



April 17, 2023

Dear Representatives Kropf, Pham, and the Senate Judiciary Committee:

The Family Justice Center Collaborative strongly supports SB 867 and its safety protections for crime victims and survivors.

While defendants have the right to confront their accusers, SB 867 protects victims from tampering, intimidation, threats, and outright acts of violence in an effort to stop their testimony, which are particularly common in cases of domestic violence. This legal doctrine, called “Forfeiture by Wrongdoing,” stands for the principle that if a defendant causes a victim not to come to court through these unlawful behaviors, they should not benefit from the victim’s absence.

Currently, Oregon courts do not follow the Forfeiture by Wrongdoing, an anomaly among states, and SB 867 would bring us back into national alignment.

Currently, Oregon continuously attempts to serve victims who do not appear, going to their home, workplaces, relatives homes, or known locations to serve them with subpoenas. The state then holds the victim in contempt of court and issues warrants. All this while victims are already traumatized, are experiencing the terror of additional threats against testifying, and facing the choice between face real harm by their abuser or face jail time. Many victims simply try to disappear.

In preparing this letter, the Family Justice Center’s VOICES Survivor Advisory Committee shared their own experiences with this very situation.

One member shared, “To know I didn’t want to face my abuser, but was threatened potentially with jail time if I did not, made me feel like I had no say or control still in what was happening to me.”

Another member shared, “I was scared for my safety and so didn’t press charges. I regretted it, but I was paralyzed by terror. It led to many more years of abuse of me and my children. I know it was at the beginning before a trial proceeding, but abusers try to silence you and use the loopholes in the law against you... The way the law is written now is partnering with the abuser to penalize the victim/survivor. It should be against the law for an abuser to do this to their victim/survivor.”

It is unnecessary and unconscionable for the state to be required to treat already traumatized victims of crime with such harassment. This will likely only result in those same victims choosing to not call the police the next time they are abused to avoid being harassed, threatened and coerced by their abuser, or the state trying to get them to come to court and testify against their abuser, as illustrated above by our VOICES members.

The time after a victim has separated from their abuser is the most dangerous. For those abusers who choose to continue to overtly threaten, intimidate and coerce their victims to not appearing in court, the



thought of physically forcing them to come to court to testify is extremely fraught with danger for the victim, as we saw in the recent double homicide in Vancouver, WA.

The Oregon and Federal Constitution are clear that if the defendant is the cause of the victim's absence on the day of trial, that the defendant has waived his rights to argue that she is not "unavailable" and keep her previous statements from being presented in court as evidence against him.

Thank you for your consideration in advancing this important measure. We urge you to pass SB 867 and adopt Forfeiture by Wrongdoing in the State of Oregon for the safety of victims and survivors.

Respectfully,

Rachel Schutz

Executive Director

Together, we can end the cycles of violence and abuse.