

February 2, 2021

House Committee on the Judiciary
Oregon State Legislature
Salem, Oregon

Re: House Bill 2239

Dear Chair Bynum & Members of the Committee:

I am writing in **profound** support of House Bill 2239, which is intended to increase justice-involved servicemembers' access to veteran treatment courts (VTC's).

First, I wish to briefly introduce myself. I am a U.S. Army veteran, having served during the Vietnam and Cold War eras with artillery units of the 1st Armored Division, stationed in West Germany. I am now a recently retired attorney, and am an inactive member of the Oregon State Bar. Starting in 1988, I worked as a criminal defense lawyer. Since 2003, when I became a charter member of the bar's volunteer Military Assistance Panel, I have worked continuously on servicemember advocacy.

In 2008, I became aware of the increasing number of justice-involved servicemembers. As a consequence, I changed my primary focus to that area. Either as counsel or in a consultancy role, I have been involved in numerous justice-involved servicemember cases, mostly concerning major felony prosecutions. I also have worked on several servicemember-related legislative bills, mostly successfully,¹ and I served as editor, and contributed to, the practitioner's manual *Still At War: A Guide for Defenders, Prosecutors, & Judges Dealing with Oregon's Veteran Defendant Crisis* (OCDLA 2017).

The reason for my profound support of HB 2239 is based on my conclusion that the bill has a very high likelihood of becoming the legislature's **most successful** concept in rehabilitating justice-involved servicemembers and protecting the public. The state's five VTC's have solid track records of success in rehabilitating servicemembers. The problem is that the state's remaining counties lack VTC's, so are less successful in such rehabilitation. HB 2239 can't guarantee servicemembers' access to VTC's. But in my

¹ The successful legislation includes House Bill 2462 (2019), Senate Bill 124 (2013), Senate Bill 125 (2013), House Bill 2702 (2011), Senate Bill 999 (2010), and House Bill 2303 (2009).

opinion, the bill does guarantee a significant increase in such access, and that guarantee will ensure an increase in servicemembers' rehabilitation.

There are three additional points I wish to make. The first stems from a December 8, 2020 email I sent to HB 2239's sponsor, Representative Wilde. I suggested increasing VTC eligibility by replacing the bill's definition of "veteran" with ORS 135.881(4)'s broader definition of "servicemember."² It is my understanding that such an amendment will be considered.

My other two points address a letter that Erin Pettigrew of the Oregon Judicial Department provided Rep. Wilde. Ms. Pettigrew stated that a judge would lack jurisdiction over a case transferred from a different county. This is incorrect. Jurisdiction pertains to **state** authority. The bill's Section 1(1)(b) (lines 8-9) authorizes transferring a case to "another judicial district." Such a transfer affects **venue**, not jurisdiction. A criminal defendant has a right of venue, but may waive that right. ORS 131.305. A justice-involved servicemember who seeks such a transfer would impliedly waive the right of venue (but the better practice would be to obtain an express waiver).

Ms. Pettigrew also expressed concern with the challenges a VTC might have with supervising a justice-involved servicemember who lives in a different county. That sort of thing already is being done. For example, I observed the Marion County VTC exercise supervision authority over a veteran in Jackson County, who was housed at the White City VA Medical Center. In any event, a Uniform Trial Court Rule could be developed, which would accommodate the supervision of servicemembers who live outside the applicable VTC's county.

Again, I wish to express my profound support of House Bill 2239. I urge the committee's approval of the bill, and am available to answer any questions the committee might have.

Sincerely,

s/Jesse Wm. Barton
JESSE WM. BARTON
Legal Consultant

² The servicemember-diversion bill, SB 999 (2010), created this definition. The servicemember-mitigation bill, SB 124 (2013), incorporates this definition.