

**TESTIMONY ON SENATE BILL 1120
BEFORE THE SENATE COMMITTEE ON JUDICIARY
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Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

Senate Bill 1120 proposes an expansive range of modifications to the operations of the Department of Corrections (DOC). Section 6 of the Act, however, focuses on new requirements for the Oregon Judicial Department (OJD). While OJD takes no position on the bill as introduced, we submit this testimony to outline the logistical and budgetary complexities of the proposal as written.

Section 6, entitled “Access to Courts,” would direct OJD to establish, manage, and administer a law library at each DOC institution that is modeled after the Multnomah Circuit Court Legal Resource Center, and to provide to each Adult in Custody (AIC) access to the courts and legal resources to the same extent enjoyed by the general public. The bill also would require OJD to develop a range of policies to facilitate the participation of AICs in court proceedings. This testimony will briefly address each requirement in turn.

As an overview, however, it is important to note that OJD currently lacks any operational presence within DOC. OJD staff is not authorized to enter these secure facilities except as visitors, has no infrastructure to facilitate communication between the courts and AICs beyond what is provided by DOC, and has no experience with administering programs or facilities within correctional facilities.

Law libraries. SB 1120 contemplates that OJD would establish, manage, and administer a law library at each DOC institution modeled after the Multnomah Circuit Court Legal Resource Center. This concept was raised in an access to the courts workgroup that was convened early last year to make recommendations to the Governor’s Gender Informed Practices Assessment (GIPA) advisory panel. As far as OJD is aware, that workgroup stopped meeting before any final recommendations were made.

The State of Oregon Law Library (SOLL) responds to all state and federal law reference requests from AICs at all DOC correctional facilities. The SOLL provides access to web-based, online legal databases that include all state and federal law, legislative history, and Black’s Law Dictionary, as well as providing training, both in person and virtually, on those resources. The resources provided include access to materials produced by the Oregon State Bar in a web-based, searchable database and access to OJD forms.

We are interested in continuing the conversation about how we can collaborate with DOC to expand access to legal resources within DOC institutions. However, for OJD to establish and administer a law library in each DOC institution would require a very significant investment of resources in addition to a major reconfiguration of that executive branch department's rules and procedures to accommodate OJD operations and control within the correctional setting.

Comparable access. SB 1120 requires OJD to provide to each AIC access to the courts and legal resources “to the same extent enjoyed by the general public.” Read literally, this seems to require the court to comprehensively model all legal services which are physically or digitally within courthouses and offer those services within DOC institutions, including the ability to physically file documents, access secured public kiosks, speak to judicial staff in person, and attend all hearings in person if a person chooses.

It also is important to note that many courthouses have almost no legal library, so something built “to the same extent enjoyed by the general public” could mean anything from a few books on a shelf to something more robust. There simply isn't a standard that is consistent across the state, and some courts have so little that the community is very disadvantaged when it comes to law libraries.

Finally, other than the Multnomah Circuit Court Legal Resource Center, OJD does not staff or manage courthouse legal libraries. That is a statutory function of the county. Therefore, the logistics of comprehensively mapping the entire universe of law library digital and physical services across the state to ensure truly comparable levels of service for AICs are difficult to accurately estimate. If this bill is to move forward, OJD recommends a significant refinement of how OJD could reach this standard.

Policies and procedures. SB 1120 requires OJD to develop a range of policies, procedures, and judicial and staff training regarding the process for filing and accepting fee waivers and the facilitation of remote appearances where requested, among others. While these requirements are laudable, the implementing language poses challenges as written. For example, section 6(3)(e) requires the court to “schedule cases involving telephone or video appearances by adults in custody to begin at a specific time and last for a specific duration.” Courts currently schedule hearings to start and end at a specific time; sometimes there are delays for reasons outside of OJD's control. Additionally, OJD understands that DOC facilities have limited capacity to allow video appearances. It is not uncommon for the court to request that an AIC appear remotely, only to have the request denied by the institution.

In sum, while the Oregon Judicial Department sees the value in working to facilitate the full participation of AICs with all aspects of the legal system, the language in SB 1120 as written does not integrate well into the existing practices of the State Law Library, county law libraries, courts, or corrections systems, and would result in a very significant fiscal impact. Additional opportunity for discussion and refinement is needed to mitigate

these costs and incorporate any needed changes more smoothly into existing court functions.