

# OREGON TRIAL LAWYERS ASSOCIATION

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Testimony of Arthur Towers

OTLA Political Director

**In Support of House Bill 2204**

House Committee on Judiciary

House Subcommittee on Civil Law

March 16, 2021

Chair Power, Vice Chair Wallan, member of the committee, thank you for the opportunity to submit testimony in support of HB 2204.

This bill is purely and simply a government accountability bill. As Oregonians, we empower our police to use physical force – up to and including the taking of life – in order to keep us safe. With this great power comes great responsibility, and the abuse of this responsibility should come with accountability. That is the core reason why we desperately need HB 2204.

HB 2204 increases the financial consequences for police forces that fail to properly train police officers and that are negligent in the administration of justice. HB 2204 provides a better opportunity than in existing law for Oregonians who are victimized by the police to seek justice and closure.

The bill allows these cases against our government to proceed in state court. In state court, the intentionality of the acts that led to injury or death is not in question. The question is whether or not police departmental or individual negligence led to the injury, death, or harm. That is a reasonable threshold for grieving families to meet in order to prevail in their effort to seek justice for a life-changing injury.

**HB 2204 is a deterrent to sub-standard police departments.** If fear of successful litigation motivates a police department anywhere in Oregon to review and upgrade its training and procedures, then the bill will have been a success.

**HB 2204 does not increase costs and damages.** The damage has been done. The only question is whether the cost of that damage will be borne by the victim or the negligent government entity that caused the damage.

**HB 2204 does not guarantee victory for a plaintiff.** HB 2204 simply gives the victim a more level playing field on which to pursue justice. Because of the contingency fee system, a victim's lawyer would still need to have great confidence in the validity of the claim to bring a case forth. The costs associated with bringing an unsuccessful suit are almost always borne by the plaintiff's lawyer. The court costs get paid, the expert witnesses get compensated, the support staff and overhead need to be paid. Cases like these cost tens of thousands of dollars to bring, and they will not be brought lightly in state court.

Section 5(2) creates an unnecessary barrier for victims of police misconduct and should be stricken from the bill. As you heard in oral testimony, Section 5(2) causes victims to contemplate personal bankruptcy before filing a case. This is not a hurdle we should put before victims of state-sponsored violence. Bringing such a case means re-living a trauma that many would much rather simply put behind them. If the victims are courageous enough to come forth, they should not also be required to contemplate personal financial ruin.

Oregonians have a 7<sup>th</sup> Amendment right to hold their government accountable in a court of law. HB 2204 provides local jurors more power to hear both sides of the story and determine if their government has failed the victim and the community. This is the heart of the Constitution.

We urge that you vote YES on HB 2204.