

Chair and Vice chair, members, thank you for the opportunity to speak. My name is Theo Erde-Wollheim and I am here in my personal capacity as a resident of house district 45, though I work as a public defender at MPD in Washington County. Through that work I represented Jose Arellano-Sanchez who is at the heart of this issue of the so called Torres-Lopez fixes, as his case was the lead case in the *habeas corpus* petition before the Oregon Supreme Court late last year. With his permission I want to discuss just briefly his experience first.

In August of last year, he was told he was being released from DOC due to a new time comp. What he couldn't know was that the decision was made by DOC and it would land him in the heart of a fight he never asked for. Despite being a model citizen while out, he was illegally taken back into custody days before Thanksgiving with no explanation. He was scared and confused, and not even his lawyer had an answer at first. His parents just wanted their son back home for the holidays. He was released on Christmas Eve after filing an emergency *habeas corpus* petition before the Oregon Supreme Court.

After his release he showed up again to court. Now faces the risk of going back into prison a third time pending the outcome of an appeal. This fear and uncertainty, has been extremely hard on him and his family.

When he was originally released, no one ever said this was a mistake, material or otherwise. OISC talked to DOJ and applied the law as they were instructed. Staff members from OISC have testified under oath to as much. Then came political pressure from DAs and the counseled decision became a "mistake". The OSC made clear it wasn't a mistake or illegal, but rather a lawful release in the opinion the issued in his case. Now there is a campaign to change the law to make what was a decision to comply with the law into a mistake.

To make these changes retroactive, especially the recapture language, to July 10, 2025, only confirms this. Because lawyers, judges, and DOC misunderstood 137.370(4) following the 2015 amendment does not turn this into a crisis that will almost certainly result in numerous constitutional challenges and significant litigation. I know I will be there to stand up for Mr. Arellano-Sanchez if you do. He did nothing wrong when he was released and deserves not to be a pawn in a political fight.

Changing 137.172 will turn a tool designed to fix legitimate errors into a means for DAs to changes judgments every time an appellate court clarifies a sentencing rule. Giving DAs an ambiguous tool is unleashing a pandora's box that will have unforeseen problems down the road.

In the end all of this is a solution in search of a problem. This will no longer be an issue. The last 6 months of litigation has caused all parties in the criminal justice system to respond and change their practices. If you feel you must make these changes, convene a proper work group and see if there's still a need at the long session next year. Do not rush this out because DA's see an opportunity to gain new powers and score political points.