



Oregon Crime Victims Law Center

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**Support for SB 867
Forfeiture by Wrongdoing
February 27, 2023
Senate Committee on Judiciary**

Dear Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

The Oregon Crime Victims Law Center is a nonprofit organization that provides free legal representation to crime victims throughout Oregon. OCVLC attorneys and advocates assist victims with asserting and seeking enforcement of their constitutional and statutory rights in the criminal justice system. The majority of our cases involve domestic violence, sexual assault, and/or stalking. The Oregon Constitution guarantees victims a number of important rights, including the right to justice, and the right to protection throughout the criminal justice process. These rights can be thwarted by a defendant who seeks to stop a victim from testifying through threats of violence and intimidation. Victims of domestic and sexual violence are particularly vulnerable to these types of threats. This bill would protect a victim's access to justice despite the wrongful acts of a defendant.

SB 867 would codify the legal doctrine of "forfeiture by wrongdoing," which states that a defendant should not benefit if their unlawful actions caused a victim to fail to appear in court. If the State is able to establish that it is because of the defendant's wrongful actions that the victim failed to appear, the State is able to use the absent victim's out of court statements. Recent decisions by Oregon's courts have led to increasingly intrusive attempts to secure a victim's presence in court, going so far as to require material witness warrants for a victim. This is not required by the constitution, and for a victim of domestic and/or sexual violence, this is significant re-traumatization by the very system from which they are seeking justice. Forcing a victim to testify after they have been threatened with violence greatly exacerbates the trauma they have already suffered, and would likely reduce the chances that the victim would ever seek safety from the criminal justice system again. Additionally, if the defendant successfully keeps the victim from testifying, that defendant escapes accountability and will likely to continue to harm others.

Where the State is able to prove that the defendant's threats were the reason that the victim did not appear in court, SB 867 would prevent the type of re-traumatization seen by intrusive methods of securing a terrified victim's participation. Passage of SB 867 would improve the justice system's response to victims of crime, and OCVLC urges your support.

Thank you for your consideration.

Rosemary W. Brewer
Executive Director