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TO: Senate Committee on Judiciary and Measure 110 Implementation

FROM: Cyrus Sullivan, Owner, [CopBlaster.com](https://copblaster.com)

DATE: May 12, 2021

RE: Testimony Against HB 3047 Because it is Unconstitutional

Chair Prozanski and members of the committee,

On behalf of every Oregonian that enjoys the protection of the First Amendment of the United States Constitution, I am writing to inform you that HB 3047 violates the First Amendment. I have collected an extensive library of case law in this area due to my attorney successfully rebutting an accusation by the United States Attorney's Office that I had unlawfully made public restricted personal information of federal officials in 2017. That same material proves that HB 3047 is unconstitutionally broad because the language encompasses Constitutionally protected activities.

HB 3047 violates the First Amendment for being so broad that if passed it would provide a mechanism to censor protected speech simply because the speaker intends to cause his subject anxiety. It is hard to think of a critical speaker who does not hope that the subject of his criticism will experience anxiety because of his speech. Often the use of personal information such as home addresses, personal email addresses, personal phone numbers, and the contact information of someone's employer plays an essential role in making criticism effective. Most of that information is made publicly available by the government in the first place, so it is not its presence on the internet that people typically have a problem with, but rather it being combined with negative comments and content identifying the subject such as their name or a photo. Legislative bodies cannot bar such speech and uphold the Constitution at the same time.

To illustrate my point, I published a page titled "Oregon House of Representatives Directory of Home Addresses" containing the home addresses of each member of the Oregon House that voted in favor of HB 3047. It is a form of political protest identical to the "Tyrant Registry" at issue in *Publius v. Boyer-vine* (https://www.govinfo.gov/content/pkg/USCOURTS-caed-1_16-cv-01152/pdf/USCOURTS-caed-1_16-cv-01152-2.pdf) in which the U.S. District Court for the Eastern District of California recently ruled that a similar bill prohibiting the publication of home

addresses belonging to government officials was too broad to survive a First Amendment challenge. The court adopted the Supreme Court's view that content-based limitations on speech must be narrowly tailored to further a compelling state interest, held that preventing the dissemination of information the state itself made public is not a compelling state interest, and that personal information has public significance when combined with public criticism.

I ask that you kill the bill or amend it so that it cannot be used to silence speech protected by the First Amendment. You can do that by amending the definitions of "personal information" or "harass." Personal information should be amended so that it does not include home address, personal email address, home phone number, personal phone number, and employer contact information. Harass should be amended so that it does not include references to anxiety, fear, torment, and apprehension unless language is added making fear of bodily harm, destruction of property, or some sort of crime being the speaker's intentional result a requirement. The definition of "harass" for the purpose of HB 3047 should be no different than that of "harassment" in ORS 166.065 (<https://www.oregonlaws.org/ors/166.065>). As it stands the proposed law is broader than the statute in *Publius* and other cases including *Brayshaw v. Tallahassee* (<https://casetext.com/case/brayshaw-v-city-of-tallahassee>) in which the language "Any person who shall maliciously, with intent to obstruct the due execution of the law or with the intent to intimidate, hinder, or interrupt any law enforcement officer in the legal performance of his or her duties, publish or disseminate the residence address or telephone number of any law enforcement officer" was held to be "overinclusive in proscribing speech that is not a true threat."

I already host my websites offshore, so this bill has zero impact on what can or cannot be published, shared, disseminated, etc. via those mediums. Still, I could see someone try to harass me via the Oregon courts for the simple reason that I live in this state because of this bill. If that happens, I will file a motion for declaratory relief in federal court on the grounds that this bill is unconstitutionally overbroad. While the court decides the matter, nothing will be removed or otherwise censored. I have the assurance of my offshore hosting providers that they will not honor injunctions from Oregon courts. I wish such arrangements were not necessary, but unfortunately when legislative bodies such as this pass bills like this one people often must look elsewhere to secure their rights. I would prefer to live in peace, but I cannot tolerate an attempt to chill speech based on emotional distress. If this bill survives what is to stop you from creating a civil cause of action any time anyone says anything intended to cause another person emotional distress? How could anyone mount a successful public personal criticism of another under such circumstances?

If the bill is killed or the necessary amendments are made, I would be happy to take down the Oregon House of Representatives Directory of Home Addresses and refrain from protesting this matter further. I have no intention of attempting to incite any crimes at those locations or any

others no matter what happens with this bill. I am simply trying to make my voice heard the best way I know how.

Sincerely,

Cyrus Sullivan

President

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