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To: Senate Committee on Judiciary
From: Stephen S. Walters, Oregon Law Center
Re: Support for HB 4114A
Date: February 23, 2026

Chair Prozanski, Vice-Chair Thatcher, and members of the committee

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

My name is Steve Walters. I am the Manager of Complex Litigation at the Oregon Law Center's State Support Unit and serve as a constitutional law expert for OLC's work on behalf of our lowest-income community members. Constitutional law has been a focus of my career, starting in law school where I studied under Professor Gerald Gunther, followed by clerkships for a Judge on the 9th Circuit Court of Appeals the Chief, Justice of the U.S. Supreme Court, then in private practice nationally and locally, as well as now in public service. I have taught constitutional law and federal jurisdiction at the University of Pennsylvania and Lewis and Clark and have provided training and presentations to lawyers on those subjects. Bringing this experience to bear on behalf of our most vulnerable communities in this current landscape is some of the most important work I have done.

When Rep. Muñoz asked for feedback on her proposed Protect Your Door Act, 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 us 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 an unprecedented time when questions concerning 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, public trust in the law and in the institutions responsible for public safety is undermined.

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.

HB 4114A provides a legally defensible mechanism to address situations where law enforcement actions exceed lawful authority or conflict with established constitutional protections. Specifically, HB 4114A as amended provides a remedy for persons whose homes and other historically private areas—such as churches, schools, and health care facilities—are violated by persons purporting to act under color of state law. The bill allows victims of such violations to recover actual economic and non-economic damages and, like most other federal and state civil rights laws, 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 that concerns have been raised that HB 4114A may be challenged under the federal Supremacy Clause. I agree that such challenges are likely to occur in the current climate of tensions 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 4114A 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. In short, the bill fills gaps in current law by providing a remedy for wrongs where there was none before.
- The U.S. Supreme Court case that is most often cited as a basis for challenges to HB 4114A, *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 4114A, that are not within the FTCA to begin with.
- The remedy authorized by HB 4114A 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 exception to HB 4114A when there is a remedy under 42 U.S.C. 1983 does not discriminate against federal law enforcement, as some have suggested. To

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the contrary, the bill levels the playing field by providing a remedy for violations by persons acting under color of law as to which there was none before.

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

Thank you,

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For legislative questions, please contact:
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