



**TO: Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice Chair
Senate Committee on Judiciary**

FR: Oregon District Attorney's Association

RE: Concerns with SB 763

February 14, 2023

Chair Prozanski and Members of the Senate Committee on Judiciary:

Thank you for the opportunity to provide written comments on SB 763. Over the past few years, ODAA has been engaged in several conversations and policy workgroups that have advanced significant changes to the way Oregon manages the expungement and set aside process for criminal convictions. These include SB 575 (2021) which created an automatic expunction process for certain juvenile records; SB 397 (2021) which broadened convictions eligible for expungement as well as modified the time frames for doing so, including reducing Class B Felony review from 20-years to 7-years, Class A Misdemeanors to 3-years and Class B and C Misdemeanors to 1-year from the date of conviction or release; and SB 519 (2023) which expands the work of SB 575 (2021) to automatically expunge the records of individuals over 18 who were found within the jurisdiction of the juvenile court for a violation or misdemeanor.

These recent changes to the law allow individuals concerned about job opportunities to seek an expungement to their records. For example, in one County the DAs office saw expungement petitions increase from 400 in 2021 to over 1400 in 2022.

We would ask the Committee to allow these significant expungement and set aside reform proposals to fully take effect and recognize the impact they have on the records that still exists but are further sought to be exempted in proposals like those contained in SB 763, SB 325 and SB 517.

For those records that have not been expunged, we believe there is an important obligation that falls to licensing boards and employers to ensure that applicants do not pose a risk to the public that they serve by allowing review and consideration. It is critical that employers and boards be able to consider all the information necessary to make these decisions, and to appropriately be able to balance the interests of new hires and the public. This is especially critical when hiring for individuals that administratively support law enforcement, healthcare jobs, daycare providers and schools with young children and/or obligations to vulnerable

individuals. Unfortunately, SB 763 continues to present confusing and contradictory provisions without providing the necessary flexibility to ensure the balance of these interests.

SB 763 addresses adjudications from juvenile court. As this Committee knows, Oregon's juvenile courts are very different than the typical cases heard in juvenile courts in other States, which is why these national models overlaid on Oregon law continues to present public safety concerns. Specifically, post SB 1008 passed by the 2019 Legislature, Oregon removed the prosecution of 15, 16 and 17 year olds from automatic waiver to adult court for crimes including murder, aggravated assault, armed robbery, forcible rape and other sex offenses that were previously automatically prosecuted in adult court. While SB 763 allows for some exceptions for these crimes (see Section 1(2)(b)(A)-(B)), including first- and second-degree murder, it omits Attempted Murder, Conspiracy to commit murder, Manslaughter, Assault II, several Domestic Violence related crime categories and certain registrable sex offenses.

ODAA also flags concerns with Section 2 and the amendments to ORS 419A.255 and the consequences of further limiting public disclosures of juvenile cases. We are concerned that the proposed amendments to ORS 419A.255(8) and all of its subsections will create unintended consequences for sharing of information in both delinquency cases and cases waived to adult court. Limiting OYA to "only disclose any information the youth authority possess about an adjudicated youth after receiving written consent for the disclosure from the adjudicated Youth" creates issues for getting full, complete, and transparent information from OYA. These records may be needed by the District Attorney when responding to motions for alternative disposition (prospective dismissal of the petition and court orders) under ORS 419C.261 in juvenile cases or records in cases waived to adult court that have 2nd look hearings or before the parole board. This seems to unnecessarily limit what a court can order be released and essentially eliminate the provisions of ORS 419A.257 as it applies to OYA.

We do support the efforts to get victims more information in juvenile cases and would support a broader revision in the juvenile code and discussion on revising the appropriate sections of ORS 419A and ORS 419C.