



February 26, 2025

House Committee on Judiciary
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Opposition to House Bill 2975

Dear Chair Kropf, Vice-Chair Chotzen, Vice-Chair Wallan, and members of the Committee,

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 42,000 members and donor supporters statewide.

We oppose House Bill 2975, which would make unnecessary changes to state criminal law that will exacerbate mass incarceration while not preventing domestic violence.

The Problem with HB 2975

The proliferation of criminal statutes and expansion of mandatory minimum sentences has created a mass incarceration crisis in Oregon, as it has nationwide. The ACLU is very concerned about the over-prosecution and over-incarceration of Oregonians, particularly those from marginalized communities. Any time a criminal statute is expanded or a new crime is created, the risk of disproportionate impacts on over-policed communities, especially communities of color, is a distinct possibility.

What HB 2975 does

HB 2975 amends several state criminal laws to provide that an admission or finding that a crime involving domestic violence is not an additional element of the offense for the purposes of ORS 161.067, which governs the merger of offenses in Oregon.

- HB 2975 would affect ORS 163.160 (Assault in the fourth degree) and ORS 163.190 (Menacing) while also frequently affecting cases involving ORS 163.187 (Strangulation).
- This change would allow prosecutors to charge defendants with more crimes and increase the length of sentences.
- The Oregon Court of Appeals recognized in *State v. Miles*, a case involving a strangulation charge and an assault four charge, that “the charge of strangulation constituting domestic violence subsumed the charge of assault in the fourth degree constituting domestic violence, and the guilty verdicts on these two offenses must merge.”
- This holding was based on a plain reading of the elements of the offenses that were charged and was a straightforward application of merger doctrine.

HB 2975 would be a legislative override of the judiciary's decision in *Miles*.

- The bill does this by expressly stating that “[a]n admission or finding that a crime involved domestic violence is not an additional element of the offense for purposes of ORS 161.067,”
 - That means a crime such as assault four involving domestic violence would no longer merge with a crime such as strangulation constituting domestic violence, as happened in *Miles*
 - Consequently, more charges could be brought in individual cases and the defendant will have a higher criminal history score in any future criminal cases
- This unconventional carve-out from basic merger doctrine undermines a crucial due process protection that we all benefit from
- Defendants would have to start weighing another charge as they already face tremendous pressure to accept a guilty plea.

Why This Bill is Harmful

HB will not effectively address the unacceptable rates of domestic violence; instead, it is only likely to lead to over-policing and over-prosecution of communities of color and other marginalized communities

The ACLU is deeply concerned with the unacceptable rates of domestic violence in our communities. Domestic Violence is a serious issue that warrants meaningful solutions. However, HB 2975 **does not provide new protections for survivors**—it only enhances prosecutorial discretion in ways that will **fuel mass incarceration and harm marginalized communities**. There is no evidence that the *Miles* decision has led to fewer domestic violence convictions—only that some charges have been appropriately merged under existing law.

- **Expands Criminalization Without Preventing Domestic Violence** – HB 2975 **does not create new protections for survivors**. Instead, it simply increases prosecutorial power to stack charges, leading to longer sentences without addressing the root causes of domestic violence.
- **Erodes Due Process Protections** – Merger doctrine is a fundamental principle of criminal justice that prevents duplicative convictions for the same conduct. This bill **eliminates that safeguard** in domestic violence cases, setting a dangerous precedent.
- **Disproportionate Impact on Marginalized Communities** – Communities of color and other over-policed groups will bear the brunt of these expanded charging practices, further exacerbating racial disparities in the criminal legal system.
- **Pressures Defendants Into Guilty Pleas** – Removing merger protections strengthens prosecutors' leverage in plea negotiations, increasing the likelihood of coercive plea deals rather than fair adjudications.

The ACLU is deeply concerned with the unacceptable rates of domestic violence in our communities. Domestic violence is a serious issue that warrants meaningful solutions. However, HB 2975 **does not provide new protections for survivors**—it only enhances prosecutorial discretion in ways that will **fuel mass incarceration and harm marginalized communities**.

For these reasons, the **ACLU of Oregon urges your opposition to House Bill 2975**.

Respectfully,

Michael Abrams, Policy Counsel

For any questions, please email Jessica Maravilla, Policy Director at jmaravilla@aclu-or.org