



## Oregon Alliance to End Violence Against Women



### Support SB 867 Support Survivors

**Ensure that defendants in criminal cases do not benefit by wrongdoing.**

The Oregon Alliance to End Violence Against Women (the Alliance), the Oregon Law Center, the Oregon Coalition Against Domestic and Sexual Violence, the Oregon Attorney General's Sexual Assault Task Force, and Clackamas Women's Services urge support for SB 867, which would codify the doctrine of "forfeiture by wrongdoing."

The bill would codify the legal principle that if a defendant directly secures the absence of a witness by threatening, intimidating, or harassing that witness, the defendant forfeits their constitutional objection to hearsay statements of the witness. The bill will protect crime survivors from re-victimization in the process of prosecution and prevent defendants in criminal proceedings from benefitting by harassment, threats, or intimidation.

- Domestic violence and sexual assault are devastating crimes that can have a lasting impact on their victims.<sup>1</sup>
- In domestic and sexual violence prosecutions, a victim or witness is especially vulnerable to threats and intimidation by the perpetrator.
- Studies suggest that over half of defendants in domestic violence cases issue threats or retaliate against accusers.<sup>2</sup>
- The two year period after an effort to separate from an abuser is the most dangerous time for a survivor<sup>3</sup> and in this time frame, a survivor is most vulnerable to retaliation threats.
- Forcing a terrified survivor to testify against their will in a criminal prosecution is a clear-cut example of re-victimization by the system, and can have long-lasting mental and physical health consequences.
- Without the doctrine of forfeiture by wrongdoing, a defendant who successfully intimidates a witness into not cooperating with a prosecution will escape accountability and benefit from the malfeasance.
- Codifying the doctrine of forfeiture by wrongdoing will lead to less traumatic interventions for crime survivors and discourage defendants from attempting to intimidate victims.

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<sup>1</sup> <https://www.womenshealth.gov/relationships-and-safety/effects-violence-against-women>

<sup>2</sup> Randall Fritzler & Lenore Simon, Creating a Domestic Violence Court: Combat in the Trenches, 37 Ct. Rev. 28, 33 (2000) (indicating that research shows that batterers threaten retaliatory violence in as many as half of all cases and 30 per cent of batterers assault their victims again during the predisposition phase).

<sup>3</sup> <https://www.bwss.org/eighteen-months-after-leaving-domestic-violence-is-still-the-most-dangerous-time/#:~:text=The%20statistics%20outline%20the%20reality%20that%20the%20most,valid%20concerns%20must%20be%20addressed%20with%20safety%20planning>