



**TO: Rep. Janelle Bynum, Chair  
Rep. Ron Noble, Vice-Chair  
Rep. Karin Power, Vice-Chair  
Members of House Judiciary Committee**

**FR: Oregon District Attorneys Association**  
DA Paige Clarkson-Marion, ODAA President  
Michael Wu, ODAA Executive Director  
Amanda Dalton, ODAA Lobbyist

**RE: HB 2002 Written Testimony in Opposition**

Thank you for the opportunity to provide written testimony in opposition to HB 2002. While the Oregon District Attorneys Association appreciates and acknowledges the concerns motivating the legislation, the Association opposes the bill as currently drafted. This legislation will compromise victim and community safety because it will restrict a Judge's discretionary authority to enforce probation conditions, restrict law enforcement's options to arrest someone who has broken the law, significantly reduce the sentences of individuals who commit egregious person crimes like child and sexual abuse, and it may impact the adequate funding of Justice Reinvestment Programs that are providing offenders with opportunities to reform while keeping our communities safe.

### **HB 2002 Restricts a Judge's Discretionary Authority to Enforce Probation Conditions**

When a person is placed on probation they are under the authority of a Judge, and their probation will have terms and conditions that the Judge has imposed to provide community safety and to address the reasons for the person's criminal acts. For example, a person on probation for a crime of domestic violence would have a probation condition to have no contact with their victim without the Judge's permission, or a person who steals to fund their substance abuse addiction will have a condition that they attend a treatment program. Currently, if a person on probation willfully violates any of their conditions of probation, a Judge can revoke their probation and sentence them to jail or prison.

HB 2002 would restrict a Judge's authority to revoke a person's probation unless 1) the person willfully absconds, 2) commits a new felony or 3) commits a new person class A misdemeanor. HB 2002's restrictions on a Judge's authority will have a negative impact on victim safety. For example, a person on a domestic violence probation could have a condition of probation ordering that they have no contact with their victim. That person could have repeated contact with the victim, without the Judge's permission, and the Judge would not be able to revoke the probation.

HB 2002 would also negatively impact treatment and specialty courts, such as drug, veterans and DUII courts. These courts are designed to treat the issues that drive a person's criminal conduct by giving them an opportunity to be sentenced to probation instead of prison or jail and to receive treatment. A key component of these courts is that participants are held accountable by the Judge if they are not making good faith efforts to comply with their treatment program. HB 2002 would not allow a treatment court Judge to revoke the probation of a person who is refusing to go to treatment. This restriction would erode the level of accountability necessary for successful treatment court programs.

HB 2002 also restricts a Judge's authority to revoke the probation of a person on supervision for a sex crime. Currently, a Judge has the authority to order a person on probation for a sex crime to attend treatment and if they do not cooperate with treatment the Judge may revoke their probation and sentence them to jail or prison. HB 2002 would eliminate a Judge's authority to revoke a sex offender's probation who is not cooperating with their treatment obligation.

### **Restricting Law Enforcement Options**

Currently, a law enforcement officer may make an arrest when they have "probable cause" that any crime has occurred. An officer can make that arrest even if they did not witness the crime personally and they may rely on eye witness information in determining if "probable cause" exists.

HB 2002 would restrict an officer's option to arrest a person when they have "probable cause" to believe that person has committed a crime. HB 2002 would eliminate an officer's legal option to arrest a person for class B and C misdemeanors unless they personally witnessed the crime occur. This restriction on an officer's ability to make arrests will have a negative impact on community and victim safety, particularly for victims of domestic violence. For example, a person could slap their domestic partner in the face and pin them forcibly against a wall. If the victim of this domestic violence did not suffer a physical injury than this is the crime of "Harassment", a B misdemeanor. Currently, if that victim called the police and told the police what happened the officer could arrest the abuser and remove them from the presence of the victim. HB 2002 would eliminate an officer's option to arrest the abuser in this situation, even if there were witnesses or the abuse was on video, because HB 2002 does not allow an arrest for a B misdemeanor such as "Harassment". Instead, the officer would be limited to writing a citation for the abuser to appear in court for the crime or the officer could go through the time consuming process of attempting to obtain an arrest warrant from a Judge.

HB 2002 also eliminates an officer's option to arrest a person for 21 specific misdemeanors including possession of methamphetamine, possession of heroin and theft in the second degree. Instead all an officer could do if they had "probable cause" of these 21 misdemeanors is give the perpetrator a citation to appear in court, or they could attempt to get a Judge to authorize an arrest warrant which is a time consuming process.

**Sentence Reductions for Serious Person Crimes (Trauma advisory: this section will reference the crimes of sexual assault, child abuse and attempted murder)**

HB 2002 would significantly reduce the prison sentences that the convicted perpetrators of child abuse, sexual assault, armed robbers, and attempted murderers would serve. Currently these crimes are eligible for Ballot Measure 11 sentences which impose proportionate prison sentences on only the most serious person to person felonies in Oregon. Ballot Measure 11 does not apply to non-person felonies such as theft, drug crimes, or fraud. HB 2002 would allow sentences for child abuse, sexual assault, armed robbers, and attempted murders to be reduced by up to 40% or even to be converted into a probationary sentence.<sup>1</sup>

For example:

<b>Crime Example</b>	<b>Measure 11</b>	<b>Proposed Legislation</b>
Raping a teenager at knifepoint	8.3 years	2.8 years or probation
Intentionally suffocating a baby and causing permanent blindness	7.5 years	2.8 years or probation
Attempted Murder	7.5 years	2.8 years or probation
Filming an adult raping a child	5.8 years	7.2 months or probation

HB 2002 alterations to Oregon’s sentencing laws for serious person to person felonies will make those sentences less transparent for crime victims because it would replace the certainty of the current system with ambiguity.

HB 2002 will also negatively impact community safety. Since Ballot Measure 11 was passed Oregon’s violent crime rate has dropped dramatically and more than anywhere in the nation.

**Maintaining Adequate Funding for Justice Reinvestment Programs**

Oregon’s District Attorneys work in partnership with many Justice Reinvestment Programs across the state. These programs give participants the opportunity to stabilize their lives and avoid prison sentences and still keep our communities safe. The adequate funding of these programs is key to their success in helping its participants and ensuring community safety. While we support the vision and necessity of broadening these programs to include more culturally specific organizations and culturally responsive service providers, we will continue to advocate for the continued adequate funding of the current programs that are providing people with opportunities to reform while keeping our communities safe.

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<sup>1</sup> HB 2002 amends the presumptive sentence for the listed offenses by permitting eligibility for Earned Time (ET), Alternative Incarceration Programs (AIP) and Short Term Transitional Leave (STTL). ET can reduce an offender’s sentence by up to 20%; AIP can reduce an offender’s sentence by an additional 20%, plus three months of non-prison leave; and STTL can reduce an offender’s sentence by up to four months (an offender may not receive both AIP and STTL).