

March 22, 2021

Representative Janelle Bynum, Chair  
Representative Ron Noble, Vice Chair  
Representative Karin Power, Vice Chair

RE: In support of HB 2825

Dear Chair Bynum, Vice-Chairs Noble & Power, and Members of the Committee:

My name is Sara Foroshani. I am a deputy public defender and senior trial attorney at the Public Defender of Marion County (PDMC). During my time as a public defender, I have represented people who experienced & survived domestic physical, sexual or emotional violence who were facing charges including assaults, delivery of drugs, property crimes, robberies, kidnaps & homicides. Often times these charges were measure 11 (M11) charges. I have presented on this topic at the at the Oregon Criminal Defense Lawyers Association annual conference in summer of 2019 and at the Women in Prison Conference in fall of 2019. While I draw from my professional experience in support of HB 2825, I provide this testimony in my personal capacity: an Oregon resident & concerned citizen.

Due to the mandatory minimum prison sentences that M11 crimes carry many survivors of domestic physical, sexual, & emotional violence engage in devastating plea negotiations. Often times these plea negotiations will still result in felony convictions & prison sentences. The felony convictions alone can cause a survivor to lose their housing, employment, access to further education, access to resources, & their overall self-worth. The lengthy prison sentences also create more inter-generational trauma for the survivors' children who too often become displaced.

When people experience and survive domestic physical, sexual and emotional violence that trauma can influence those people to engage in conduct that they otherwise wouldn't do. For example, a couple years ago, I represented a young woman accused of murdering her abusive boyfriend. This young woman had not only been a lifelong victim of emotional, verbal, physical, and sexual violence, but she was a victim throughout this specific relationship. Particularly, this abuser had strangled, hit, and punched the young woman on countless occasions while also forcing her to participate in organized fighting. One day the young woman got the courage to leave her abuser. She started throwing her abuser's belongings from the bedroom into the hallway of their apartment. While the young woman was doing this, she was also screaming at her abuser that she was done with the relationship. However, the abuser would not leave the young woman alone. In the midst of escalating violence, the young woman grabbed her abuser's gun to protect herself & her son from the abuser. While he was approaching her quickly, he told her the gun was not operable. In a moment of panic as he was approaching her, she pulled the trigger. The gun was operable. The gun fired. She shot him. He passed away. The state prosecuted the young woman with murder.

While HB 2825 will not affect a sentencing judge's ability to consider these circumstances for sentencing purposes on murder convictions, this young woman's experience with domestic physical, sexual, & emotional violence is common within the population I represent. In my experience, when the state prosecutes people who experienced & survived domestic physical, sexual or emotional violence, typically those survivors' involvement in the alleged conduct is (1) as a forced accomplice for their abuser; (2) engaged in conduct to protect themselves or their children from their abuser; or (3) engaged in conduct to escape from their abuser. Often times, the trauma & violence survivors endured has had a significant, if not a direct role, in the survivor's alleged conduct & the state's prosecution of that conduct.

When survivors face a mandatory prison sentence, as their advocate, I must advise them of all their limited options. When we are unable to negotiate an equitable resolution, I must then advise survivors to consider abandoning their constitutional right to a jury trial for the possibility of lesser prison sentence. Conversations like these are incredibly difficult. However, by passing HB 2825 the legislatures will provide sentencing judges with the authority to deviate from imposing mandatory prison sentences by considering a survivors' circumstances when appropriate. As such, these conversations with survivors will become radically different & can empower survivors with more hopeful alternatives. The swift passage of HB 2825 will return judicial discretion to neutral judges imposing just sentences on vulnerable members of our community.

Thank you for your time.

Sincerely,  
*/s/Sara Foroshani*  
Sara Foroshani