

TESTIMONY – HOUSE BILL 2825

Chair Janelle Bynum and members of the House Judiciary Committee:

My name is Gina Skinner and I am a Senior Deputy District Attorney in Washington County. I am here on behalf the Oregon District Attorney's Association and I am testifying in opposition to HB 2825. We understand that House Bill 2825 clearly is intended to acknowledge that there are some defendants in the criminal justice system that have been victims in an abusive relationship or even commit their crimes on behalf of an abusive person. Today, this information is currently considered as mitigation by the District Attorney and the Judge at the time of sentencing.

ODAA has four specific concerns with HB 2825. First, the bill would not require that there be any direct connection between the prior physical, sexual or psychological abuse by an intimate partner or family member and the current crime that the defendant is being sentenced. In addition, there is no language that limits the amount of time between the prior abuse and the new criminal conduct. As a result, someone who experienced abuse as a child, or many years previous, may request the court to mitigate the sentence on any subsequent criminal conduct, regardless of the number of new criminal cases or the nature and severity of the criminal offense.

Second, Section 6 of this bill would allow any defendant in a closed case to be eligible for resentencing based on a motion by the defendant. Which means the bill as drafted has far reaching retroactivity implications. The proposed motion could be filed by any defendant that has been previously convicted and indicate that they have experienced prior abuse – to include assault and rape cases to murder. This is an extremely concerning result of HB 2825. As many of you know, at least 95% of criminal cases in State Court are resolved through plea negotiations between the defendant and the State. In these cases, any mitigation of prior abuse that was relevant to the case being sentenced was already considered as part of the negotiated sentence.

Third, this bill only requires that the defendant provide a "factual statement" explaining how the person qualifies for a resentencing hearing. There is nothing in this bill that requires a declaration, prior reports, or other documentation to support the assertion that a resentencing hearing is warranted. The District Attorney will have to enlist the original investigating police agency to investigate the veracity and validity of the prior abuse alleged in this statement by the defendant.

Finally, we also have concerns around the impact this retroactivity 'look back' and possible re-sentence would have on the victims in these closed cases. Victims have the Constitutional right to provide input to the Court upon sentencing, and that would have been considered previously by the original sentencing court. Victims should be able to rely on the finality of the sentence previously imposed by the Court and not be subjected to the emotional trauma of revisiting the harms of the past that they had been led to believe were completely closed.

We urge your NO vote on HB 2825. Thank you and I am available for questions.