



TO: House Committee on Judiciary
FROM: Mae Lee Browning, Oregon Criminal Defense Lawyers Association
DATE: May 21, 2021
RE: Opposition to SB 214

Chair Bynum, Vice Chairs Noble and Power, and Members of the Committee:

My name is Mae Lee Browning and on behalf of OCDLA, I write to **oppose SB 214**.

The Oregon Criminal Defense Lawyers Association is a nonprofit professional association for experts, private investigators, and attorneys who represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and appellate level, as well as civil commitment proceedings throughout the state of Oregon.

SB 214 shifts the burden of proving restitution from the state to the defendant when the state presents an invoice, bill, or estimate, because it creates a rebuttable presumption that the restitution is reasonable. This puts the burden on the defense to have to show that the invoice/bill/estimate is not reasonable. SB 214 shifts the burden to the defense to do the prosecution's work. The burden should properly stay on the prosecution to have to prove their restitution case. Shifting the burden to the defense is unfair because the defense does not have the same access to the victim that the prosecution does.

SB 214 will also cost the state more money. The rebuttable presumption language means that a defense attorney will spend on more time on a case rebutting this presumption, which will take more time and will probably mean the defense attorney would have to hire experts. SB 214 would mean that the Office of Public Defense Services will have to spend more money defending these cases.

SB 214 will also delay expungements. The ability to set aside a case means fully paying off all financial obligations.

Under civil law, it is well developed that a bill is not enough to prove that the amount is reasonable. Medical providers, car repair shops, etc inflate their bills, reduce them for insurance, but expect ordinary people to pay the face value. This system transfers risks, litigation expenses, and costs from insurance companies to poor people.

SB 214 will disproportionately harm Black, Indigenous, people of color, low-income and marginalized people because these Oregon citizens are already overrepresented in the criminal legal system – from arrests, charging, convictions, and sentences.



There are already provisions that allow courts to impose the costs of prosecution on the defendant provided the state proves that defendant can afford it. ORS 161.665. The costs statute takes into account financial resources of the defendant and the nature of the burden that payment of costs will impose. Restitution has no ability to pay requirement.

OCDLA urges you to vote NO on SB 214.

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