

January 12, 2022

Representative Wilde,

On behalf of the **OR Criminal Defense Lawyers Association, Oregon Department of Justice, OR District Attorneys Association and Multnomah County District Attorneys Office**, we write jointly today in regard to LC 186, which makes several significant changes to various aspects of the criminal justice system including jury selection, the selection of judges and use of force justification defenses. All three of these are issues deeply deserving of legislative attention and raise crucial questions of racial justice and equity. Together, the signatories of this letter represent both the prosecution and defense. While our positions on these issues are often in opposition to one another, we come together today in partnership to request that these issues be moved to an interim discussion.

Modifying any aspect of the criminal justice system during a short session can be difficult, and for technically complex concepts will often require the utilization of a workgroup. Despite our at times adversarial relationship on certain issues, we are very used to working with each other across the interim and are almost always engaged in a number of workgroup discussions at any given time.

The concepts in LC 186 are, again, worth a deep consideration, but that consideration simply cannot be given within the time that remains before the short session. OCDLA, ODAA, MCDA and DOJ have attempted to work through the new legal terminology and significant policy implications of LC 186, but we swiftly concluded that there is simply not enough time to do this the right way. While the signatories to this letter would not necessarily raise the same issues with these proposals, we are all in agreement that substantial work will need to be done to bring us to a place of understanding with the implications of the proposed language.

While both California and Washington have recently amended their *Batson* standards prohibiting the striking of a prospective juror on the basis of race or ethnicity, for example, both states did so through a far longer and more deliberative process than has occurred here. Precisely because this is such a deeply important issue, we are simply not well positioned to consider such major changes to long-standing rules of jurisprudence on such short notice and are universally concerned with the possibility of unintended consequences which will be borne out through years of litigation.

We commend your leadership in calling attention to these important issues. They are worthy of consideration and deep attention. We are ready to work collaboratively with you to move towards justice without suffering unintended consequences borne from haste. We come to you in partnership to ask that this legislation be postponed to the 2023 full legislative session and a workgroup convened in the meantime.

Thank you for your consideration,

Mae Lee Browning, Legislative Director, Oregon Criminal Defense Lawyers Association  
Kimberly McCullough, Legislative Director, Oregon Department of Justice  
Amanda Dalton, Lobbyist, Oregon District Attorneys Association  
Aaron Knott, Policy Director, Multnomah County District Attorney