

TO: Joint Committee on Addiction on Community Safety Response
FROM: S. Amanda Marshall
DATE: February 9, 2024
RE: Oppose M110 Recriminalization Bills: HB 4002, HB 4036, SB 1555

Chair Lieber and Chair Kropf and Members of the Committee:

I am writing to urge you to vote NO on HB 4002, HB 4036 and SB 1555.

I offer this testimony as an attorney who has worked in Oregon as a Deputy District Attorney in Coos County, an Assistant Attorney General & Attorney in Charge of the Child Advocacy Section at the Oregon DOJ representing DHS/Child Welfare, and as the U.S. Attorney for Oregon. I live in McMinnville and have an office in Portland. I currently work as a criminal and juvenile attorney, representing clients in state and federal courts in Oregon. I also offer this testimony as a mother of three sons, the adult child of an alcoholic, sister of a recovering opioid addict, and person in long term recovery from a substance use disorder(SUD).

Over the last fifty years, our state has systematically divested from the systems that have been proven effective in preventing and alleviating mental illness (including SUD- which is a mental illness according to the DSM). Specifically, we have divested education, public health, affordable housing, social services, early intervention, and acute care. We have taken the money from those systems and services and directed it to investments in the prison industrial complex, including police, prosecutors, community corrections, courts, prisons and jails. Oddly, we have not invested at anything close to the same rate in public defense services, thus the crisis we now face.

Measure 110 was never going to "solve addiction." That is not what the bill set out to do. A statute can not solve a medical issue, and Measure 110 could no more solve what is being referred to as the "fentanyl crisis" than any law could solve heart disease or diabetes. What Measure 110 set out to do was two-fold:

1. Begin the process of divesting in the criminal punishment system in order to invest in systems and services with a proven track record of prevention, harm reduction and healing.
2. Stop creating harm by reducing the number of people - especially black, brown, and indigenous people who are disproportionately impacted by criminalization - who are arrested for possession.

What I know as a person who has spent my career working for the state and federal governments prosecuting crime and representing child welfare, is that criminalization causes far more harm than good. Arresting addicts is not even about stopping or curtailing drug use, it is about penalizing people for being poor and/or BIPOC. And even though we KNOW this empirically, police, prosecutors, and other proponents of these bills continue with talking

points that gloss over fifty years of data to appeal to voters by focussing on fear tactics and tragic stories of overdose, child abuse, and open air drug markets. Yes, those things are horrible, and they are completely unrelated to the passage of Measure 110. If we stop the effort voters asked for three years ago now, right when we are beginning to see the fruits of our labor, we will be causing more harm instead of doing the good we set out to do.

These efforts to repeal and amend Measure 110 are mislabeled as efforts focussed on addiction and community safety. The truth is that violent crime rates are down in Oregon since the passage of Measure 110. Overdose rates from fentanyl have nothing to do with drug laws and everything to do with the increased availability of fentanyl. there is no causal link between criminalizing possession and reducing overdoses, much less reducing homelessness- which is what these bills are really all about. Addiction is rampant, and that is nothing new. Addicts are rich and poor, employed and unemployed, housed and unhoused. Sadly, this debate has fueled the addiction stigma by creating a false narrative that casts addicts as homeless criminals. If we were really worried about lives lost and families destroyed by the disease of addiction, not only would we be advocating a return to prohibition of alcohol, we would be equally focussed on legal professionals - whom, according to a study conducted by the American Bar Association - are more likely to suffer from SUD than any other profession. But that isn't what this is about. It is, and has always been a war of poor people, especially if they are black, brown, or indigenous.

Currently, if a minor needs inpatient treatment for an SUD in Oregon, there is a waiting list to get them a bed, UNLESS they are a ward of the court committed to DHS or OHA. Think about that. The policy that is enshrined in this reality is that parents can't help their own kids. We are telling parents that we can't get help for their child unless/until the state files a petition to take custody of that child and then those beds will be available. So, wait for your kid to commit a crime bad enough to be committed to OYA, and then we will get them the help they need. Of course, the child will also be subject to the life-long stigma and trauma of having been involved in the juvenile delinquency and/or dependency system, so in spite of finally getting that bed (assuming they don't overdose before they get there), the outcomes for their future will now be much less hopeful than they would have been if the state had never had to intervene.

The arguments being made by proponents of these bills focus on giving criminal system officials more resources to "combat" addiction. But police, prosecutors and judges are not trained or qualified to treat addiction. What we need is to focus resources that would be spent on arresting/charging/prosecuting/adjudicating/ defending people to pay for more peer supports, treatment beds, detox, drop in crisis centers, supported housing, vocational training, early intervention, relief nurseries, education, needle exchange, safe use sites and other services that support healthy children, families and communities. What we don't need is to turn back to the Jim Crow war on drugs and reinforce the school to prison pipeline.

The criminal punishment system should not be the system to address this crisis. If we want to prosecute offenders for dealing drugs, vandalism, or disorderly conduct, we have the tools to do that without a law change. The truth is, that law enforcement is not using tools they already have available to address the open air drug markets and public use. Instead, they are doing

what they always do: asking for more ways to target, investigate and arrest people who don't fit in with societal norms. What we are seeing on our streets is not the result of Measure 110. It is the result of wages not keeping pace with inflation, lack of supported and/or affordable housing and lack of community based services. In a nutshell, this is what late stage capitalism looks like. Seeing people suffering in the street makes us uncomfortable - as it should. Arresting those people will keep us from seeing the problem but do nothing to address it's cause.

Sincerely,
S. Amanda Marshall