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To: House Committee on Rules
From: Sybil Hebb, Oregon Law Center
Date: February 27th, 2024
Re: Support for HB 4097 with the Dash 6 Amendments

Dear Chair Fahey, Vice-Chairs Helfrich and Kropf, and members of the House Rules Committee:

On behalf of the Oregon Law Center, thank you for the opportunity to testify in support of HB 4097 with the Dash 6 Amendments. **The bill provides a balanced approach to justice reform, by removing financial barriers to expungement for otherwise-eligible defendants, while adding important safety protections for survivors of domestic and sexual violence. Thank you to Representative Tram and stakeholders for all the work to negotiate a bill supported by all sides.**

The Oregon Law Center's mission is to achieve justice for low-income communities of Oregon, by providing a full range of the highest quality civil legal services. A significant number of our clients come to us for help as they are struggling to seek safety from domestic or sexual violence. About a third of our cases involve the issue of domestic violence, sexual assault, or stalking. Gender-based violence greatly contributes to the vulnerability of our clients, and further traps them in poverty and crisis.

Some of our clients, many of them survivors, have been subject to the criminal justice system as defendants at some point in their lives.

In all circumstances, interaction with the criminal justice system, for victim and offender, is a life-altering experience with significant consequences. There is no more important challenge for Oregon policy makers than to ensure fairness, equity, and safety in the criminal justice process, for survivors as well as for defendants.

Any conversation about these issues must be founded on the acknowledgement that our carceral system, and its after-effects, impact Oregon's Black, Indigenous, and communities of color disproportionately, due to longstanding systemic and structural racism. It is critical to recognize that these biases and inequities have devastating impact on crime survivors and on defendants, and we urge policy makers to prioritize survivors as well as defendants in all reform discussions.

Fundamentally, the Oregon Law Center supports the streamlining of the expungement process to remove unnecessary barriers for low-income defendants, assuming underlying sound policy and consideration of victim impact and victims' rights. It is with these principles in mind that we support HB 4097 with the Dash 6 amendments, and we appreciate the good-faith efforts by all stakeholders to achieve a balanced bill that removes barriers to justice for low-income defendants and adds long-overdue protections for survivors of domestic and sexual violence.

The Dash 6 amendment to the bill reflects a negotiated agreement between the parties, addressing two fundamental issues of critical importance to Oregon Law Center's low-income client community:

Improved safety protections for victims of domestic and sexual violence:

The bill with the Dash 6 Amendments adds safety protections for survivors of domestic or sexual violence in the following ways:

- **Waiting period:** Amends ORS 137.225 to provide that judgments/findings of contempt for violation of certain protective orders should not be eligible for expungement until after five years from the date of the judgment or the release from imprisonment for the judgment sought to be set aside, whichever is later;
- **Pending charges:** Amends ORS 137.225 (7)(a) to provide that pending charges for contempt for violation of certain protective orders would act as a bar on eligibility for expungement while the charges are pending;
- **Blocking/Look-back period:** Includes protection order violations in the list of those judgments that can "block" eligibility for expungement of other offenses during their look-back periods;
- **Protection order judgment/findings to which these rules will apply:** Findings of contempt for violation of protection order issued under the following authorities: ORS 107.095(1)(c) or (d); ORS 107.700 to 107.735; ORS 124.005 to 124.040; ORS 133.035; ORS 135.247; ORS 163.760 to 163.777; any court order arising from a criminal case involving a crime constituting domestic violence, a sex crime or any other person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

Rationale: There are sound policy reasons to treat domestic violence, sexual violence, and stalking cases carefully, due to what we know to be patterns of abuse that escalate and repeat often between multiple victims and over time. If a judgment of contempt for a protection order violation were to disappear from the record, this could affect things like bail and the "gridblock" sentencing scheme if there are later person-related crimes. It also could harm presentation of future protection order and stalking cases and/or custody and parenting time cases where it's important to be able to take notice of the perpetrator's willingness (or lack thereof) to adhere to the court's order issued for the victim's safety. HB 4097A improves safety for survivors and their children by increasing the waiting period prior to expungement of records of violation of certain protection orders.

Removal of financial barriers to justice for low-income defendants:

The bill with the Dash 6 amendments gives the court discretion to waive fines and fees (other than victim restitution or compensatory fines) for applicants who would otherwise be eligible for expungement. If more than 10 years have passed since the date of conviction, then the court is directed to waive fines still owing.

Rationale: This provision is in the interests of justice, removing financial barriers to relief for defendants, without negatively impacting those injured by crime. Too often, court fines and fees are assessed without consideration of ability to pay, and defendants are trapped in vicious cycle of debt from which they cannot escape. Under current law, if a person cannot pay their fines, they are ineligible for expungement even if they have remained crime-free and are otherwise eligible for a set-aside. The



Oregon Law Center

WORKING TOGETHER TO ACHIEVE JUSTICE FOR LOW INCOME OREGONIANS

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inability to set-aside their conviction makes it harder to find employment or housing, making it harder to pay off their fines and fees owing. This downward spiral of debt can be impossible to escape, and has a disproportionate impact on communities of color and low-income Oregonians. Giving courts the discretion to waive fines and fees (other than victim restitution and compensation) for otherwise eligible applicants is in the interests of justice, ensuring that inability to pay is not a barrier to relief. Passage of HB 4097 with the Dash 6 amendments will help reduce poverty and racial disparities caused by the criminal justice system.

In summary, HB 4097 with the Dash 6 amendments is the kind of justice reform our system desperately needs. The bill will increase safety for survivors, while also removing procedural and financial barriers to expungement for otherwise-eligible applicants. The bill is one step towards addressing the inequities in our criminal justice system that have devastating impact on crime survivors and on defendants, and we urge your support.

Thank you for your consideration.

Sincerely,
Sybil Hebb

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