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**Testimony in Support of House Bill 2492A
Before the Senate Judiciary Committee**

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Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

On behalf of the Oregon Law Center (OLC), I submit this testimony in support of HB 2492A, which would increase safety for survivors of domestic and sexual violence by extending the waiting period prior to eligibility for expungement of a judgment of contempt for violation of certain protection orders. Thank you for the opportunity to submit testimony.

OLC is a statewide non-profit law firm whose mission is to provide access to justice for the low-income communities of Oregon by providing a full range of the highest quality civil legal services. One of the most frequent requests for help from our offices across the state is from victims who are struggling to escape domestic or sexual violence, and who need help establishing safety at work, in their housing, and with their family law matters. Rarely are the issues facing our clients more compelling than when parents seek our assistance in establishing safety and stability for themselves and their children in the aftermath of violence committed by a family member.

HB 2492A is designed to increase safety for survivors. We brought this bill forward in cooperation with a coalition of advocates for survivors, including direct victim service providers, legal aid survivor service providers, and the Oregon District Attorney Association. The coalition of those who support the bill is in the written testimony on OLIS. The bill language has been widely vetted by stakeholders over more than 2 years as part of larger discussions, and we sought technical approval of the language from the Oregon Judicial Department. There were some amendments on the House side to narrow the provisions of the bill after hearing from defense attorneys, and the bill comes to you with strong bipartisan support.

As amended and before you, the bill accomplishes three primary things:

- Increases the waiting period prior to eligibility for expungement of judgments of violation of certain restraining orders and no-contact orders related to domestic violence and sexual assault from 1 year to 5 years;
- Specifies that if an offense classification has been reduced by the court, the applicable time period for expungement purposes is the time period associated with the reduced offense classification;
- Clarifies that traffic violations may not be set aside under this section (a technical fix to a drafting error in current law.)

The Oregon Law Center's mission is to achieve justice for low-income communities in Oregon by providing a full range of the highest quality civil legal services.

Increasing the waiting period prior to eligibility for expungement of records of violation of domestic violence and sexual assault-related protection orders is a high priority for survivor advocates, for the following reasons:

Patterns of Abuse and Escalation: Ensuring that records remain accessible for longer periods helps identify patterns of abuse and provides critical context in future cases as well as for important safety planning.

- Domestic violence often escalates over time and can involve multiple victims. [Research suggests](#) that a significant percentage of protection order violations are followed by an increase in violence or stalking. It is well-documented that IPV homicides are usually marked by escalation of long-term conflict ([Dobash et al., 2009](#); [Greuel, 2009](#); [Monckton Smith, 2020](#)).
- A violent or criminal history is the characteristic [most frequently associated with](#) protection order violation.
- Actuarial tools in use across the country and the world used to assess risk of dangerousness and future assault behavior in domestic violence cases include violations of protective orders as a key indicating factor. For example, three of the most commonly used evaluation tools, the ODARA ([Ontario Domestic Assault Risk Assessment](#)), the SARA ([Spousal Assault Risk Assessment Guide](#)) and the DVSI ([Domestic Violence Screening Instrument](#)) all include violations of orders as indicating factors:
 - The **ODARA** Risk Assessment includes “Failure on current or prior conditional release ... or conditions of a restraining order.” (see number 13)
 - One of the factors considered in **SARA** is “Past violation of ‘no contact’ orders” (#15)
 - One of the factors in the **DVSI** is “history of DV-related POs” and “any history of violations of DV protection orders”- see #5&6.
 - See also: https://www.ufv.ca/media/assets/ccjr/reports-and-publications/Reducing_Recidivism_in_Domestic_Violence_2011.pdf “*In the current study, the most important factors associated to predicting recidivism were a prior history of complaints between offender and victim, offender mental illness, and, in particular, continued contact between offender and victim, and offender violation of a no contact order. The fact that an offender violating a no contact order was the most substantial predictor of recidivism was not altogether surprising, as these offenders have demonstrated an inability to abide by legal conditions.*” Also: “*The primary purpose of this report was to summarize the factors increasing the risk of domestic violence recidivism. In effect, one factor from each of four groups appeared relevant in predicting recidivism; offender mental illness, history of complaints between offender and victim, violation of a no contact order.....*”

Impact on Legal Proceedings: Expunging records prematurely can hinder the ability to assess risk in bail decisions, sentencing under gridblock schemes, and safety needs in custody or parenting time cases. A record of past violations is crucial information that courts need in order to best protect survivors and their children.



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Survivor Access to Other Safety Measures: This proposal prioritizes survivor safety and ensures the availability of records the survivor may need in order to show eligibility for certain forms of emergency assistance, housing protections, workplace safety accommodations, address confidentiality access, and other forms of relief that this state has worked hard in a bipartisan fashion to provide.

Accountability for Perpetrators: Domestic violence perpetrators often display a disregard for court orders, which is indicative of future risk. Retaining these records longer reinforces accountability and underscores the seriousness of protection order violations.

Leaving is the most dangerous time, and most protection orders are obtained in aid of leaving, or shortly after leaving. The recent Oregon Supreme Court Case *M.A.B. v. Buell* (366 Or 553 (2020)) recognizes this and cites to Oregon’s Fatality Review. When orders are violated, they greatly contribute to the fear and manipulation suffered by the victim, and create greater barriers to recover.

In closing, this bill is brought forward because preserving the record of violative behavior is important. These are records that can create context for what we know is most often repeated ongoing abuse, and these records can help survivors qualify for other safety protections that may be necessary to protect themselves and their children, long after the underlying protection order has expired. Greater access to these records can provide measurable increases in safety access for survivors, and for these reasons we urge your support.

Thank you for the opportunity to testify.