



# Legislative Testimony

Oregon Criminal Defense Lawyers Association

May 8, 2013

The Honorable Jeff Barker, Chair  
The Honorable Chris Garrett, Vice-Chair  
The Honorable Wayne Krieger, Vice-Chair  
House Judiciary Committee, Members

**RE: Senate Bill 812**

Dear Chair Barker, Vice-Chairs and Members,

The Oregon Criminal Defense Lawyers Association is an organization of attorneys who represent juveniles and adults in delinquency, dependency, and criminal prosecutions and appeals throughout the state of Oregon. Thank you for the opportunity to submit the following comments in opposition to Senate Bill 812.

- 1.) Senate Bill 812 seeks to grant attorneys in judicial districts with three or fewer judges one less right to file a motion for change of judge than is afforded attorneys in larger judicial districts. OCDLA submits that this is a matter of judicial administration that ought to be considered in a larger forum that elicits stakeholder in-put, analysis of data, and consideration of impact in all judicial districts.
- 2.) Typically, legislation affecting judicial administration undergoes a level of scrutiny that has not yet been applied to Senate Bill 812. If introduced by the Council on Court Procedures, there is in-put from attorneys throughout the state of all manner of practice, as well as from the courts. If introduced by the Oregon State Bar, it is first analyzed by the committees of Procedure and Practice or Judicial Administration and then ultimately approved by the Public Affairs Committee of the Board of Governors. If introduced by the Oregon Judicial Department, it is done after consideration of in-put from all districts and often after eliciting feedback from attorneys and stakeholders.
- 3.) Senate Bill 812 has been introduced at the request of individual judges who complain of a practice of judge shopping by a few attorneys. OCDLA submits that ORS 14.260 already has a procedure for addressing that problem, which is for the judge moved

against or the presiding judge to challenge the good faith basis for the motion and request a hearing.

4.) While on first blush it may appear as though attorneys in small judicial districts enjoy a disproportionate advantage through the use of two challenges, on further analysis it is precisely *because* they practice in small districts that two challenges are necessary. Attorneys, parties, witnesses, jurors and judges all live in the same communities, participating in the same schools, church and community activities. It is because of this proximity and familiarity that it often arises that either the attorney or the client believes that a change of judge is necessary.

5.) OCDLA submits that Senate Bill 812 is precisely the kind of legislation impacting court procedures and judicial administration that ought to receive considered attention during the interim period, where this dynamic can be subjected to data analysis and receive in-put from stakeholders throughout the state.

*Respectfully submitted,*

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