



Representative Anna Williams  
Oregon House District 52

March 24, 2021

Representative Janelle Bynum, Chair  
Representative Karin Power, Vice-Chair  
Representative Ron Noble, Vice-Chair  
Members of the House Committee on Judiciary

Dear Committee Members,

As State Representative for House District 52 and the Chief Sponsor of this measure, I urge you to support House Bill 2825.

In nearly every regard, Oregon would be improved if our state's systems were more trauma-informed. As a former social worker who advocated for survivors of domestic violence, I have seen how, at every turn, the machinery of our state that is intended to keep people safe, healthy, and comfortable, has often disregarded and misunderstood survivors' trauma. This issue is perhaps most drastic in the criminal justice system, where survivors of trauma who commit or cooperate in the commission of crimes at the behest of their abusers are often sentenced more harshly than the abusers themselves.

As an evolving society, we understand more about the neurobiology of trauma than we did when Oregon voters passed the draconian mandatory minimum sentences codified by Measure 11. We know that trauma can cause hyperarousal, which can lead to extreme behavior to protect oneself or others without consideration of consequences. Trauma can also cause hypoarousal, which can lead to an inability to speak up on one's own behalf. Our sentencing laws do not reflect the frequency with which survivors of domestic violence come before courts for committing acts that were not their idea, and in which they arguably had limited complicity.

House Bill 2825 is not a bill to absolve survivors of accountability. If someone is convinced to commit a crime, unless the convincing amounts to duress, then some criminal penalty is appropriate. Still, the definition of duress -- "threatened use of unlawful physical force ... of such nature or degree to overcome earnest resistance" -- dismisses a common coercive dynamic present in nearly all abusive relationships: the subtle and ongoing implied threats inherent in a pattern of repeated abuse.

In my work with survivors, I have seen how the sort of reprogramming one undergoes in an abusive relationship can put them in situations where they don't necessarily have free choice in the actions they take. Abusers exert power over their victims in myriad unseen and often non-violent ways. I had a client whose partner hid her work uniform so she was repeatedly late or absent from work, and consequently became financially dependent on her abuser. This sort of devaluing, gaslighting, and manipulation, even where it doesn't amount to criminality, can entirely remove a victim's agency. When coupled with repeated physical

violence, these assertions of dominance can put a victim into a situation where their physically and emotionally safest option is to simply do as they are told.

I have had clients who were so conditioned by abusive partners that, even in public with no aggressive behavior whatsoever by their abuser, they understood that they were being threatened: subtle physical cues like a raised eyebrow or sidelong glance, while inconsequential to a third party, communicated clearly that the abuser was upset, and the victim's safety (or the safety of their children, pets, or family members) was at high risk. When your physical, financial, and emotional health depends on being able to understand that nonverbal communication, you learn very quickly how to read it. While challenging to understand from the outside of the relationship, a person wrapped in that constantly reinforced threat of violence does not necessarily have the ability to tell their partner, "No, I'm not going to commit a crime just because you told me to," because they know with certainty what sort of consequence they will face.

House Bill 2825 would give courts flexibility to incorporate an understanding of these dynamics into sentencing decisions. Furthermore, to the extent that courts (or prosecutors or defense attorneys, for that matter) lack an understanding of such dynamics, I trust that this bill would encourage them to educate themselves. It will be a steep learning curve, but I have faith that our judicial system will quickly adapt if we direct it to consider evidence of abuse in exercising one of its most serious duties: determining the extent to which Oregonians should be deprived of their liberty.

Opponents to the bill have raised concerns about the breadth of the idea of abuse as a "contributing factor" to the commission of a crime. They worry that such language in the statute would lead to a wave of resentencing hearings borne of claims that childhood abuse led, decades later, to adult misdeeds. However, the passage of House Bill 2825 would be premised on the legislature's trust that Oregon courts are capable of responsibly exercising discretion: discretion about the appropriateness of sentences, discretion in decisions about whether individual circumstances might merit relief, and discretion about whether claims of trauma should be considered "contributing factors" to criminal acts.

On this point, I agree with the bill opponents: it is easy to imagine that adults in custody would file petitions for resentencing based on past abuse that only tenuously influenced their commission of a crime. However, I trust that courts would, simultaneous to their educating themselves about the impacts of trauma, come to clarify what sorts of abuse constitute a "contributing factor."

Specifically, opponents have noted that abusers may try to make use of this law to receive lower sentences for their crimes of abuse. They are probably not wrong; abusers are notoriously good at exploiting systems and manipulating decision-makers within those systems. However, we should not use abusers' adeptness at getting their way as an excuse not to offer much-needed relief to those they abuse. Again, I will rely on the fact that this bill allows judicial discretion rather than requiring lower sentences; I trust our judges to see through exploitative pleas for resentencing.

This availability of relief to those already in custody is not "retroactive application," and that distinction is likely not lost on those expressing opposition to the "retroactivity" aspects of this bill. HB 2825 would not change the sentence of anyone already convicted regardless of a court's previous decision. It simply allows survivors in custody to petition for relief if they were unable to present evidence of abuse during sentencing. It is, in my opinion, the most important part of the bill, because the availability of relief at sentencing may not always lead to a just outcome.

As anyone who has worked with survivors of domestic violence knows, a person is not always able to clearly articulate how their relationship is abusive while they are still subject to the abuse. Oftentimes, a survivor does not obtain the emotional distance or terminology to describe their abuse until they have taken time to

reflect, and perhaps spoken to other survivors, as often happens after several weeks, months, or years in custody. It is crucial that we not expect a survivor, reeling from the stresses of an arrest, a trial, and an upheaval of their entire life, to explain in detail the impacts that their abuse has had on their decision-making ability at the time of trial.

As this committee has heard with regard to other bills, the impacts of incarceration can ripple through generations. Children who are separated from their parents may fail to develop the healthy attachment skills necessary to carry on normal relationships in adulthood. This can cause them to rely on manipulation or coercion in order to get what they want from others. In effect, by locking up survivors through mandatory minimum sentencing, we may in one fell swoop be punishing them with needlessly harsh sanctions *and* creating an entirely new generation of people who suffer in unhealthy relationships.

Ultimately, the potential benefits of this bill outweigh the concerns that its opponents have raised, many of which would be obviated by the competent and considered decision-making of our courts. Indeed, the entire purpose of the bill is to return some level of discretion to courts in cases where mandatory and presumptive sentences have the greatest, and least socially justifiable, impact on the people subject to them. I urge you to support HB 2825.

My Best,

A handwritten signature in black ink, appearing to read 'Anna Williams', with a stylized, cursive script.

Anna Williams  
State Representative, House District 52