



Oregon

Tina Kotek, Governor

Board of Parole and Post-Prison Supervision

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ORAL TESTIMONY – 3/23/23

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

For the record my name is Greta Lowry, and I am the Chairwoman of the Oregon Board of Parole and Post-Prison Supervision. With me today is John Bailey, Vice-Chairperson of the Board.

The Board submitted written testimony regarding SB 1027 yesterday, and so I believe the most prudent use of our time today is to provide a brief, high-level overview of the current parole process, so that as you consider the necessity and appropriateness of any changes, you have a foundational understanding of where we are now and why. Upon the conclusion of that overview, I will explain how SB 1027 intersects with our current process and how its passage would impact the Board, victims, and our communities.

At the outset it is worth noting that the Board is a statutory creature, meaning that we are obligated to follow the processes that have been spelled out and authorized by statute, and as interpreted over time by the courts. In many instances a legal requirement is imposed upon the Board to conduct a three-step release process to include a Murder Review Hearing, a Prison Term Hearing, and an Exit Interview.

For those under the authority of the Board, who have been convicted of Aggravated Murder or Murder, the release process begins with a Murder Review Hearing. In that hearing, Board is tasked with determining whether an adult in custody is likely to be rehabilitated within a reasonable period of time. The adult in custody is entitled to an attorney, is able to call support persons to testify on their behalf, and is questioned by the Board. A representative of the committing jurisdiction and any designated victim's representatives are entitled to appear and make a statement to the Board. The standard of proof is that of a preponderance of the evidence, and the burden is carried by the adult in custody. If the Board does not find that an adult in custody has carried their burden, a deferral period of 2-10 years is selected, and a Final Order is drafted.

In the alternative, if the board determines an adult in custody has carried their burden, a prison term calculation is conducted immediately upon the conclusion of the Board's deliberation. If an adult in custody has already served more time than the board could legally impose at a prison term hearing, the adult in custody is scheduled for an Exit Interview as soon as the board hearings calendar allows. Currently, the Board schedules hearings six months in advance. This is what happens in the vast majority of cases.

If the adult in custody has not already served more time than the Board could legally impose, then a Prison Term Hearing would be scheduled. In these hearings the adult in custody is not entitled to an attorney, however they are able to make arguments and call upon support persons to testify on their behalf after they are questioned by the Board. A representative of the committing jurisdiction and any designated victim's representatives are entitled to appear and make a statement to the Board. Upon the conclusion of the hearing, the Board deliberates and determines a prison term, and the adult in custody would then see the Board for an Exit Interview at the end of that prison term.

The final step of the release process is that of an Exit Interview, where the Board is tasked with making a release decision based upon whether it finds that the adult in custody has a present severe emotional disturbance such as to constitute a danger to the health or safety of the community. In these hearings the adult in custody is not entitled to an attorney, however they are able to make arguments and call upon support persons to testify on their behalf after they are questioned by the Board. A representative of the committing jurisdiction and any designated victim's representatives are entitled to appear and make a



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statement to the Board. The burden of finding a present severe emotional disturbance is on the Board. Per statute, in preparation for an Exit Interview, an adult in custody is required to undergo a thorough psychological evaluation. Refusal to participate in that psychological evaluation is a sufficient, independent reason to defer an adult in custody. If the Board finds that an adult in custody has a present severe emotional disturbance, a deferral period of between 2-10 years is selected. If the Board finds that an adult in custody does not have a present severe emotional disturbance, their release date is affirmed, and the release planning process with the Department of Corrections and the Community Corrections agency of the receiving county begins.

So that is a very brief explanation of each type of hearing and the possible outcomes, with exceptions and caveats omitted due to the constraints of time.

That primer leads us to SB 1027, how it intersects with our current process and how its passage would impact the Board, victims, and our communities. It is the Board's position that the decisions made in a Murder Review Hearing and an Exit Interview are both essential for public safety. The decisions are made based upon a different threshold question, under a different standard, and with different evidence and information. The elimination of any part of the current structure would significantly hamper the Board's ability to do what it does best, which is make individualized and informed risk-based decisions. Clearly, the intent of SB 1027 is to reduce the three hearings process down to a single hearing. In its current form, however, a number of safeguards provided by the current process are lost.

SB 1027 removes the safeguard of *actual* rehabilitation, requiring only that an adult in custody be found likely to be rehabilitated within a reasonable period of time prior to release into the community.

SB 1027 removes the safeguard of a psychological evaluation, by eliminating the Board's authority to order or require an adult in custody to undergo a psychological evaluation prior to release into the community.

SB 1027 removes the safeguard of thorough release planning, allowing only 60 days to plan for a successful and safe transition prior to release into the community.

SB 1027 removes the safeguard of surety and confidence that victims have in our criminal justice system, by once again altering and advancing processes prior to release into the community.

Put another way, SB 1027 simply lowers the bar for release of this particular population of adults in custody. And to be clear, the population that we're discussing today represents those among us who have taken the most, and who have proven themselves capable of causing significant, irreparable harm. Therefore, any changes to the release process deserve careful consideration, should not be rushed, and should involve meaningful discussion among stakeholders from every corner of the criminal justice system. Indeed, changes of this magnitude, changes that touch the lives of so many, should be entered into thoughtfully, collaboratively, and with considerations of public safety the priority of any permanent policy change.

Mr. Bailey and myself would be happy to answer any questions the Committee may have. Thank you.