



John D. Wentworth, Clackamas County District Attorney

807 Main Street, Oregon City, Oregon 97045
P: 503.655.8431 | F: 503.650.8943 | districtattorney@clackamas.us

SB 1070

Chair Prozanski, Vice-Chair Thatcher and members of the Committee. My name is John Wentworth, and I am the District Attorney of Clackamas County, and serve as Vice President of the Oregon District Attorney's Association. It is in those capacities I come before you today in OPPOSITION to Senate Bill 1070.

Over half of my career has been spent prosecuting domestic violence. We have come a long, long way since I first started. When I attend national conferences, Oregon is ahead of the curve in how we address domestic violence. We were the first state in the country to make strangulation a crime. Our law enforcement officers are among the best trained at investigating domestic violence, and each year the Oregon Department of Justice puts on a weeklong training for domestic violence prosecutors addressing all areas of prosecution from investigation through sentencing. I've personally been an instructor at that conference many times. It is through that lens and with that experience that I share with you my concerns with SB 1070.

First, the bill creates a new term that is not found anywhere else in Oregon law: "domestic abuse." "Domestic abuse," as defined in SB 1070, is more expansive than the term "domestic violence," the term used to protect domestic violence victims. Under SB 1070, while a domestic violence victim must be assaulted, menaced or strangled before the law classifies an abuser's conduct as "domestic violence," their abuser is eligible to have their sentence reduced if they had previously been "frightened," "manipulated," "hurt," or "blamed" by some other person.

SB 1070 also does not require that the prior "domestic abuse" be at all related to the current offense. There is no requirement that the person who committed the prior "domestic abuse" be the same person against whom the defendant used violence, or that the alleged abuse even happened close in time to the current offense. For example, a defendant who claims to have suffered domestic abuse at the age of 18 may now claim at the age of 45 that an argument with their current partner (an entirely different person) is triggering to that prior abuse and use that claim of decades old abuse to reduce a sentence for causing serious physical injury --- or even death --- to their current victim.

For those who might suggest a judge would never reduce a sentence for such a tenuous factor, there is no requirement that the prior domestic abuse be a "significant factor" to the current crime. It need only be a "contributing factor." Even the slightest "contribution" is enough to require the court to grant a sentence reduction for the



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current crime. AND, to add insult to injury, there is no corollary in Oregon law that allows a crime victim to allege “domestic abuse” by their abuser get a sentence enhancement. The ratchet only goes one way.

SB 1070 is also retroactive; forcing hundreds of cases back into court to reopen sentencing, which leads to more uncertainty in sentencing for crime victims. Victims should be able to rely on the finality of the sentence previously imposed by the court and not be subjected to the emotional trauma of revisiting the harms of the past that they believed were completely closed.

However well-intentioned, the provisions of SB 1070 are not limited to situations where a domestic violence survivor was coerced or manipulated by their abusive partner into committing a crime. It casts a much wider net.

My greatest concern about SB 1070 is that it will allow domestic violence abusers to weaponize mitigation. Every advocate who has helped a domestic violence victim fill out a protective order can share story after story where an abuser races to call 911 or get a restraining order to claim they are the actual victim of domestic violence. The provisions of SB 1070 will do the same thing at sentencing; allowing abusers to escape full responsibility for their acts of violence.

I hope to work with the Committee to do more to protect survivors of domestic violence. Unfortunately, SB 1070 isn't it.