defense Lawyers Association

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March 19, 2019

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

**Re: Testimony in support of HB 2462**

Dear Chair Williamson and Members of the Committee:

**Thank you for the opportunity to submit the following comments in Support to HB 2462:**

House Bill 2462 creates several provisions specific to justice-involved servicemembers.

**First**, the Bill provides additional protections measures, including:

- **Requiring Courts to inform servicemembers of:**
  - Eligible treatment programs;
  - Specialty courts;
  - Diversion;<sup>1</sup>
  - Mitigated sentencing;
  
- **Ensuring individual's status as a servicemember:**
  - Is disclosable to the judge on request;
  - Sealable in the record on request;
  - Cannot be used against them.

**Second**, the Bill requires action for two agencies. It requires data reporting of cases involving servicemembers to Oregon Criminal Justice Commission for analysis and biannual reports starting in 2020. The Bill also directs the Department of Veterans' Affairs to develop a pilot program specifically for assisting justice-involved servicemembers.

**We support HB 2462 for the following reasons:**

*Contact with the Criminal Justice System can be an opportunity to help an individual.*

Some servicemembers need help following service. Contact with criminal justice system should not be the first opportunity to direct these individuals to resources, but it absolutely should be an opportunity that is taken advantage of. By providing specific procedural measures that allow judges to take account of and inform justice-involved servicemembers of available resources, the harsh results of incarceration can be mitigated. This is especially important because, as a population, many underlying needs go unaddressed. For example, the U.S. Department of

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<sup>1</sup> See “-2”, HB 2462, Leg. Sess. (2019)

Veterans Affairs indicates that half of veterans involved with the criminal justice system have mental health problems or substance abuse disorders.<sup>2</sup> Combat veterans specifically have higher rates of mental illness.<sup>3</sup> There is also high risk of suicide amongst those who have served.<sup>4</sup> Oregon in particular has had a history of missteps with servicemembers,<sup>5</sup> and only a few years ago had the highest rate of incarceration for veterans specifically.<sup>6</sup> It should be this State's priority to take steps to protect veterans and their rights, and provide avenues for help.

HB 2462 adds procedural steps that make a servicemember's success following a criminal justice matter more likely. First, a judge who knows of an individual's status as a service member can adjudicate accordingly, including directing the individual towards a specialty court or diversion program. Sealing records can assist servicemembers with efforts in seeking a job or accessing benefits. Additionally, a judge should weigh a servicemember's contribution to the country when sentencing the individual. Lastly, informing them of available treatment programs only increases their chance of success.

***Data informed decision making will help Oregon make better policies for our servicemembers.***

We support the Bill's requirements of data collection for better informed practices. The Legislative Task Force on Incarcerated Veterans specifically recommended collecting data on veterans coming into incarceration essentially for the same reasons.<sup>7</sup> We support directing the Criminal Justice Commission and the Department of Veterans' Affairs to take affirmative action towards helping this vulnerable population and protecting their rights.

**For the reasons outlined above, OCDLA urges a "Aye" to HB 2462. Thank you for your consideration.**

**s/Taylor Snell for Mary Sofia**

Legal Extern

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<sup>2</sup> Mike Richman, *Veterans and the Criminal Justice System*, VA Research Communications (Sept. 7, 2018) [<https://www.research.va.gov/currents/0918-VA-researcher-examines-Vets-who-collide-with-criminal-justice-system.cfm>] (accessed March 19, 2019).

<sup>3</sup> Jennifer Bronson et al., *Veterans in Prison and Jail 2011-12*, Bureau of Justice Statistics, Special Report (December 2015) [<https://www.bjs.gov/content/pub/pdf/vpj1112.pdf>] (accessed March 19, 2019)

<sup>4</sup> Oregon Health Authority, *Suicide Among Veterans, 2008-12*, Public Health Division (2014) [<https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/INJURYFATALITYDATA/Documents/NVDRS/suicide-among-oregon-veterans2008through2012.pdf>] (accessed March 19, 2019) (Veterans accounted for 23% of all suicide deaths in Oregon, while only accounting for 8.7% of the population).

<sup>5</sup> Ericka Cruz Guevarra, *Roseburg VA Has Highest Opioid Prescription Rates Nationwide*, Oregon Public Broadcasting (January 11, 2018) (Accessed March 19, 2019) (Roseburg VA proscribed opioids at a rate of 20%); See also, Katie Shepherd, *Oregon Prisons Were Ordered to Protect Veteran Benefits. They Tried to Find a Loophole Instead*, Willamette Week (September 12, 2018) [<https://www.wweek.com/news/state/2018/09/12/oregon-prisons-were-ordered-to-protect-veteran-benefits-they-tried-to-find-a-loophole-instead/>] (accessed March 19, 2019) (Oregon DOC collected monies from veterans benefits accounts, appearing to sidestep a law protecting those resources).

<sup>6</sup> Jesse Barton, *Home Free: Combatting Veteran Prosecution and Incarceration*, 11 Justice Policy Journal 1, 3 (2014) (Finding veterans make up 8.4% of the total state population, but 18.9% of the state prison population).

<sup>7</sup> Legislative Task Force on Incarcerated Veterans, *Final Report* (September 2016) [<https://www.oregon.gov/odva/Connect/Documents/FinancialReports/2016%20Task%20Force%20on%20Incarcerated%20Veterans.pdf>] (accessed March 19, 2019).

**For questions or comments contact:**

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## **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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