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Governor



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Testimony in Support of HB 4149A
February 23, 2018, HR 343 at 8 am
Senate Committee on Judiciary

Chair Senator Prozanski, Vice Senator Thatcher, and Senators, Bentz, Dembrow, Gelser, Linthicum, and Wagner:

The Oregon Commission for Women (OCFW), in its role of advocate for the women and girls of Oregon, supports HB 4149A, which places restrictions on provisions prosecuting attorneys can offer in plea and release agreements. We are also submitting this testimony on behalf of the Oregon Commissions on Asian and Pacific Islander Affairs, Black Affairs, Hispanic Affairs, each of which supports HB 4149A as of intersectional importance to their constituent communities.

The Oregon Commission for Women is committed to advocating for the just treatment of women in Oregon, including women who are involved in the criminal legal system.

Tens of thousands of criminal cases are prosecuted every year in Oregon. Up to 95% of those cases are resolved through plea agreements. It is through the negotiation of these agreements that decisions are made about a defendant's criminal conviction types and resulting collateral consequences, length of sentence, the ability to enforce future rights, including constitutional rights, and the opportunity to access future rehabilitative programs. Each of these decisions may be of great consequence to a defendant's life and liberty.

Unlike negotiations of agreements in other areas of the law, the parties in plea negotiations do not have equal bargaining power. The system is set up such that the prosecution holds incredible power and leverage over defendants and ultimately sets the terms of the plea agreement. For example, the prosecution determines the type of and number of charges brought against a defendant. This sets the maximum sentence the defendant will face if she goes to trial and greatly influences her decision to take a plea offer of either less convictions or convictions for lower level crimes. The prosecution is often the gatekeeper to a defendant's ability to access alternatives to incarceration and avoid mandatory minimum prison sentences, all of which can be influential in the plea negotiation. The prosecution has the leverage to set terms such as waivers of a defendant's constitutional and procedural rights. Oregon's sentencing laws, criminal procedures, and imbalance of power create immense pressure on a defendant to accept unfavorable terms in a plea offer to avoid the very punitive consequences of going to trial or to more quickly resolve the case to tend to immediate life responsibilities. Furthermore, the pressure to avoid trial is felt more severely by defendants of color and those on the margins, who

OR Commission on Asian and Pacific Islander Affairs

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are less likely to face a jury of their peers and are already reasonably distrustful of our criminal legal system.



Julia Yoshimoto, member
Oregon Commission for Women



Chanpone Sinlapasai, Chair,
Oregon Commission on Asian and Pacific
Islander Affairs



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