

OREGON LAW CENTER

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TESTIMONY ON HOUSE BILL 2963 House Judiciary Committee April 2, 2013

Chair Barker and Members of the Committee:

My name is Monica Goracke and I am an attorney in the Portland office of the Oregon Law Center. As you may know, the Oregon Law Center's mission is to achieve access to justice for vulnerable, low-income Oregonians and their communities. I have worked on legal issues that affect homeless people for almost eight years.

I am here to testify today because I am concerned that HB 2963 is unnecessary and will only result in further conflict around sidewalk use in Oregon cities. It appears that HB 2963 is an attempt to nullify a Multnomah County circuit court decision finding that Portland's sidewalk ordinance was preempted by state law requiring a showing of intent in order to prove a violation of the disorderly conduct statute. If the legislature passes HB 2963, it seems likely that Portland business representatives will encourage the Portland City Council to pass a stricter, more expanded sidewalk ordinance than is in effect now.

First, it is important to note that several cities, including Portland, already have ordinances regulating sidewalk use that comply with existing statutes and the federal and state constitutions. There is no consensus in Portland that this bill is necessary to solve any problem with enforcement of the current sidewalk ordinance. Nor is there any consensus that the current sidewalk ordinance is inadequate, or that an expanded sidewalk ordinance would actually solve whatever problems do exist with sidewalk use in Portland. There is, however, a risk that an expanded sidewalk ordinance would both infringe on constitutional rights and be selectively enforced against certain groups, such as homeless people.

Starting in 2006, I was one of many people who helped negotiate and implement a public safety initiative in Portland under the direction of former Mayor Tom Potter. The group working on this initiative included homeless advocates and business owners, as well as nonprofit, government, and neighborhood representatives. This group worked for more than two years and ultimately recommended a political compromise that included both improved services such as benches, restrooms, and a day access center, as well as a stricter sidewalk ordinance than had been in effect previously. While the compromise was not universally popular in theory or in practice, it did represent the hard work of many different stakeholders on a very complicated issue.

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After the new ordinance was passed, we regularly monitored its enforcement and analyzed the warnings and citations that were given out. Nearly all of the warnings and citations were given to homeless individuals. The business community remained unhappy even with the expanded ordinance. The behavior they were most concerned about was not people simply sitting on the sidewalk. The behavior they disliked was people asking for money, people being aggressive and noisy, people hanging out in large groups with backpacks and dogs, people experiencing mental health crises, and people shoplifting or otherwise causing problems inside businesses. The people causing these problems may or may not have been homeless, but enforcement of the sidewalk ordinance was certainly affecting homeless people more than any other group.

None of the behaviors that the business community finds most problematic in Portland can be addressed with an ordinance that regulates sitting, lying, or placing belongings on the sidewalk. Some of these behaviors can be addressed by existing laws against harassment and intimidation. The current sidewalk ordinance already does make it illegal for groups of people to block the sidewalk. Some of the problematic behaviors cannot be addressed by laws at all. You cannot make it illegal for people to experience a mental health crisis, or for certain groups of people to hang out together in public, and you cannot make it illegal for people to act rudely or be annoying.

Using police to move people from the sidewalk is not an effective way to solve homelessness or to alleviate social problems associated with homelessness. It results in increased criminal penalties and fines that make it harder for people to get jobs and housing. It also increases the likelihood of conflict between police and people experiencing mental health crises. A far more effective way to address homelessness would be to increase public resources for housing and mental health treatment.

If a coalition of stakeholders were here from Portland or around the state to ask the legislature to pass this bill, that would suggest some agreement that the bill is necessary to remove a barrier to solving a public safety problem. There is no such coalition or agreement here. I request that you not pass this bill. Thank you for your time and consideration of my testimony.

Sincerely,
Monica Goracke