

Oregon Crime Victims Law Center

7412 S.W. Beaverton-Hillsdale Hwy, Suite 111

Portland, OR 97225

(503) 208-8160 • Fax (866) 838-4142

Via email to: mike.reiley@state.or.us

January 30, 2015

Re: House Bill 2339

To the Members of the House Committee on Judiciary:

I am writing in support of House Bill 2339, which would require the courts to appoint an interpreter and provide appropriate assistive communication devices when necessary for crime victims who assert their constitutional rights in open court.

Crime victims have both a constitutional and a statutory right to be present during the trial. Or. Const. Art. I § 42(1)(a), ORS 40.385(4). The exercise of these rights is not meaningful if victims are unable to understand what is being said by the court, the attorneys, and the witnesses. It is the court's responsibility to protect a victim's rights in the courtroom.

Under ORS 45.275(1), "The court shall appoint a qualified interpreter in a ...criminal proceeding...whenever it is necessary: (c) to assist the court...in performing the duties and responsibilities of the court... (2) No fee shall be charged to any person for the appointment of an interpreter ... to assist the court ... in performing the duties and responsibilities of the court... (4) Fair compensation for the services of an interpreter appointed under this section shall be paid: ... (c) By the state in a proceeding in a circuit court. Amounts payable by the state shall be from funds available to the court..."

The Oregon Constitution clearly says that a victim's Constitutional right to be present at trial was adopted "To preserve and protect the right of crime victims to justice, the ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and ... also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants ..." Or. Const. Art. I § 42(1).

The necessity of providing an interpreter for trial for an indigent defendant who is unable to speak and understand the English language is discussed in the 1974 Ninth Circuit case of *Arizona v. Natividad*, 111 Ariz. 191, 194, 526 P.2d 730, 733.

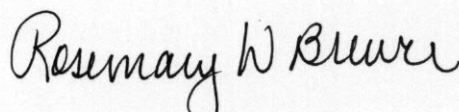
"It is axiomatic that an indigent defendant who is unable to speak and understand the English language should be afforded the right to have the trial proceedings translated into his native language in order to participate effectively in his own defense, provided he makes a timely request for such assistance," the court concluded. "A defendant's inability to spontaneously understand

testimony given would undoubtedly limit his attorney's effectiveness, especially on cross-examination. It would be as though a defendant were forced to observe the proceedings from a soundproof booth or seated out of hearing at the rear of the courtroom, being able to observe but not comprehend the criminal process..."

There is no reason why a crime victim's Constitutional right to be present during trial would not similarly be compromised if they cannot understand the proceedings. At the Oregon Crime Victims Law Center, we provide free legal assistance to crime victims seeking to assert their rights in the criminal justice system. We regularly work with non-English speaking victims who want to participate in the system and are unable to meaningfully do so because they simply can not understand what is being said. We have petitioned courts all over the state asking for interpreters for families who have lost children to murder, only to be told that while it's likely victims should have interpreters, courts are unwilling to provide them. This must be changed. A victim should be able to *meaningfully* participate in the process, as the Constitution provides, and must be able to understand what is being said to do so. We ask that you support House Bill 2339.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Rosemary W Brewer". The signature is written in a cursive style with a large, looped initial "R".

Rosemary W. Brewer
Legal Director