

**TESTIMONY ON SB 296
BEFORE THE SENATE COMMITTEE ON VETERANS AND EMERGENCY
PREPAREDNESS
February 04, 2021**

**PRESENTED BY MARTHA WALTERS, CHIEF JUSTICE OF THE OREGON
SUPREME COURT**

Chair Manning, Vice-Chair Thomsen, and Members of the Committee, my name is Martha Walters, Chief Justice of the Oregon Supreme Court. I am here to testify in support of SB 296.

Thank you for taking up this important bill, which would continue authority you have given the Chief Justice during the COVID-19 pandemic. As many of you probably remember, when the pandemic began last year, a decision had to be made about whether to call the legislature into session to take up issues presented by the emergency we were facing. What had to be done immediately? And what could wait?

The courts had real concern -- we had hundreds of parties, lawyers, jurors, and other people coming into our courts every day, often as required by statute to comply with timelines or to appear in person. The Chief Justice had some existing authority to act but had no flexibility regarding the hundreds of statutory timelines and provisions requiring in-person appearances. To adjust to the pandemic, we could have asked the legislature to examine each of those statutes and decide which ones to modify and grant some flexibility, or we could ask the legislature to give the Chief Justice authority to grant essential extensions of time and require the use of remote technology—zoom was not yet a household word!

We decided upon the latter course, and the legislature in its first special session last year passed HB 4212, with Section 6 addressing courts. That provision permitted the Chief Justice to extend some timelines and order remote proceedings, and permitted other types of extensions, but only during the current COVID-19 pandemic and with a sunset clause of December 31, 2021.

Thank you for that authority. We have used it for very limited purposes and for the benefit of Oregonians in crisis. It has allowed us to avoid calling hundreds of jurors into our courthouses and permitted expanded use of remote proceedings to limit required in-person appearances. We have continued to provide access to justice without having large crowds of people in mass dockets.

The bill you now have before you parallels HB 4212, Section 6.

SB 296 provides statutory authority for the Chief Justice to extend or suspend certain statutory timelines and to expand the courts' ability to conduct proceedings by remote means during a time of a governor-declared emergency, NOT limited to COVID-19. It also provides presiding judges in our circuit courts with flexibility relating to appearances on criminal citations and certain criminal trials. It does not alter constitutional rights or constitutional timelines.

SB 296 is intended to eliminate the need to ask that you come into session again should the current pandemic extend beyond December 31, 2021 – the date that this bill sunsets-- or if, heaven forbid, there are circumstances in which the Governor declares a state of emergency to address different but equally pressing circumstances. HB 4212 took three months to develop, consider, and pass – time we might not have in the next emergency.

Tested in the Field: SB 296 Mirrors Legislation Already Passed

There are a couple of things I would like to emphasize about this bill.

First, this bill parallels Section 6 of HB 4212, which was a product of lengthy drafting, review, and discussions between the Oregon Judicial Department and its justice partners. We now have over six months of experience with that bill, and I do not know of any concern with its implementation.

Second, Section 6 is repealed on December 31, 2021. If the legislature does not act, our flexibility will end, including flexibility in extending deadlines for filing tax appeals, time to complete DUII diversion requirements, and to order remote proceedings instead of holding in-person appearances. We will need that flexibility if the COVID-19 emergency continues, or if the Governor declares another equally restrictive emergency.

Third, I want to note that the authority we are requesting is not unique. The Executive and Legislative Branches both have power to act during emergencies.

Oregon courts are a foundational part of our democratic system. People need to have trust and confidence in that system -- which they lose if they cannot access that system. In times of crisis, it is important that our courts be able to act quickly to preserve the rights of the people. SB 296 will give us that authority, and we appreciate your consideration of the bill.

I would welcome questions, but otherwise will turn it over to Erin Pettigrew, our Access to Justice counsel who works with the legislature on policy issues. She will provide additional information and specifics, and describe some recent stakeholder feedback.