

**TESTIMONY ON HB 3112
BEFORE HOUSE COMMITTEE ON RULES
APRIL 19, 2021**

**PRESENTED BY: ERIN M. PETTIGREW, ACCESS TO JUSTICE COUNSEL FOR
LEGISLATIVE AFFAIRS
OREGON JUDICIAL DEPARTMENT**

Chair Smith Warner, Vice-Chairs Drazen and Holvey, and Members of the Committee:

My name is Erin M. Pettigrew, Access to Justice Counsel for Legislative Affairs at the Oregon Judicial Department (OJD). OJD does not have a position on HB 3112 but generally supports efforts to remove barriers and improve access to justice. The goals of this bill are certainly aligned with those values.

OJD has had some very productive meetings with the proponents of HB 3112 and we appreciate their willingness to work with us and listen to our concerns regarding Section 44a of the bill as introduced. The -12 amendment addresses our concerns by deleting Section 44a. We would also like to provide the committee with information about how OJD would comply with other parts of the bill that impact courts and raise a couple of outstanding technical issues.

Section 38 requires OJD to provide information concerning all persons who may qualify to have a conviction set aside under ORS 475B.401 as amended by section 39 of the bill. OJD will be able to use the list of qualifying marijuana offenses identified by OPDS – as required by Section 37 – to identify individuals and cases. However, our electronic case records for child neglect and child endangerment convictions do not include sufficient information to conclude whether the conviction would qualify for set aside under ORS 475B.401. Those crimes may be committed in multiple ways and there is not an automated way to search our case records for that level of specificity. Therefore, OJD will provide to OPDS a list of *all* child neglect and child endangerment convictions to try to capture the convictions eligible for set aside under ORS 475B.401. We think this is worth mentioning, as it could result in additional workload for OPDS.

We also wanted to note that Section 39 of HB 3112, which modifies set asides for qualifying marijuana offense convictions, arrests, citations, and charges, could be further amended to provide more clarity for those who are seeking set asides, and for courts when issuing final judgments. The current language requires that the court hold a hearing when a prosecuting attorney objects to a set aside motion. When OPDS is the entity that files the motion for a set aside, the person who is the subject of the record could be unaware that a motion was filed on their behalf, they will be unrepresented, and the court will likely not have the individual's contact information. This could result in a situation where the person who is the subject of the petition does not have an opportunity to respond to the prosecutor's objection, which could negatively impact their case. We have reached out to the proponents of the bill about these unresolved issues and look forward to working with them on these technical changes.

Finally, OJD appreciates that Section 7 of the bill directs the Cannabis Equity Board to allocate funds from the Cannabis Equity Fund to OJD courts to cover the costs associated with the increase in set aside proceedings under ORS 475B.401. We appreciate the consideration of the proponents for the increased workload and will put those funds to good use in helping Oregonians access the set asides they are entitled to under Oregon law.

Thank you for your time.