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Employment Law

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Via Email

House Committee on Judiciary
House Democratic Leader Jennifer Williamson, Chair

Re: Testimony in Support of Senate Bill 726

Chair Williamson and Members of the Committee:

Thank you for the opportunity to testify in support of SB 726, the Oregon Workplace Fairness Act. I am a civil rights attorney and leader of the Worker Rights Policy Group of the Oregon Trial Lawyers Association. OTLA members fight for workers who face on-the-job discrimination and sexual harassment and our members strongly support SB 726.

First, the bill recognizes what those of us that represent employees have consistently observed: that the vast majority of employees have little to no bargaining power with their employer. Employees are often required to sign away their rights as a condition of (at-will!) employment and now some employers are extending their unilateral requirements to include employees waiving their ability to disclose discrimination. This bill helps to reverse this trend and prohibits employers from preemptively silencing employees that have experienced or witnessed discrimination. The bill goes on to ensure that if workplace discrimination results in a victim's employment being separated, the victim – not the employer – has the right to choose whether to keep the experience confidential. The strong public policies underlying the concepts in the bill have been recognized in legislatures across the country.

Next, the bill recognizes that a victim should not be prevented from working with an employer in the future, simply because that person has exercised their rights to be free from discrimination. In Oregon there are numerous very large employers, such as the state, large manufacturing employers, and large car dealership employers. If a person separates their employment with one division or local entity, they should not be prevented from gainful employment with a separate division or entity. It is currently unlawful to retaliate against a person for exercising their rights, if employers are allowed to use no rehire clauses this will permit unlawful retaliation.

Finally, we know that Oregon workers have intersecting identities and harassment doesn't always fit neatly into one box. The bill rightly recognizes that discrimination on the basis of race or disability is just as wrong as discrimination and harassment based on sex. Similarly, we know that it can

take victims of abuse and harassment years to come forward and the bill recognizes that transparency and accountability should be prioritized through lengthening the statute of limitations.

We commend committee members for all your efforts to improve the quality of life for workers and to provide them on-the-job protections. In order to ensure that the protections passed by the committee are effective, they must be enforceable. By providing employees an enforcement mechanism through ORS 659A.885(3), this bill ensures workers have access to the essential rights that are supported by this bill.

OTLA supports the effort to help eliminate workplace discrimination and urges a yes vote on SB 726.

Sincerely,
Christina Stephenson