



March 23, 2021

Re: **House Bill 2825** (Resentencing/downward departures for survivor-defendants)

Dear Chair Bynum, Vice Chairs Noble and Power, and members of the House Committee on Judiciary:

The Office of Public Defense Services (OPDS), the administrative agency of the Public Defense Services Commission (PDSC), seeks to move our criminal and juvenile legal systems towards practices that support improved outcomes for clients, their families and communities, and all Oregonians. The agency is neutral on HB 2825 and seeks to provide context within which this bill exists and to briefly explain the bill's requirement that the PDSC provide appointed counsel to survivor-defendants during resentencing hearings.

HB 2825 Context

Public defense providers already know from one-on-one client interactions what data shows – public defense clients are frequently survivors of crime and of abuse and trauma as children and/or as adults. Incarcerated women disproportionately experience trauma and abuse. A 2018 Oregon survey of women at Coffee Creek Correctional Institution, Oregon's women's prison, demonstrated that, of women in relationships at the time of their arrest, 65 percent reported experiencing abuse in their relationship, 44 percent reported that the relationship contributed to their conviction, and 72 percent reported experiencing other types of trauma.¹ HB 2825 recognizes the influence of those experiences on an individual's criminal behavior.

HB 2825 – Appointment of Counsel in Resentencing Petition Hearings

HB 2825, among other things, requires a sentencing court to consider, as mitigation evidence, that a defendant was subjected to domestic abuse that was a significant factor that contributed to the person's criminal behavior. If such circumstances are present, HB 2825 also provides that such evidence constitutes substantial and compelling reasons to support justification of a downward departure sentence from a mandatory minimum sentence. The bill provides survivor-defendants with the opportunity to petition for resentencing in light of this mitigating evidence and requires that the PDSC provide counsel to survivor-defendants in these proceedings.

¹ Bieri, Sarah, J.D., "[Justice for Survivor-Defendants: Looking Towards Reform](#)," Oregon Justice Resource Center - Women in Prison Conference 2019, 10 (2019).



HB 2825 (as drafted) – Section 6(5)(a-b)

As described, HB 2825 provides survivor-defendants with the opportunity for a downward departure from an otherwise mandatory sentence if certain evidence is presented. If such evidence is presented, HB 2825 provides that the court shall appoint counsel for the survivor-defendant for the resentencing hearing, at which the PDSC, through OPDS, shall provide this representation through appointed counsel.

HB 2825 -1 Amendment – Sections 11(4)(d) and 11(5)(b)

As is true of HB 2825, as drafted, the -1 amendment provides that the PDSC shall provide representation, through appointed counsel, for a survivor-defendant in any resentencing hearing and also provides that, should a petition for resentencing be denied, that the PDSC, through OPDS, shall provide appointed counsel to assist the survivor-defendant in preparing an amended petition.

The OPDS would be happy to answer any questions. Thank you for the opportunity to provide this information.

Sincerely,

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