



## John Hummel District Attorney

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Senator Kayse Jama, Chair  
Senator Dennis Linthicum, Vice Chair  
Senate Committee on Housing and Development

RE: SB 291-4

Dear Chair Jama, Vice-Chair Linthicum, and Members of the Committee:

I write in support of the criminal law provision of the dash 4 amendment to SB 291.

The criminal law sections protect potential tenants from being denied housing due to their participation in a diversion program, their previous conviction for acts that are now lawful in Oregon, and for merely being charged with a crime as opposed to being convicted. It also protects people previously convicted of crimes who currently pose no danger to others from being denied housing, while protecting current tenants from having a neighbor move in who poses a current safety threat.

### **Diversion Provision**

When my colleagues and I receive a referral from law enforcement, we conduct an individualized assessment of the facts, the law, and the person who is alleged to have committed a crime. After determining the facts and the relevant law, if we decide no crime was committed, we dismiss the matter. Regardless of whether we dismiss the matter, we also ask ourselves what the victim needs to be safe, and we provide it to them.

If we believe a crime was committed, we then attempt to discern the intervention that will maximize the odds that the person alleged to have committed an offense will not re-offend. Sometimes we determine that jail or prison is the only way to achieve this goal. Usually we determine that providing this person with accountability, often in the form of community service and making the victim whole, and with the tools they need to succeed, is what maximizes the odds they will thrive and not re-offend.

We know that stable housing, employment, transportation, education, and access to quality and affordable health care, are critical components to the success of people who enter diversion programs. Losing any one of these building blocks to success makes it less likely that a participant in our diversion programs will be successful.

We should reward people who step up, acknowledge a harm they caused in our community, commit to making victims whole, and engage in the services that will improve their lives and make our communities safe. By authorizing landlords to deny housing to people in diversion programs, we make our communities less safe. This is because we increase the odds that people participating in these programs will end up houseless, and thus fail to engage in the services that provide them the tools to improve their lives and remain crime free.

### **Previous Conviction for Act Now Lawful**

When Oregonians, either via direct or representative democracy, change our laws to make acts lawful that were previously criminal, we do so in response to evolving standards of decency. As we evolve, new scientific studies inform us, more robust data analysis tells us what works and what does not, and we learn from criminal justice systems in other states and countries. A sign of a healthy society is one that learns, and then acts on what is learned. Oregon has done this and will continue to do so.

But it is counter-intuitive to learn, and then act to change our laws based on what we learned, yet continue to punish people who were convicted prior to our evolution on a certain issue. Why is someone who committed an act in 2010 a “criminal” who is unworthy of housing, yet someone who commits the same act in 2021 is deemed a lawful member of our community who is welcomed as our neighbor?

Oregon should be proud of never resting on our laurels. We constantly seek to improve our health, environment, economy, and commitment to justice. When this zeal for constant improvement results in us reconsidering and ultimately changing our criminal laws, we should also amend our civil laws to reflect our new philosophy. Doing so ensures that the intent of Oregonians is fully infused in our laws and policies, and ensures that people will cease being punished for what we now deem to be lawful.

### **Presumed Guilty**

Every day I walk into my office in Bend I remind myself that my job is to hold the guilty accountable as much as it is to detect and set free the innocent. I do not have to tell you that our system of justice is based on the concept of the presumption of innocence. To deny housing to a person who is charged with a crime, yet has not been convicted, is to punish this person before they have their day in court.

Everything I wrote in the previous paragraph is something almost all Oregonians would agree to in principle. But do we practice what we preach? Do our laws reflect the concept that courts and juries are the appropriate bodies to decide guilt, or do our laws cede this power to landlords? I do not apologize for being old school on this: Judges and juries should decide guilt and innocence, and punishments should not result unless and until they decide guilt.

### **Convictions**

Current state statute permits landlords to maintain one size fits all policies regarding criminal convictions of applicants. The current statute would allow a shoplifting conviction from 30 years ago when an applicant was 18 years of age to be treated the same as a rape conviction from five years ago when an applicant was 35 years of age. Ease of administration does not necessarily produce just results, and one size fits all criminal conviction policies prove this maxim.

This amendment requires landlords to consider evidence submitted by an applicant to explain the circumstances of any conviction they received. It also requires landlords to conduct an individualized assessment of each applicant, including a consideration of any convictions, before they conclude whether an applicant is likely to be a safe neighbor. In other words, rather than judging an applicant solely by the worst day of their life, a landlord will judge them by their entire life. All we can reasonably ask of others is that we be viewed as the complete person we are.

I respectfully request your support of the dash 4 amendment to SB 291. Thank you for your consideration.

Sincerely,

John Hummel  
District Attorney

