



Legislative Testimony

Oregon Criminal Defense Lawyers Association

February 3, 2019

The Honorable Representative Jennifer Williamson, Chair
House Judiciary Committee, Members

Re: Testimony re: HB 2044

Dear Chair Williamson and Members of the Committee:

The Oregon Criminal Defense Lawyers Association (OCDLA) is a private, non-partisan, non-profit bar 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. The Oregon Criminal Defense Lawyers Association serves the defense and juvenile law communities through continuing legal education, public education, networking, and legislative action. OCDLA promotes legislation beneficial to the criminal and juvenile justice systems that protects the constitutional and statutory rights of those accused of crime or otherwise involved in delinquency and dependency systems as well as to the lawyers and service providers who do this difficult work. We also advocate against issues that would harm our goals of reform within the criminal and juvenile justice systems.

Thank you for the opportunity to submit the following comments regarding HB 2044.

Over the years (through my predecessor Gail Meyer and now myself), OCDLA has participated in both the original Sex Offender Level Classification workgroup hosted by the Board of Parole and Post Prison Supervision (BPPPS) and in their subcommittee on SONL reclassification and relief. OCDLA maintains a very positive relationship with the Board, and we appreciate them asking for our input and listening and responding to our concerns.

Under the current SONL law, once a person is classified under the level system, they have 60 days from the date they receive notice of their classification to file a petition to challenge their classification level. HB 2044 seeks to change the timeline from when the person *receives* notice to “The petition may be filed no later than 60 days after the notice of the classification is *provided to the person* or, if the notice is mailed, no later than 60 days after the *notice is sent.*”

It is common knowledge that one of the many collateral consequences associated with the requirement of sex offender registration is homelessness. Our concern with this bill is that due to many registrant's inability to regularly monitor or receive their mail, a large swath of registrants will miss out on the important procedural ability to challenge their classification. Since the bill revises the 60-day timeline from when the notice is sent or mailed, it fails to take into account actual receipt which is really important in this type of process, especially for people who don't have a way to get mail.

We are also concerned that 60 days is an incredibly quick turnaround for even people who actually receive notice—the petition process requires substantive documents be filed to challenge the classification, and 60 days is tight as most people who wish to challenge their classification will likely want or need to obtain a lawyer, gather information, and file substantive documentation.

I have had conversations with members of the Board and the Governor's office about the homelessness issue, and they have expressed their willingness to modify their current draft to make sure homeless registrants don't lose their ability to object to their classification due to lack of notice. We discussed creating language that creates a process for how the board intends to provide the notice to homeless registrants and language that allows the board to waive the timeline and allow a petition after the 60 days for good cause, and good cause should be defined to include homelessness and lack of actual notice.

We appreciate the Board's willingness to work with us on this bill, and we will make ourselves available to work on an amendment. For the reasons outlined above, OCDLA strongly urges this committee to consider an appropriate amendment prior to voting on this bill. Thank you for your consideration.

/s/ Mary A. Sofia

For questions or comments contact Mary A. Sofia, OSB # 111401
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