Community Law
METROPOLITAN PUBLIC DEFENDER

Testimony in Opposition of House Bill 2492A

Before the Senate Judiciary Committee

May 12, 2025

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

On behalf of the Community Law Department at the Metropolitan Public Defender Office, I submit this testimony in opposition to HB 2492A.

Community Law attorneys and legal assistants work with clients who are facing barriers due to their involvement with the criminal legal system. We provide barrier reduction services including criminal expungement, driver's license navigation, immigration services, eviction defense representation, fines and fee reduction advocacy, and myriad other services. We serve thousands of clients every year and appear in courts throughout Oregon.

We are opposed to this bill because it makes it more difficult for individuals to clear their records. That has real, long-lasting consequences for people trying to rebuild their lives and by extension, for the health and safety of our entire community. This bill also further complicates an already complex, lengthy, and difficult to navigate process and will be a burden on courts and impede future expungement automation.

ORS 137.225 is an important law that allows for the setting aside of criminal records in specific circumstances to the benefit of impacted individuals and all Oregonians. Having this avenue accessible is particularly important to communities living in poverty and people of color as they are disproportionately impacted by the criminal legal system. [1] When people can clear their criminal records, their ability to positively contribute to our communities and economy improve. Studies show that individuals with a cleared record see their income increase by over 22% in the first year alone.[2] When records are cleared, both average employment rates and average earnings improve.[3] Survivors of domestic abuse and sexual violence, particularly "women of color, immigrant women, lesbians, transgender and non-binary people, young women, sex workers, poor women, and other low-power marginalized people" suffer through an overreliance on the criminal legal system which brings survivors into the system as defendants.[4]

Supporters of this change testified that it is important for contempt findings to remain on a person's record to evidence experiences of abuse. ORS 137.225 already addresses this concern in subsections 10 and 11. These subsections permit disclosure and unsealing of set aside convictions, arrests, citations, or charges. Additionally,

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[1] Aterry-Ann Craigie, Ames Grawert, and Cameron Kimble, Conviction, Imprisonment, and Lost Earnings, Brennan Center for Justice. https://www.brennancenter.org/sites/default/files/2020-09/Conviction_Imprisonment_and_Lost_Earnings.pdf.
[2] Prescott, J.J. and S. Starr. (2020). Expungement of Criminal Convictions: An Empirical Study. Harvard Law Review. 133(8): 2460-555.
[3] Jeffrey Selbin, Justin McCrary, and Joshua Epstein, Unmarked? Criminal Record Clearing and Employment Outcomes, 108 J. Crim. L. & Criminology 1 (2018). https://scholarlycommons.law.northwestern.edu/jclc/vol108/iss1/1.
[4] Battered Women Justice Project, Defense Center for Criminalized Survivors, available at https://bwjp.org/wp-content/uploads/2024/10/Defense-Fact-Sheet-UPDATED.pdf.

expungement of protective order violations associated with a criminal case can be objected to under the current law. Further, civil protective orders remain on a person's record and are never eligible for expungement. Therefore, the decision to extend the timeline to five years for a contempt finding to preserve a record is unnecessary and simply too long.

It is important to note that contempt of court is *not* a crime. Oregon appellate courts have made clear that contempt is an administrative finding, not a criminal conviction. [5] Yet this bill would treat contempt the same as a felony for the purposes of expungement, a drastic and unjustified shift. It would penalize individuals, including sometimes survivors of domestic violence, in a way that is both excessive and misaligned with existing law.

This bill also undermines the progress we've been working toward in making expungement more accessible and potentially automatable in the future. Assessment of eligibility under this bill will require a separate analysis, a nuanced case-by-case review that cannot be automated. It would take us further from a system that is efficient, fair, and scalable.

While there have been some amendments to clarify the bill since originally filed, we are opposed to the treatment of contempt as essentially a felony and what these changes will do to the ultimate goal of automating the expungement process.

Members of the committee, I urge you to pause and consider the significant consequences this bill could cause. There is already a reasonable waiting period for contempt findings under current law and a mechanism to object and unseal when the circumstances warrant. Extending that timeline is not only unnecessary, but counterproductive.

Thank you for the opportunity to submit written testimony.

[5] State v. Larrance, 256 Or.App. 850; State v. Caldwell, 247 Or.App. 372; State v. McVein, 305 Or.App. 525.