Oregon Justice Resource Center

February 9, 2026

To: House Committee on Judiciary
From: Zach Winston, Policy Director

Re: **Testimony in Opposition to Sections 7-12 in HB 4041-1**

Chair Kropf, Vice-Chairs Chotzen and Wallan, and Members of the Committee:

My name is Zach Winston. I am the Policy Director at the Oregon Justice Resource Center (OJRC). The OJRC opposes the language in HB 4041 being presented as a Torres-Lopez fix, sections 7-12 in the -1 amendment.

Prior to joining the OJRC, I practiced as a criminal defense attorney in Oregon. I understood that words matter and the importance of ensuring that any language in a pleading, order, or judgment accurately reflected my understanding of the situation and intent of the parties. If the language did not reflect my understanding of the intent, I would raise those concerns immediately. I knew that failing to review and address discrepancies in understanding could have significant consequences in the future.

I also understood the importance of staying current on new laws that would impact my practice and clients. OCDLA would hold CLEs addressing any new laws that could impact defense attorneys and recommend changes to our practice moving forward. If a new law went into effect, I would modify my practices to address and comply with the new law. I did not feel comfortable pleading ignorance if I was caught not knowing a new law was in effect.

These basic tenets of lawyering are at the heart of the Torres-Lopez opinion. Despite the narrative that Torres-Lopez was an earth-shattering case that upended everything, Justice James in the Arellano-Sanchez case describes what the court actually held in Torres-Lopez:

> "Torres-Lopez did nothing more than remind the bench and Bar and DOC, that ORS 137.370(4) had been amended in 2015 to give trial courts the authority to order what would amount to "double credit" in limited circumstances. But the changes in 2015 to ORS 137.370(4) may not have translated to changes in practice by the bench and Bar. That is not uncommon—it is the case that sometimes routines of practice do not always keep pace with statutory changes. In light of Torres-Lopez's reminder, however, from this point onward, practitioners and trial courts would be prudent to use caution in employing generic terms like "credit for time served" or "CTS."

The language the Oregon Supreme Court relied on became law more than 10 years ago, and there was a full legislative record made at the time that discussed how the law would operate. Despite this, some practitioners failed to modify their practices and DOC maintained administrative rules that denied AICs credit that the legislature said judges should have authority to award.

There's no "fix" needed. Torres-Lopez and subsequent case law has reminded practitioners to be specific and clear in the language they use, and DOC is on notice to apply language in a judgment literally. Any confusion from Torres-Lopez moving forward can be cleared up with CLEs, training, and attentive lawyering.

The legislature is being urged to act immediately with minimal stakeholder input not because a "fix" is needed but because the proponents see an opportunity to use a misleading narrative around the Torres-Lopez decision to seize more power with minimal guardrails.

The OJRC urges the Committee to table the Torres-Lopez language for the short session and continue with a more robust, inclusive, and well considered conversation in the interim.

Thank you.