

February 28, 2025

Dear Members of the Oregon State Senate:

I strongly urge you to support **SB 180 (HB 2300) (as these two bills come together in an amalgamation of one bill)**.

My name is Victoria Burke, and I had proposed this critical bill to all members of the Oregon legislature via email last fall. For background, in 2022, I drafted and proposed the Right to Speak Your Truth Act, and this proposal eventually became the basis for California's AB 933, which was signed into law on October 10, 2023.

Oregon's SB 180 (and HB 2300) are modeled after AB 933's language. After my success in California, I've worked tirelessly to expand this legislation nationwide, with 15 states introducing it this 2025 legislative session and with more set to follow. Those that have introduced it are CT, HI, IA, IL, KS, MA, MD, ME, NH, NJ, NY, OR, PA, RI, and VT. Last fall, Rep. Kevin Mannix was the first to reach out to me and want to bring this bill-and its protections-to Oregon. His long resume of fighting for survivors of sexual abuse made me trust him to shepherd this bill. He brought aboard Sen. Janeen Sollman as well to cosponsor this legislation.

My inspiration to draft the bill was sparked by my own story as a survivor. In December 2019, I went to dinner with a male friend whom I believe drugged my drink. One minute I am in the restaurant and the next minute I am waking up to bright light in the emergency room, coming out of a severe coma. I had been found by paramedics unresponsive in a parking lot, lying in a pool of my own vomit, with my top undone. I went to the police shortly after I was released from the hospital, expecting an arrest to be made. Unfortunately, the police lost both my blood evidence and the video evidence, meaning that an arrest is all but impossible. The only thing I had left that resembled justice was to be able to tell people what had happened to me. Or so I thought.

When I told a friend what had happened to me, she warned me not to name my abuser or include any identifying details—that I could be sued for defamation. This warning shocked me, especially since she was a defamation attorney. I had always believed the law protected you so long as your statements were true or clearly opinion. I felt safe speaking out because either he had drugged my drink, or it was my opinion that he had. The blood evidence was lost, meaning he could not be ruled out as having drugged me. But my friend explained that, in the wake of #MeToo, a wave of retaliatory lawsuits had emerged to silence victims.

These weaponized lawsuits are having a chilling effect on survivors coming forward. These lawsuits brought against survivors are usually meritless and quite impossible for the plaintiff to win (because two people go into a room, and two people exit a room...there is usually little physical evidence to prove what actually happened, especially if the incident occurred years ago). Previously, both sides could simply give their version of events. But now, a wave of frivolous lawsuits clogging an already burdened judiciary system are being put forth. These lawsuits are not filed with the possibility of prevailing, but instead for the purpose of silencing those speaking out about what happened. A common theme is an imbalance of power and money between those who file these lawsuits and the survivor defendant. (For example, Bill Cosby had filed defamation lawsuits against several of his victims.)

Survivors often choose silence to avoid years of costly litigation. But society benefits when predators are exposed. The man I believe drugged me later sexually harassed two women and was ultimately banned from a shared space after their complaints. Predators rarely stop at one victim—silence lets them keep hunting. Using my expertise as an attorney and adjunct law professor, I drafted a bill to address the problem of weaponized defamation lawsuits (which curb survivors' First Amendment Right to Free Speech), while still protecting access to the courts for those falsely accused. You will find SB 180 (HB 2300) balance both vital interests, because these bills were based upon what ultimately became California bill AB 933, the latter of which was vetted by the ACLU to protect all parties involved. Additionally, the bill allows for those survivors who prevail as defendants to recover reasonable attorney fees, which incentivizes attorneys to take on these cases of clients with little financial means.

Last fall, attorney Amber Kinney reached out to me to bring my bill to Oregon. I was happy to tell her that I had already found the support of Rep. Mannix and that we were working on doing just that, and said she should join forces with us. Ms. Kinney, an attorney in the frontlines of these battles, told me a compelling story of her client who was sued after discussing her assault on social media. This survivor was under the age of 18 and eventually prevailed in court. But the ensuing battle was emotionally crushing and financially devastating.

Why Oregon's Anti-SLAPP law is insufficient:

- Oregon's Anti-SLAPP statute protects statements made in legal proceedings (legislative, executive or judicial proceeding or other proceeding authorized by law). [Most statements made by sexual assault victims are to other people or on social media, as most memorably demonstrated by the those using the hashtag during the #MeToo Movement].
- Anti-SLAPP laws do not explicitly protect victims of sexual assault: Anti-SLAPP only protects issues of public interest, and sexual assault is often legally seen as a private issue and not a public interest in the eyes of the law. How broadly a court allows this interpretation leads to inconsistent justice and results.

Why SB 180 (HB 2300) is necessary:

- Explicitly states protection is for those speaking out about sexual abuse (instead of hoping the courts will construe "public interest" broadly enough to encompass sexual abuse, this bill states it in plain language).
- The proposed bill also addresses the "what if" the case proceeds against the survivor, but the survivor-as a defendant-ultimately prevails.
- Sexual assault survivors need a bill that explicitly protects their First Amendment right to speak out with clear and concise language.
- This bill still allows access to courts for those falsely accused who can show the statements were made with malice.

Attorney Amber Kinney was not able to use Oregon's anti-SLAPP law to protect her client, a minor who was a sexual assault victim who told what happened to her on social media. That already is one example where the existing law failed to provide adequate protection.

Moreover, it is far too burdensome to put upon the shoulders of a sexual assault victim the duty to have to safeguard and protect their abuser's reputation while also trying to heal from the trauma experienced. If the abuser can gag the victim and curate what the victim can—and cannot—say ad infinitum, then I put forward that this ability to gag the victim is nothing less than the continuation of the initial attack. So long as the abuser can exert control over the victim, the attack is still in progress.

Please act now to favorably support SB 180 (HB 2300). This bill seeks to disincentivize and make it more difficult for abusers to file meritless, retaliatory defamation claims against their accusers. Additionally, the proposed bill language provides a level of protection for defendants in baseless defamation suits that cannot be disposed of in an Anti-SLAPP motion to strike.

Thank you for your consideration of this very important bill.

Respectfully yours,
Victoria Burke
(Attorney, Adjunct Law Professor, Survivor)