

**TESTIMONY ON SB 697
BEFORE THE SENATE COMMITTEE ON JUDICIARY
MARCH 2, 2023**

**PRESENTED BY: MICHAEL HSU, SENIOR ASSISTANT GENERAL COUNSEL
OREGON JUDICIAL DEPARTMENT**

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

My name is Michael Hsu, a Senior Assistant General Counsel in the Oregon Judicial Department (OJD). We appreciate Senator Manning Jr. and Senator Gorsek for presenting this bill. We would also like to thank the Clean Slate Oregon coalition, Senator Manning Jr., and Chair Prozanski for including OJD in the collaborative system stakeholder conversations to ensure efficient implementation of SB 697. OJD does not have a position on this bill but recognizes the importance of improving access to justice and removing barriers, as reflected in our Strategic Campaign.

Based on the workgroup discussions, we understand that OJD's suggested improvements will be incorporated through amendment(s). We believe those changes will make implementation more feasible for our courts and for other stakeholders. My testimony will highlight the expected improvements.

The first requested change is Section 1(2). SB 697 as introduced removes the district attorney's ability to object to the petition and authorizes the court to conduct any investigation it deems necessary to determine whether the petition to set aside should be granted. Because the court does not have an investigatory function, these changes would limit information available to the court, including verifying whether the person has another pending criminal charge. It also eliminates the opportunity for district attorneys to fulfill their obligation to provide victim notification. Keeping the district attorneys involved in the process will alleviate these potential challenges.

The second change is in Section 1(3)(c). That section allows the court to waive any remaining fines and fees owed by the person as part of granting the set-aside motion. Because the court cannot collect fees once a case has been set aside, we recommend that waiver of fines and fees be decided as a precursor to the set-aside request.

OJD also suggested that the bill clearly establish whether the law change would apply to petitions filed on or after the effective date of the bill.

As you may know, the 2021 changes to the set-aside statutes more than quadrupled set-aside motions in circuit courts – from about 5,000 in 2021 to almost 26,000 filings last year. Based on this experience, OJD is requesting funding to continue to efficiently manage this work. The Chief Justice's Recommended Budget contains a request for continued funding to help courts respond to the current and future changes in set-aside law. We will evaluate whether that request is sufficient to address the impacts of SB 697, if approved.

Again, OJD appreciates being included in conversations and the work that has been done on this bill. We look forward to participating in further discussions.

Thank you for the opportunity to provide this testimony. I would be glad to answer questions.