



LatinoNetwork

Testimony in Support of HB 2169
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March 18, 2021

Chair Bynum, Vice-Chairs Noble and Power, and Members of the House Judiciary Committee,

Latino Network appreciates the opportunity to provide this testimony. **Latino Network strongly supports HB 2169 to improve public safety in Oregon and reform our criminal justice system by adopting the recommendations of the Racial Justice Council.** As a member of the Fair Shot For All Coalition we support this bill as part of our ongoing work towards achieving racial justice in Oregon.

Due process, fairness, and justice cannot exist in a criminal legal system tainted by bias, racism, and disparate treatment. Yet, Oregon's criminal justice system continues to disproportionately detain, criminalize, and harm communities of color. It is far past time for Oregon to approach public safety and police accountability with our eyes wide open to these impacts. In seeking to address them, we must center racial justice, transparency, accountability, and holistic community safety.

HB 2169 includes crucial recommendations from the Criminal Justice Reform & Police Accountability Committee of the Governor's Racial Justice Council. The policies in this bill respond to a nationwide call for a long-overdue reckoning with the harm our systems perpetuate, sparked by the murder of George Floyd in May of 2020. The proposed reforms would promote restorative justice, expand police oversight, improve transparency, and require police to provide basic information to individuals they stop and seek to search. Further, and the focus of this testimony, the bill would advance equal treatment in our courts by allowing immigrant and noncitizen Oregonians to participate in diversion programs.

Diversion programs make our society safer by addressing the root causes of conduct that results in societal harm. They do this by offering eligible defendants the chance to avoid a criminal conviction and its collateral consequences by complying with conditions that are meant to address the harm they may have caused and to prevent such harm in the future. This can include, for example, requiring a defendant to complete drug rehabilitation, anger management, alcohol treatment, or other educational and rehabilitative programs.

However, because of the structure of Oregon's diversion programs, immigrants who successfully complete deferred resolution programs still have a "conviction" under federal law. This is because federal law uses a broad definition for what it considers a "conviction" for the purposes of

immigration law.¹ Under that definition, an immigrant Oregonian who has executed a guilty plea or made an admission to alleged facts has a “conviction” even after the state has dismissed the relevant charges.

A conviction for even minor state law offenses can have life-changing consequences for immigrants in Oregon. That is because a conviction for even very minor offenses can result in deportation or bar otherwise-eligible immigrants from receiving critical immigration benefits or even citizenship.

This current system creates a deterrent to individuals participating in these important programs that make our state safer. For an immigrant facing criminal charges in Oregon, the potential immigration consequences of having a “conviction” on one’s record are frequently much more significant and life-altering than the jail time or financial sanctions the criminal charges carry in state court. If diversion does not fulfill its promise of no conviction, otherwise eligible individuals have little incentive to resolve their charges without a trial. That dynamic produces unnecessary strain for an already overburdened court system and keeps individuals from receiving treatment.

This current system also creates serious inequities in our criminal justice system by failing to provide the same result for similarly situated defendants. A basic tenet of any criminal justice system is fair and equal treatment—in Oregon’s courts, a person should not receive a worse outcome in a criminal proceeding based only on the person’s race, religion, gender, sexual orientation or immigration status.

HB 2169 solves this problem by allowing individuals who are eligible for DUII diversion to complete the program without the unintentional consequence of a conviction for immigration purposes. It does this by allowing eligible individuals to enter into diversion without entering a guilty plea, but instead waiving all trial rights, assuring that should the individual fail to successfully complete the program, they will receive a conviction just like any other participant. This procedure already exists in Oregon law, as part of the conditional discharge procedures, ORS 475.425.

Diversion programs carry significant benefits: fewer cases proceed to trial and, therefore, they consume fewer court resources; more defendants receive treatment for conditions such as drug and alcohol addiction; and successful defendants are able to get on with their lives without the collateral consequences of a criminal conviction.

The policies developed by the Criminal Justice Reform and Police Accountability Committee will make all of us safer by centering those who are most disproportionately harmed by our criminal justice

¹ 8 USC § 1101(a)(48)(A) states that, for the purposes of immigration law:

“(A)The term “conviction” means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and
(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.

system and creating simple changes to make the system more equitable. Together, we can make Oregon a place where we all have a fair shot and feel safe. **We urge your YES vote on HB 2169.**