



Stephen S. Walters
Manager of Complex Litigation,
Attorney
Oregon Law Center
swalters@oregonlawcenter.org

To: House Committee on Judiciary
From: Stephen S. Walters, Oregon Law Center
Re: Support for HB 4114-1
Date: February 04, 2026

Chair Kropf, Vice-Chairs Wallan and Chotzen, and members of the committee

Thank you for the opportunity to provide testimony in support for HB 4114-1 amendment on behalf of the Oregon Law Center (OLC).

My name is Steve Walters and I am the Manager of Complex Litigation at the Oregon Law Center's State Support Unit. I currently serve as a constitutional law expert for OLC's work on behalf of our lowest-income community members. Constitutional law has been the focus of my entire career, starting as a clerk for the 9th circuit and then the US Supreme Court, then in private practice nationally and locally, as well as now public service practice. I've also taught as a constitutional law professor at several law schools. Bringing this experience to bear on behalf of our most vulnerable communities in this current landscape has been some of the most important work I've done.

When Rep. Muñoz asked for feedback on her proposal, I was delighted to help and wholeheartedly support the amended bill as an important tool of protection for our vulnerable communities.

OLC is a civil legal aid organization that provides high-quality legal services, free of charge, to low-income Oregonians statewide. Access to justice is a cornerstone of our organization's mission. Our clients come to our organization on a range of issues impacting their lives – from housing to DVSA issues, as well as violations of state and federal civil rights laws. We believe that when individuals experience harm resulting from unlawful or unauthorized conduct, there should be a clear and lawful avenue for review and accountability.

We are living in a time when questions about the scope of governmental authority, particularly in the context of federal immigration enforcement, are creating uncertainty and concern in many communities. When authority and accountability are unclear, it can undermine public trust in the law and in the institutions responsible for public safety.

HB 4114-1 provides a legally defensible mechanism to address instances where federal immigration enforcement actions exceed lawful authority or conflict with established

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.

constitutional protections. Specifically, HB 4114-1 amendment provides a remedy for persons whose homes and other historically private areas—such as churches and health care facilities—are violated by persons purporting to act under color of state law. The bill allows recovery of actual or liquidated damages which vary depending on the location of the violation. Like other federal and state civil rights laws, HB 4114-1 allows recovery of reasonable attorney fees for plaintiffs who prevail in such a suit in order to overcome financial barriers to access to justice. And the Bill allows defendants to recover reasonable attorney fees if they are victims of frivolous litigation.

I recognize the concerns that have been raised that HB 4114-1 may be challenged on Supremacy Clause and equal protection grounds. I agree that such challenges are likely to occur in the current climate of clashes between federal authorities and states that are attempting to protect their residents. I believe, however, that this Bill has been tailored carefully to withstand constitutional scrutiny. These are my reasons:

- HB 4114-1 is limited to torts or constitutional violations that are **not covered** by the Federal Tort Claims Act (FTCA) or its exclusivity provision, known as the Westfall Act. In brief, the Bill addresses subjects such as trespass, invasion of privacy, and intentional infliction of emotional distress, which are not suits for “personal injury or property damage” under the FTCA, are not within the so-called “intentional tort” exceptions or the “law enforcement proviso” of that statute, and do not involve the “same subject matter” as the FTCA which is the focus of the Westfall Act.
- The case that is most often cited as a basis for challenges to HB 4114-1, *Smith v. United States*, held only that a claim within the FTCA exceptions—that is, a suit that otherwise was subject to that statute—is subject to the Westfall Act; it does not affect claims, such as those authorized by HB 4114-1, that are not within the FTCA to begin with.
- The limited remedy authorized by HB 4114-1 covers only situations in which persons acting under color law attempt to enter protected areas without a warrant or an emergency; it should not unduly burden legitimate law enforcement efforts.

The different amounts of liquidated damages authorized by HB 4114-1 do not raise equal protection issues. Those provisions would be subject only to rational basis review under the 5th and 14th Amendments as they do not implicate fundamental rights, and the Legislature’s considered judgment that violations of certain types of spaces require more of a deterrent than others easily passes that test.



Stephen S. Walters
Manager of Complex Litigation,
Attorney
Oregon Law Center
swalters@oregonlawcenter.org

Oregon Law Center urges this committee to pass HB 4114-1 with a due pass recommendation.

Thank you,

Stephen S. Walters
Manager of Complex Litigation, Attorney
Oregon Law Center

For legislative questions, please contact:
Martha Sonato
Legislative and Policy Advocate
971-801-5031
msonato@oregonlawcenter.org

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.