

February 4, 2021

The Honorable Chair Floyd Prozanski
The Honorable Vice-Chair Kim Thatcher
Members of the Senate Judiciary Committee

Re: Testimony in Support of Senate Bill 651

Dear Chair Prozanski and Members of the Committee:

I write to testify in support of Senate Bill 651. I am a small business owner and criminal defense attorney practicing in large and small counties throughout Oregon. Since 2013, I have assisted with a defense contract focusing on probation violation hearings in Multnomah County and have represented hundreds of defendants at probation hearings on numerous issues. This bill is important to me because the current state of the law has an unfair impact on my clients and results in unnecessary litigation and even unlawful incarceration.

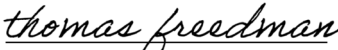
As the law currently stands, when a person is convicted of a crime and placed on probation, the Court can impose general conditions of probation by statute and can add special conditions if certain circumstances are met. ORS 137.540(2). Thereafter, during the term of the probation, the probation officer can add special conditions of probation by giving notice of the proposed modification to the district attorney and the probationer. If no objection is filed *by the district attorney*, the special condition becomes effective without judicial oversight and regardless of the legality of the condition. ORS 137.540(9).

Senate Bill 651 proposes a minor revision to this statute in requiring that notice of the proposed modification also be provided to the probationer's defense attorney, and permitting either the probationer or her defense attorney to object to the proposed special condition and require review by the court. This small change modifies the statute to be consistent with due process and fairness in the criminal justice system. The current statute improperly allows only the district attorney to object to the proposed modification, which is a further imbalance of power in a system that disproportionately impacts people of color.

Moreover, Senate Bill 0651 will have a positive impact on compliance with probation, providing probationers an opportunity to be heard, and will avoid the imposition of unlawful or unconstitutional probation conditions that result in more unnecessary litigation and appeals down the road.

For these reasons, I urge to you vote in favor of SB 651. Please feel free to contact me at 503-295-6296 or at thomas@prllaw.com if you need any additional information or clarification.

Sincerely,


Thomas Freedman
PEARL LAW LLC