

**TESTIMONY ON HB 3265
BEFORE THE HOUSE COMMITTEE ON JUDICIARY**

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**PRESENTED BY: ERIN PETTIGREW, ACCESS TO JUSTICE COUNSEL,
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Chair Bynum, Vice-Chairs Noble and Power, Members of the Committee, my name is Erin Pettigrew, and I am the Access to Justice Counsel for Legislative Affairs at the Oregon Judicial Department. I am here to describe some of the provisions of HB 3265 and how it impacts access to justice.

The Oregon Judicial Department appreciates the collaboration and engagement of the proponents. OJD supports efforts to ensure that all individuals, regardless of immigration status, race or ethnicity, feel that our courts are here to serve them and that they can actively participate in our legal system without fear for themselves, their children or their partners. OJD is neutral on the bill with OJD's suggested amendments which I will briefly discuss today.

Before turning to OJD's suggested amendments, I would like to provide some information about the provisions of the bill that impact Oregon's state courts. House Bill 3265 as drafted generally prohibits the use of public resources to assist federal immigration enforcement and builds upon Oregon's current statutes designed to disentangle federal immigration enforcement from Oregon's state governmental functions.

As to the sections that impact courts, Section 3 prohibits a public body from inquiring into or collecting information about an individual's immigration or citizenship status or place of birth unless there is a connection between the information and an investigation into a violation of state or local criminal law; or providing information about an individual in the custody of the public body or law enforcement agency to a federal immigration authority for the purpose of civil immigration enforcement, among other provisions.

OJD has requested an amendment that would exempt state courts and state court procedures from the prohibition on collecting information about an individual's immigration or citizenship status or place of birth. Many state court proceedings either require a person to submit documents that contain this information, or may result in a person voluntarily submitting information to the courts that a court is prohibited from collecting under the bill. To give a few examples (this list is not all-inclusive):

- ORS 147.620 requires judges to complete a United States Citizenship and Immigration Services certification at the request of a crime victim;
- ICWA and ORICWA proceedings require courts to determine a child's tribal citizenship; and
- Foreign adoption proceedings under ORS 109.385 require the petitioner to state

the child's place of birth.

We hope that the proposed amendments will allow for OJD to continue to comply with these statutory requirements and our open court laws.

Section 4 prohibits public facilities, property, moneys, equipment, technology or personnel from being used for the purpose of investigating, detecting, apprehending, arresting, detaining or holding for immigration enforcement an individual or individuals of foreign citizenship present in the United States.

We requested an amendment to Section 4 allowing a public body to provide information about an individual immigration authority for the purpose of civil immigration enforcement if the information is required by judicial subpoena or other compulsory court-issued legal process or to the extent that the information is available to general public and under the same terms and conditions as the information is available to the general public.

This proposed amendment clarifies that information that must be shared pursuant to a court process can be exchanged, and it allows the court to provide public access to court documents at the same level of access as those documents are currently available to the public.

Section 6 of the measure provides that an individual who, in good faith, is attending a court proceeding in which the individual is a party or potential witness, or family or household member of a party or potential witness, may not be subject to civil arrest while going to, remaining at, or returning from a court proceeding, unless the civil arrest is supported by a judicial warrant or judicial order that authorizes the civil arrest.

This section expands the current prohibition on civil arrests in courthouses in Uniform Trial Court Rule (UTCRC) 3.190, which was adopted by Chief Justice Martha Walters upon the recommendation of the UTCRC Committee and went into effect on November 14, 2019. The UTCRC Committee is comprised of civil and criminal lawyers and court representatives from around the state. UTCRC 3.190 prohibits civil arrest of persons in a courthouse or within the environs of the courthouse, including all entryways, driveways, sidewalks, and parking areas intended to serve a courthouse. Section 6 expands the prohibition on civil arrests to include persons who are traveling to or from the courthouse.

In adopting the rule, the Chief Justice recognized that people seeking courthouse services should not be dissuaded from doing so out of fear of being arrested by Immigrations and Customs Enforcement (ICE). Still, at the time the UTCRC was adopted, the Committee felt that the Oregon Legislature was the more appropriate body to address protections for individuals as they are coming and going from court. This present expansion nevertheless aligns with the goals and objectives of UTCRC 3.190, as it merely builds upon the rule.

Our justice system depends on the willingness of witnesses and crime victims to respond to subpoenas, on the ability of victims of domestic violence to seek protection from the courts, on the ability of consumers to seek redress for breaches of contract, on the ability of families to fully participate in child custody and child welfare matters, and to do all of these things without fear of entering our courthouses.

Thank you for giving us the opportunity to explain our position on HB 3265. Please feel free to reach out with any questions.