



**TO: Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice Chair
Senate Committee on Judiciary**

FR: Oregon District Attorney's Association

RE: Concerns with SB 586

February 9, 2023

Chair Prozanski and Members of the Senate Committee on Judiciary:

The Oregon District Attorneys Association (ODAA) appreciates the opportunity to offer testimony on SB 586.

Oregon's prosecutors are engaged with our partners in the development of restorative justice programs and we understand and support the policy and practice necessity for confidentiality protections in these programs. Currently, those protections are accomplished through memorandums of understanding between the program participants, but statutory protections would provide a greater level of security.

We appreciate that SB 586 includes exceptions to confidentiality, which recognize legitimate situations where confidentiality is outweighed by other concerns, including the necessity of reporting a disclosure by a participant that they intend to harm others. However, ODAA does have a concern that the exception outlined in SB 586 is too narrowly constructed compared to similar exceptions in the statutes governing confidentiality for therapists and their patients.

Specifically, SB 586's harm exception only applies to **"a communication that is necessary to prevent the commission of a crime likely to result in death or substantial bodily injury to a specific person."** This exception would prohibit the disclosure of a participant who made a credible threat against a class of people instead of a "specific person." For example, a participant who had committed a bias crime could express a credible threat to harm a class of people, but not a specific person and program facilitators would not be able to report the threat without violating the confidentiality provisions. Additionally, the exception would not allow someone to report a credible threat to someone's property or to cause physical injury. Comparatively, ORS 675.765, which governs therapist confidentiality, allows disclosure when "the communication reveals the intent to commit a crime or harmful act."

ODAA supports statutory confidentiality protections for restorative justice programs because it will facilitate the meaningful goals of those programs. We would request that the exception for future harm disclosures align more closely with other such exceptions in law.