



Oregon Judicial Department
Washington County Circuit Court
Twentieth Judicial District

January 29, 2023

The Honorable Floyd Prozanski, Chair
Senate Judiciary Committee

Re: Testimony on SB 235 before the Judiciary Committee January 30, 2023

Thank you for the opportunity to write this letter talking about the need for two additional judges and staff in Washington County. The last time a judge was added in Washington County was in 2019. At that time Washington County added a fifteenth judicial position and that is the seat that I now hold. It did not take long after I began my career on the bench to realize the urgent need for more judges and staff in Washington County. As you know, Washington County has been the fastest growing county in Oregon. With a growing population comes a greater need for judicial resources due to the increased demand on the legal system in general. We in Washington County have acutely felt the pressure on our system over the past several years.

Since I have been a judge, we have added an Aid and Assist docket to our schedule. This docket is held every Thursday and Friday afternoon where, primarily one judge squeezes the docket in at 1:15 p.m. on each of these days. The reason I say “squeezes” it in is because the judge that generally handles the Aid and Assist docket is also a full-time trial judge. Nearly all of our judges handle a regular schedule of trials, including family, civil, and probate cases, but also dedicate time throughout each week to a specialty docket. A specialty docket is one in which participants receive more individualized attention from the judge as well as other participants in the legal system.

Washington County has many specialty dockets, including a DUII Diversion docket every Monday for half the day; the other half of the day is dedicated to a DUII probation docket. One judge hears these cases every Monday. Having one judge who manages and oversees the DUII Diversion and probation dockets allows our court to strive for better outcomes for defendants, which in turn leads to better outcomes for society in general. Our judge that presides over the DUII docket also oversees cases in Washington County’s Integrative Re-Entry Supervision Services (IRISS) which is funded through Oregon’s Justice Reinvestment Initiative. Judge Thompson fits probation violation hearings for participants in this program at 8:30 a.m. or 1:00 p.m. as he can, keeping in mind that he is also overseeing the busy Monday DUII docket and generally presiding over trials Tuesday through Friday. If this judge’s trial concludes on Thursday of any given week, then on Friday he will be one of the judges handling the Friday Final Resolution Conferences (FRC). The FRC docket is the last stop for defendants to decide

whether to accept a plea offer. If a plea is not accepted, then the defendant will go on to trial in two weeks' time. If a plea is accepted, the judge will preside over the plea, usually on the same day.

In addition to the Aid and Assist and DUII specialty dockets, we also now have a Veteran's Treatment Court that convenes three Monday afternoons each month. We have an Adult Drug Court every other Monday, Juvenile Drug Court every Wednesday afternoon, Mental Health Court and Mental Health Diversion every other Monday, Domestic Violence Deferred Sentencing court every Monday.

I am very proud of the hard work that our judges do every day in Washington County, however with the hard work that each judge does, we also have staff who work with the judge. With new judge positions, I understand that additional staff would need to be funded along with the judge position. This is also very important as I was struck recently when a lead staff member described the staff situation as staff feeling as though they were constantly working in survival mode.

Because our judges and staff are so busy, the specialty courts are one way for defendants to receive greater supervision and support in order to learn and maintain skills that will allow participants to be less likely to recidivate. Anecdotally, our judges all have stories of participants who have gone on to real change and who have been able to move forward without returning to the behavior that landed them in court.

Several big changes and challenges have occurred in Washington County, besides COVID, over the last two years. For example, with SB 48, our court had to change the way we operated our dockets including at our Law Enforcement Center. Now, we primarily have one judge who is presiding over most release hearings for all criminal defendants being arraigned and many times these cases are set again five days later for a more in-depth hearing on serious cases. The addition of frequent release hearings, which many times occur before full discovery has been able to be gathered in a particular case, makes release hearings particularly important. Before this new law came into effect, Washington County was using a referee judge at LEC to oversee the many initial arraignments as well as an Early Case Resolution docket.

Other big challenges include a huge influx of set aside requests which require orders signed by a judge and a huge amount of data entry by staff. In addition, Washington County has acutely felt the impact of a lack of criminal defense attorneys. This is particularly troubling because the shortage is often felt by criminal defendants who are sometimes waiting in custody to have an attorney appointed to them. One way to ensure a greater number of lawyers are available to represent in custody defendants is for the cases they currently have to resolve. Each week, on Friday morning, I hold a mass docket called case assignment. We have generally nine judges who work the general trial rotation, while one Circuit Court Judge and one Judge Pro Tempore covers juvenile matters, one judge covers LEC, three are assigned to the family team, and then one Presiding Judge. Of the nine judges on the general trial time, one or more may be unavailable to take trials the following week either because they are already presiding over a murder trial, they are sick, on vacation or maybe they are presiding over a probate trial, hearing omnibus motions, civil motions, or they are covering the presiding judge miscellaneous docket consisting of probation violation hearings, changes of plea or preliminary hearings. Of the judges that are available, it is very likely that one or several may have matters on their calendar

that would limit how many days of trial they might be able to preside over in the week. When I talk about trials in this context, I am referencing criminal trials. We also have many civil trials that litigants would love to have before a judge and a jury. Unfortunately, criminal matters, particularly if the defendant is in custody, will always take precedence over a civil trial. I have to turn away litigants on a frequent basis, sometimes having to reset civil trials, and even some criminal matters, because no judges were available to hear the case. In these instances, litigants have to reconnect with witnesses and try to obtain dates where witnesses are again available for trial.

I am very proud of the work our court does, but we really do need additional judges in our county in order to handle to ever increasing workload and to allow us to be able to do our best to dispense the best justice we can give all of our constituents.

Thank you for your consideration of this testimony and please feel free to contact me should you have any questions.

Respectfully

A handwritten signature in black ink, appearing to read 'Kathleen Proctor', with a long horizontal line extending to the right.

Circuit Court Judge, Kathleen Proctor
Presiding Judge Washington County Circuit Court