

## HB 4055

### Bracken McKey's Testimony

(Senior Deputy District Attorney, Washington County)

Chairman Barker and Vice-Chairs Williamson and Olson,

Thank you for the opportunity. It's an honor for me to be here today with Tom and Susan Robinson, Anna and Abigale's parents. I want to call this Anna and Abigale's law and I want to talk about why we're here. The Court of Appeals identified a gap in the current hit and run law, when they wrote, "The State may be right in identifying a statutory gap, but it is not our role to fix this gap for the legislature. "

Essentially, they invited you to fix the current law. I want to talk about what this law does and what it doesn't do. It does two things: First, if a driver is involved in a collision, they need to investigate what they hit; second they have a responsibility to comply with the hit and run law, if they've left the scene before they learn they were involved in a crash. It doesn't expand the current obligations that a driver has, it also doesn't expand who that information must be provided to, it simply changes the timing.

I want to talk about the 5<sup>th</sup> Amendment. We've had ORS 811.700 since 1983. During that time, that statute has been challenged once, in State v. Monroe, when it comes to a person's 5<sup>th</sup> Amendment Rights. I'll get to what Monroe said in a minute, but it's important to understand that nowhere in this bill do we change what information must be provided, or who that information must be provided to. It changes only the timing for providing that information to include drivers that become aware of collision after they've left the scene.

The current hit and run law already requires a driver to remain at the scene of an accident until a police officer has arrived and received the required information if all of the people that you would normally provide that information to are either deceased or unconscious. If Oregon's current hit and run law does not violate a driver's right against self-incrimination, neither does HB 4055.

We know from State v. Monroe that Oregon's current hit and run statute, as it stands, does not violate a defendant's right against self-incrimination. And again, this is the one case since 1983 that addresses this issue, so we're talking about 35 years of good law.

There are other states that have similar provisions, and while they don't share Oregon's Article 1, Section 2, they have their equivalent, plus the 5<sup>th</sup> Amendment. Utah does. Minnesota does, and so does Washington D.C.

This is Anna and Abigale. This picture was taken moments before their death. I want to talk about why this law is important and it's important to understand that this involves real people.

It's hard for someone to claim ignorance of their involvement in a crash when that crash involves another vehicle. What this bill is really about is protecting our most vulnerable; the cyclist, the jogger, the small child chasing a ball, or maybe the next little girl in a leaf pile.

Think about the hit and run law as the Oregon Court of Appeals has now defined it. You can less than a block away and moments later in time when you learn that you've run over and seriously injured another person and you have zero responsibility to help them. No responsibility to call 911. No responsibility to take steps that might save a child's life or at the very least, lessen the emotional burden on a grieving family.

There will be times when returning to the scene or picking up your phone to call 911 will literally mean the difference between life and death. Isn't that what we want?

The current law, as defined by the Court of Appeals allows for, or even encourages plausible deniability. That is bad public policy. We can do better. Whether you're from Track Town USA or Bike Town, this is a law that protects the most vulnerable in our communities. Oregonians are stronger when we look out for each other. When we do the right thing. And today I'm asking you to do the right thing and pass Anna and Abigale's law.