



## Oregon Crime Victims Law Center

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Dear Chair Prozanski, Vice Chair Thatcher, and members of the Committee:

On behalf of the Oregon Crime Victims Law Center, I am submitting this testimony regarding Senate Bill 819, which establishes a procedure by which an incarcerated person and a district attorney may jointly file a petition seeking reconsideration of sentencing. OCVLC appreciates that SB 819 is an attempt to ensure integrity in the justice system and that fairness and equity are vital to our system.

OCVLC is a nonprofit organization that provides free legal representation and advocacy to crime victims throughout Oregon. We frequently represent victims in post-conviction proceedings, including parole hearings, post-conviction relief hearings, and in matters regarding probation violations. The post-conviction process can be extremely difficult for victims, who often leave a courtroom after sentencing believing that their role in the system is complete. Unfortunately this is rarely the case, and families are often faced with years of appeals and parole hearings, which can prolong their trauma.

As currently written, SB 819 allows for victim notification after a petition for reconsideration is filed and a hearing date is set. To better comport with a victim's constitutional right to a "meaningful role" in the justice system, we respectfully request consideration of the following concerns:

1. We believe it would be more appropriate for victim notification and consultation to take place *prior* to a petition being filed. This would allow the prosecutor to hear not only from the incarcerated person, but also from the person who has been harmed before making a decision whether to file such a petition. Victim input should be a determining factor when prosecutors are considering whether the interests of justice are no longer served by a particular sentence.

2. The Constitution gives victims the right to a remedy by "due course of law" for the violation of a constitutional right, which includes the right to be notified of and to be present at a critical stage hearing. If a victim is not notified of the filing of a petition and of a hearing on reconsideration, the victim should have a remedy available as described by Art I, §42(a) to (g) of the Oregon Constitution and in statute (see generally ORS 147.500-147.533).

3. The bill as written provides that victims will have access to "*available* victim advocates and other related services." Victims must have access to advocates and other support services at critical points, such as when a petition for reconsideration of sentencing is being contemplated. Working with a trained advocate can make a significant difference for a victim going through additional trauma.

4. The bill as introduced requires that prosecutors make "all reasonable efforts" to provide victims with notice of the petition. We believe the notice requirement would be more stringently adhered to if the phrase "all reasonable efforts" was removed.

5. The standard for a collaborative filing of a petition for reconsideration as written is if the sentence “no longer advances the interests of justice.” That may be sufficiently clear to those who work in the justice system. However, to a victim, it may be vague and so broad as to be almost meaningless. We believe that victims should have a clear understanding of the conditions under which an incarcerated person and a prosecutor may file a petition for reconsideration. Establishing defined parameters will assist victims in understanding when and why these petitions may be filed. We believe that this would fulfill the Oregon Constitution’s mandate that “a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings.”

In closing, we recognize the need to enhance fairness and equity in sentencing, and join with others in the commitment to improving our justice system. We hope that victims’ role in the system continues to be thoughtfully considered.

Thank you for the opportunity to submit testimony.

Sincerely,

Rosemary W. Brewer  
Executive Director