

# OREGON TRIAL LAWYERS ASSOCIATION

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Testimony of Arthur Towers,  
OTLA Political Director  
In Opposition to SB 1522  
Before the Senate Education Committee  
February 4, 2020

My name is Arthur Towers, and I am proud to be Political Director of the Oregon Trial Lawyers Association. Our members are lawyers who fight for underdogs. In this instance that includes children who are victimized by sex abusers and we also fight for the rights of front-line workers.

Thank you for the opportunity to testify today on this important topic. We recognize that a lot of work has gone into this bill and, prior to this, into SB 155. We did not see the need to engage in SB 155, but when SB 1522 came through the bill stack, we did want to raise some concerns.

## **Section 1**

We are concerned about the definition of "sexual intent" in the exceptions. ((Page 2, line 35) Subsection 11 (b)) Sexual abuse can be committed without "sexual intent" - the intent may instead be to humiliate, injure, harass, etc. We are also very concerned about exempting sexual conduct that does not fit into a specified category of criminal offense (i.e., sexual contact must be a crime) or if does fall into that category but there is an affirmative defense. It shouldn't matter whether the conduct falls under one of the criminal definitions of sexual assault - and many types of sexual misconduct (such as verbal sexual harassment) wouldn't fall into those categories to begin with.

We recognize the problem that is seeking to be resolved in 11 (c) by exempting school employees/agents/others who are also students. However, we are worried that this might be overly broad.

**Section 3**

This section makes it much more difficult for a family or victim to access evidence if that information is transmitted to the Teachers Standards and Practices Commission. Under current law, victims can access such documents as part of their 7<sup>th</sup> Amendment right to a trial by jury. By adding this barrier to access, the legislation infringes on this Constitutional right. How can the victim know whether the issue is resolved if they aren't told about what is done in response?

Finally, we are a little unclear about the policy reasons regarding retroactivity in Section 2.

We understand there is desire to move this forward sooner rather than later, and we appreciate that even though we are weighing in at the committee's first hearing of the session, a lot of work has already been done. We would very much appreciate the opportunity to work with stakeholders to improve some of this language to make sure abused children's rights are being protected.

We understand that amendments are needed for other purposes and are willing to work quickly to keep kids safe.

In Support of HB 4113  
Before the House Committee on Business and Labor  
February 3, 2020

Thank you for the opportunity to testify in favor of HB 4113. Oregon Trial Lawyers Association members are lawyers who fight for underdogs, including workers who are treated unfairly and children who are victims of abuse

**We support HB 4113.** This is a common sense bill giving additional protection to front-line workers. The bill provides BOLI an additional tool to protect vulnerable workers.

The bill also enhances the 7<sup>th</sup> Amendment right of workers to stand up for themselves in case they are harmed. The private right of action is no more and no less than that Constitutional right to tell your story to a judge and jury. Our Founding Fathers enacted the 7<sup>th</sup> Amendment so that an ordinary citizen does not have to wait around for the government bureaucracy to enforce their rights. A judge and jury can hear both sides of the story, and determine a community standard of justice based on the specific facts.

There is testimony from opponents complaining about this 7<sup>th</sup> Amendment right.

We believe that the right to a jury trial is important. Businesses have a private right of action when it comes to suing workers over a wide variety of employment laws. A sampling of these laws include:

- Breach of fiduciary duty
- Usurpation of corporate opportunity
- Fraud
- Intentional Interference with business relations
- Non-compete clauses
- Confidentiality and Trade Secrets

Businesses rightfully do not have to be solely reliant on BOLI. Nor should workers affected by this bill.

We urge a YES vote on HB 4113.