

TO: Joint Committee on Addiction on Community Safety Response
FROM: Stephanie Damon-Moore
DATE: 2/7/2024
RE: Oppose M110 Recriminalization Bills: HB 4002, HB 4036, SB 1555

Chair Lieber and Chair Kropf and Members of the Committee:

I am a criminal defense attorney and I would like to state my strong opposition to HB 4002, HB 4036, and SB 1555. I have been practicing criminal defense for over four years in Portland. As a criminal defense lawyer, I ask you to reject the recriminalization approach and look for more meaningful solutions that will put behavioral health services before law enforcement and the criminal justice system. HB 4002 punishes individuals for the state's failure to adequately fund treatment services. As new addiction services are finally starting to open up and crime rates post-pandemic are dropping, the legislature should focus on solutions that let mental health and drug treatment professionals help people who need and want treatment, instead of implementing controversial policies that disproportionately harm people of color and the houseless.

Recriminalization would return Oregon to the failed and harmful policies of the War on Drugs. Government has attempted to arrest our way out of this crisis for over 50 years, but it resulted in higher addiction rates, lethal and less expensive drugs on our streets, more overdose deaths, mass incarceration and disproportionate harm to Black, Brown, and low-income communities. Recriminalizing addiction will make it more difficult and expensive to address drug addiction and homelessness. Recriminalizing addiction funnels more money to law enforcement and District Attorneys, which takes money away from treatment. It will increase the risk of overdose, disrupt current treatment investments, and once again, saddle people with criminal records that can create lifelong barriers to housing, employment, education, and other services.

Criminalization was the way of life when I started out as a public defender in Portland in 2019. I handled dozens of Possession of a Controlled Substance cases during only 9 months as a misdemeanor attorney before I moved up to handling felonies. In no other area of practice have I seen more violations of my clients' constitutional rights. Portland-area police made a routine practice of shaking down my clients because they were houseless, or driving a beat-up car, and charging them with crimes if they were found in possession of even tiny quantities of controlled substances. The negative impact of these cases were profound. For example:

- My limited time as a public defender handling over a hundred misdemeanor cases was often eaten up by writing and arguing motions to suppress based on the unconstitutional policing practices I routinely saw in this area.
- Clients who had harmed no one were saddled with criminal histories, dragged through lengthy court proceedings, or even thrown in jail (resulting in loss of housing, jobs, etc.), merely for possessing controlled substances.

- The courts were clogged with low level offenses for people who struggled to come to court due to lack of transportation, difficulty keeping track of court dates because they were living on the street, and health issues resulting from houselessness. These struggles resulted in delays, duplicative proceedings, and lengthy dockets. My office staff also spent an inordinate amount of time helping people keep track of court dates and jump through various procedural hoops that ultimately had a negligible impact on the number of people living with substance use disorders in our community. This is an incredibly inefficient way to funnel people into treatment.

The recriminalization bills would also increase the number of misdemeanor cases in Oregon at a time when the public defense system is in crisis and we are seeing high rates of attrition. We have a shortage of lawyers available to take on the existing cases. HB 4002 could bring thousands of new people into the criminal legal system. This bill will make a bad situation even worse.

Whenever I cover arraignment hearings for Multnomah County, I have the unfortunate job of delivering the dystopian message: "I'm sorry, but we don't have a lawyer to provide to you." While my office is doing everything we can to recruit, hire, train, and promote more qualified public defenders in Portland, this is a process that takes time, both for the new attorneys and for our office to grow in a sustainable, responsible way. Returning to criminalization of low-level drug offenses will cause our caseloads to balloon so fast that any progress we've made toward expanding public defender capacity will quickly be undone.

I am begging you not to give up on alternatives to criminalization. We need more services and support for people struggling with substance use disorders. Addiction is fueled by alienation and loneliness. Convictions and punishment make it harder for people to change their lives around, not easier. The pandemic and the economy have exacerbated substance use disorders for many of our neighbors, not decriminalization. There is a path forward that is both strategic and compassionate. Please use your positions of power to lead us in the right direction, away from hate and fear and toward therapeutic, evidence-based interventions.

Best,
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