

February 9, 2026

To: House Committee on Judiciary
From: Steve Wax, Special Counsel

Re: Testimony in Opposition to Torres-Lopez “Fix” in HB 4041

Chair Kropf, Vice-Chairs Chotzen and Wallan, and Members of the House Judiciary Committee:

My name is Steve Wax. I am Special Counsel at the Oregon Justice Resource Center. I had the pleasure of serving as the Federal Public Defender for the District of Oregon for 31 years. Before that, I was an assistant district attorney in New York and part of the team that secured the Son of Sam conviction.

I am here in opposition to the language in HB 4041 being presented as a *Torres-Lopez* fix.

During my 50 plus years in the legal field, I have remained committed to holding our government accountable and fighting for the rule of law. The rule of law is the foundation of a free and just society. But laws are not enough. Even-handed application of just laws is a necessity if a society is to be truly free. I have seen first-hand how fragile the rule of law is and how quickly it can be trampled by the government. My time as the Federal Public Defender involved representing Guantanamo detainees—a result of the belief that what our country was doing was fundamentally at odds with our notions of justice, our justice system, and the nature of our Constitutional limitations on power.

My experiences have taught me that it’s important not to become complacent about the security of our rights. Oregon’s response to the *Torres-Lopez* case and subsequent unlawful actions by the State echo the threats to the rule of law posed by the Trump administration and the Bush administration’s treatment of detainees in Guantanamo. While it has not employed the same level of force and violence as the federal authorities, during the past months the Executive branch in Oregon has asserted unfettered authority to seize and imprison Oregonians without any lawful basis and without any fair process.

The State of Oregon’s actions reflect a profound and disturbing abuse of executive power. Like the Trump administration, the executive in Oregon has engaged in politically pressured arrests and the illegal imprisonment of people. They are forcing these imprisoned people and their advocates to challenge what they know are illegal detentions in the courts.

The legislature must reject these actions by the executive to arbitrarily and summarily arrest and imprison people due to political pressure and resist the District Attorneys’ narrative of an emergency in need of an immediate legislative fix. This false narrative is leading the legislature down the path of not only advancing problematic language without adequate deliberation and input from stakeholders and experts, including organizations and advocates involved in the habeas litigation at the Oregon Supreme Court that has led to this discussion, but also sanctioning and justifying the illegal seizure and imprisonment of Oregonians.

The proposed language in HB 4041 provides far too much power to the Oregon Department of Corrections and District Attorneys without adequate checks on the expanded power. For example, the so-called recapture language provides the Oregon Department of Corrections immense power to detrimentally impact lives by simply changing their minds, and internal policy, on how they interpret and calculate sentences.

A sincere interest in addressing outstanding questions, if any, related to Torres-Lopez calls for an interim legislative workgroup to have a well-considered and vetted conversation.

Passing rushed legislation in the short session will not only result in further confusion and detrimental error by the State, including constitutional violations, but it will also support further abuse of executive power.

I urge you to oppose what is being presented as a “Torres-Lopez fix” in HB 4041.

Thank you.