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SUBJECT: Support for SB 957

Chair Prozanski, Vice Chair Thatcher and Members of the Senate Judiciary Committee:

My name is Kelsie McDaniel and I am the elected District Attorney for Union County. I have been a prosecutor for nearly 15 years and have served as the elected DA for the past nine years. I am here today in that capacity and on behalf of the Oregon District Attorney's Association. SB 957 provides two technical changes to the crimes of Public Indecency (ORS 163.465) and Luring a Minor (ORS 167.057). The bill is a result of recent cases I have encountered in Union County. Mr. Chair, we appreciate the -1 amendment removing the emergency clause to allow changes in the criminal code to take effect.

SB 957 provides two technical changes to the crimes of Public Indecency (ORS 163.465) and Luring a Minor (ORS 167.057).

Currently Public Indecency criminalizes the conduct of engaging in sexual intercourse, masturbation or exposure in a public place, and is classified as an A Misdemeanor. The crime becomes a Class C Felony if the defendant has prior criminal convictions for Rape, Sodomy, Unlawful Sexual Penetration or Sex Abuse. However, it does NOT include prior convictions for Child Pornography—This means that currently, a person could have a felony conviction for using a child in display of sexually explicit conduct, potentially having gone to prison for such an offense, and if they then are masturbating in public, they could only be charged with a misdemeanor.

SB 957 would close the loophole that allows someone with a prior conviction involving child pornography to only be charged with misdemeanor Public Indecency. This bill attempts to capture additional sexual offenses which target and victimize our most vulnerable Oregonians—children. These offenders may already have engaged in “hands-on” offenses, or they may be escalating from possession or distribution of child pornography to actually engaging in public sex acts, potentially in front of a child. This is a simple fix to better protect our communities from predatory sexual behavior and to create better accountability for those who use or create child pornography.

The second part of the bill modifies ORS 167.057, Luring a Minor. Currently Luring a Minor criminalizes conduct in which an adult gives a minor a visual or verbal description or narrative account of sexual conduct for the purposes of inducing the child to engage in sexual conduct. It

is meant to capture grooming behavior and explicit exposure of sexual material to minors. Something that it is missing? The sexual conduct itself.

If an adult masturbates while approaching a small child in a public place—say a grocery store or a bowling alley, that action is not considered luring under the current language of the statute unless the adult also describes the masturbation to the child. Or sends the child a text message describing it. Or shows the child a video of the same conduct. I use these examples to show you the glaring loophole in the current statute. Masturbating in front of a child—the actual conduct—should be a crime.

SB 957 seeks to add the language of engaging in sexual conduct in the immediate presence of a minor for the purpose of inducing the minor to engage in sexual conduct. It simply adds the conduct to the statute—not just images and explicit descriptions of such conduct.

Thank you so much for your time and consideration of these issues. These are both small changes that can have the potential to provide big protection for children in Oregon.

I encourage you to support SB 957.

Sincerely,

/s/

Kelsie J. Davis McDaniel
Union County District Attorney