



Andy Robinson Testimony on LC 45 section 14

June 22, 2020

Good afternoon Co-chairs Courtney and Kotek and Members of the Special Committee,

I'm Andy Robinson, president of AFSCME Local 2435, the OPDS appellate public defenders. Thanks very much to you and your staff for providing this opportunity to provide testimony today.

I'm here to express my local's opposition to LC 45, Section 14. Among other things, Section 14 would authorize courts to impose **indefinite pretrial detention** during the emergency, even for people charged with misdemeanors and non-violent felonies, so long as the state makes a sufficient showing that releasing the person would be dangerous. Subsection (3)(b)(B) and (C).

We oppose that for several different reasons, but what I want to emphasize is that the proposal would be a significant expansion of Oregon's use of **preventive** detention, and by that I mean the use of pretrial detention as a way to prevent people from committing future crimes, rather than just to ensure their availability for trial. As currently written, this proposal would extend the use of **indefinite pretrial detention** to people charged with nonviolent felonies and misdemeanors, and it would do that for expressly *preventive* purposes.

Preventive detention isn't unconstitutional *per se*, but when not used sparingly it tends to undermine the right to a jury trial, because if the state can just hold a person before trial for as long as whatever the sentence might be, there wouldn't be much point in having a trial at all. So it presents the risk that a person is effectively being punished for their supposed future crimes instead of their past ones.

For that reason, it shouldn't be expanded to non-violent felonies and misdemeanors. Doing so would allow preventive detention of people deemed dangerous even if the crime they're charged with is a non-violent crime with no real connection to the danger posed by release. If there's no real nexus between the charge and the danger presented by release, then that starts to look a lot like using preventive detention for people deemed dangerous who haven't even been charged with a crime at all.

So that in a nutshell is why we oppose this current draft.

I'd ask the committee to amend the bill to address those concerns. Thanks again for your time.