

May 7, 2019

The Honorable Senator Floyd Prozanski, Chair  
The Honorable Senator Kim Thatcher, Vice-Chair  
Senate Judiciary Committee, Members

**Re: Testimony in Support of House Bill 3201**

Dear Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

On behalf of Innovation Law Lab and Causa, we write to express our strong support for House Bill 3201. This important piece of legislation will ensure that all individuals eligible for deferred resolution of their criminal cases receive equal access to the benefits of these programs, irrespective of immigration status.

Causa is Oregon's Latino immigrant rights organization. Founded in 1995, Causa works to improve the lives of Latino immigrants and their families in Oregon through advocacy, coalition building, leadership development, and civic engagement.

Innovation Law Lab is a Portland-based 501(c)(3) non-profit organization that works to create a rule of law counter-structure that opposes the mass incarceration and mass deportation of immigrants, particularly immigrant communities of color. In addition to helping lead the state-funded Equity Corps initiative that provides free representation to low-income Oregonians in removal proceedings, Innovation Law Lab is committed to building a more inclusive Oregon through litigation and strategic statewide advocacy.

HB 3201 helps provide equal access to justice for all individuals who appear in Oregon courts. In establishing deferred resolution programs – both diversion programs and conditional discharge – the Oregon State Legislature intended to provide an alternate path through the criminal justice system for first-time and low-level offenders. Through these programs, criminal charges against eligible individuals will be dismissed upon the completion of court-mandated programming focused on restitution and rehabilitation.

For Oregonians who are not United States citizens, however, this legislative intent is not accomplished. Under current Oregon law, diversion program participants must plead guilty or no contest to the criminal charges before them. Such pleadings constitute a “conviction” for immigration purposes under the broad definition established by § 101(a)(48)(A) of the Immigration and Nationality Act.<sup>1</sup> A conviction under § 101(a)(48)(A) may then trigger severe immigration consequences, including detention, deportation, loss of immigration status, and ineligibility for citizenship. These consequences impact noncitizens of all immigration statuses,

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<sup>1</sup> 8 U.S.C. § 1101(a)(48)(A).

including green-card holders, refugees and asylum seekers, DACA recipients, and undocumented individuals.

Rather than providing a proportionate and just alternative to a criminal conviction and incarceration, deferred resolution programs instead inflict tremendously disproportionate and life-altering consequences on their noncitizen participants. These impacts also deter eligible individuals from participating in such programs, depriving them of appropriate diversion options intended by the Legislature and requiring the State to expend additional resources in traditional criminal proceedings.

HB 3201 addresses the unequal impacts of Oregon's deferred resolution statutes by replacing the requirement of a guilty or no-contest plea with a waiver of key procedural rights. This amendment ensures that noncitizens have an equal opportunity to benefit from these programs without incurring the devastating cost of collateral immigration consequences, while honoring the Legislature's intent of existing diversion and conditional discharge programs.

By revising Oregon's deferred resolution statutes, HB 3201 helps ensure equal treatment under the law for all Oregonians, regardless of immigration status. Innovation Law Lab and Causa commend this proposal and urge the Legislature to swiftly pass this important bill.

Sincerely,

INNOVATION LAW LAB

CAUSA



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