

**TESTIMONY ON HB 5030
BEFORE THE JOINT COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON PUBLIC SAFETY
MAY 10, 2021**

**PRESENTED BY: HON. JOAN DEMAREST, JUDGE, BENTON COUNTY CIRCUIT COURT
OREGON JUDICIAL DEPARTMENT**

Vice Chair Gorsek, Vice Chair Sollman, and Members of the Committee:

My name is Joan Demarest, and I am a judge in Benton County Circuit Court. I am speaking here today both for myself and the Oregon Judicial Department in support of House Bill 5030, the budget bill for the Public Defense Services Commission.

I want to start by saying that Oregon courts rely on a strong public defense system. Since the seminal decision in *Gideon vs. Wainwright* issued in 1963, courts across this country have sought ways to ensure due process for those accused of crime but who are unable to pay for their defense. The solution was and is skilled appointed counsel. It is a fundamental necessity in our society, and, as stated by former Attorney General Eric Holder, “our criminal justice system, and our faith in it, depends upon effective representation on both sides.”

For too long, Oregon lawyers serving as court appointed attorneys have taken caseloads that were too high because case rates were too low. They have struggled to meet their clients’ needs in every case.

I started out as a prosecutor for Benton County for the first part of my career and a defense attorney for the second part where I worked as a consortium attorney with Linn Defenders. When we had open positions, it was nearly impossible to recruit experienced attorneys to join the consortium.

Working as a defender was incredibly difficult. – there is little time to do research, stay up to date on case law, prepare to argue motions and take matters to trial. This is particularly true when unusual facts or circumstances arise that need in-depth research and novel arguments – that level of representation takes time that public defenders in Oregon struggle to find. For me, it meant working day and night. After putting my kids to bed, I would drive several nights a week to Albany and visit clients in jail. As a result, I developed the nickname “the night avenger.” I know that I was not alone - many public defenders are making similar personal sacrifices to ensure that their clients get high quality representation.

My colleague Judge Megan Jacquot will touch on this as well, but I also want to speak to the value of family representation. Benton County is just rolling out the juvenile family representation project, and it is already making a difference. Having a social worker who is incontrovertibly on their side makes a significant difference in access to services. Having attorneys with manageable caseloads who can spend the necessary time on their cases and be able to depend on their own information instead of just the representations from DHS results in real improvements for parents and kids. We recently dealt with a case of heroin-addicted teen parents that was improved because the attorney was able to take the time to think outside of the box and advocate for their client. The result was that the baby was placed with grandparents who had a good relationship with the parents, and significant additional parenting time was

made possible with the grandparents supervising. This gave the baby a chance to bond with family, and the parents have a better chance of being successful in getting and staying sober.

Our system has been nearing a breaking point. But before you now is an opportunity to help right the ship; to increase funding available for the critical public defense function. The decision to provide this needed funding is not about improvements for lawyers; it is about making sure that vulnerable Oregonians receive competent representation, so that they have confidence in the adjudication process and our justice system.

OJD is a committed partner in ensuring that public defense services in Oregon receive the support they deserve. I serve as one of the judicial sponsors on OJD's Strategic Campaign initiative in supporting the work of PDSC through data sharing and technical supports. This is just one of the many ways we will continue to support the work and the goals of PDSC. I hope you will join me in supporting the rights of Oregonians by supporting HB 5030.

Thank you for considering my comments. I am available if you have any questions.

Respectfully submitted,

Joan Demarest, Circuit Court Judge