

**TESTIMONY ON SENATE BILL 1179
BEFORE THE SENATE COMMITTEE ON JUDICIARY
MARCH 18, 2025**

**PRESENTED BY: AARON KNOTT,
DIRECTOR OF GOVERNMENT RELATIONS AND COMMUNICATIONS
OREGON JUDICIAL DEPARTMENT**

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

SB 1179 requires a court to consider as mitigation evidence – either at an initial sentencing or if a person was convicted and is currently incarcerated and files a petition to the court – whether the individual being sentenced was subjected to domestic abuse, whether the abuse was a contributing factor in their criminal behavior, and whether sentencing the individual to a presumptive or mandatory sentence would be unduly harsh in light of the circumstances of the crime, the circumstances of the defendant, and the abuse the defendant suffered. If the court finds those three circumstances were established by a preponderance of the evidence, the finding shall constitute substantial and compelling reasons justifying a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission, and the court has discretion to impose a lesser sentence. The application of these factors is not a large departure from existing methods of imposing sentences.

However, section 12 of the bill also creates a procedure by which a person currently serving a sentence of incarceration may petition the court for resentencing by submitting evidence how the person meets the same requirements relating to domestic abuse and the sentence imposed, as outlined above. If the court determines that the facts set forth in the petition do not meet the eligibility criteria, the court shall enter an order denying the petition and provide a copy of the order to the petitioner, who then may request the court to appoint a lawyer for the petitioner. If the court determines the facts set forth do meet the criteria, the court shall set a hearing and appoint counsel for the petitioner. At the hearing, the petitioner has the burden of proof to establish the factors outlined in their petition by a preponderance of the evidence. If the court finds the person has met their burden, the court shall find there exists substantial and compelling reasons justifying a lesser sentence on a presumptive or mandatory sentence, and the court has the discretion to resentence the individual to a lesser sentence.

This provision has the potential to create petitions for resentencing in a large number of cases. The Oregon Justice Resource Center published a survey of women in-custody which demonstrated that of the women surveyed, 44% had experienced physical, sexual, or psychological abuse by an intimate partner and that the abuse was a contributing factor to the person's criminal behavior. Even assuming that only a fraction of those who have the right to petition for resentencing do so, the impact on the court system would likely be significant. Legislative or judicial decisions compelling the resentencing of criminal sentences are rare and the impact can be widespread.

In 2019, the State of New York passed a similar domestic abuse sentencing bill (S1077); the New York Office of Court Administration provided the Oregon Judicial Department with data regarding the use of this law. From May 14, 2019, the effective date of the law, to December 31, 2022, 189 adults in custody applied to the court for a domestic abuse resentencing hearing. The courts approved 82 of these requests and held resentencing hearings.

When reviewing the New York data, it is important to consider that the New York domestic abuse sentencing law is different from SB 1179 in several significant ways:

1. New York resentencing only allowed for sentences of eight years or longer.
2. New York law contains a preliminary step that requires a court to determine if a person is cleared to file a full petition for resentencing.
3. In this preliminary step, New York law requires defendants to submit two pieces of evidence to support their claim they experienced domestic violence.

The Oregon Judicial Department anticipates a significant fiscal and operational impact from the retroactive portions of the proposed bill.