



Legislative Testimony

Oregon Criminal Defense Lawyers Association

February 16 2017

The Honorable Floyd Prozanski, Chair
Senate Committee on Judiciary, Members

RE: SB 497: Testimony in support

Dear Chair Prozanski and Members,

The Oregon Criminal Defense Lawyers Association is an association of attorneys who represent juveniles and adults in delinquency, dependency, criminal prosecutions, appeals, civil commitment and post-conviction relief proceedings throughout the state of Oregon. Thank you for the opportunity to submit the following comments in support of SB 497.

SB 497 is intended to be a technical fix to the expungement statute [ORS 137.225] by addressing a “hole” at the bottom spectrum of records that qualify for expungement relief.

ORS 137.225 (1) allows for expungement of records of a “conviction” and of an “arrest” of a Class C felony or misdemeanor or a non-traffic violation. A problem arises when a person is not “arrested” in the formal sense nor “convicted” in the formal sense, but nonetheless a record exists of an allegation that they had committed an expungement-eligible offense. A common example occurs when a person is cited in the field to later appear in court and yet, upon appearing in court, no charges are filed by the state – meaning, the individual is free to go. In that instance, the person has not been formally “arrested” in the search and seizure sense, nor “convicted” and yet the record of the citation remains. Depending on the nature of the allegation, this record of the citation can have long-term ramifications for the person on their applications for housing and employment.

Absent a fix such as SB 497, an anomaly exists in our current expungement laws. Persons who are *most* culpable – those who are formally “arrested” and/or “convicted” are eligible to wipe clean their record, yet those who are *least* culpable – those who are *neither* formally “arrested” nor “convicted” may not. SB 497 is intended to rectify this anomaly. We urge your “aye” vote.

For questions or comments contact Gail L Meyer, JD
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