



February 26, 2025

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

RE: Testimony in Opposition to House Bill 2974

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 2974, which would impose a problematic, unconstitutional subjective standard for certain child pornography offenses and would unnecessarily increase the sentencing category for invasion of privacy involving minors. This bill risks constitutional challenges, misallocates judicial resources, and contributes to the over-criminalization of young people.

Concerns with HB 2974

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 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.

HB 2974 amends state criminal law in two significant ways::

1. Redefining “sexually explicit conduct” using a subjective standard
 - a. The bill expands the definition of "sexually explicit conduct" to include the “exhibition or display of the sexual or other intimate parts of a child when the child is being observed or recorded for the specific intent of arousing the sexual desire of the observer or recorder, regardless of whether the child knows that the child is being observed or recorded.”
 - This shifts the legal standard from an objective test to a subjective one, making prosecutions hinge on an individual’s internal intent rather than on clear, external criteria.
 - This is unconstitutional—courts have found that vague or overly broad statutes violate due process and free speech protections. If challenged, cases prosecuted

- under this provision may be overturned, wasting judicial resources and retraumatizing victims in the process.
- The law could unintentionally criminalize young couples engaged in consensual exchanges of explicit content, even when their behavior is legal once both parties turn 18.
- 2. Increasing the sentencing category for invasion of privacy involving minors
 - a. HB 2974 directs the criminal justice commission to increase the crime category of invasion of privacy from Category 6 to Category 8 in cases where the person whose privacy is invaded is under 18 years of age.
 - This unnecessarily expands criminal justice penalties, exacerbating mass incarceration, while failing to meaningfully protect victims.
 - Like many harsh sentencing policies, this will disproportionately impact young people and marginalized communities, reinforcing systemic disparities.

The ACLU of Oregon strongly opposes HB 2974. This bill introduces unconstitutional legal standards, misdirects law enforcement resources, and expands incarceration without addressing the root causes of harm. We urge your opposition to this unnecessary and harmful legislation.

Respectfully,

Michael Abrams, Policy Counsel

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