



**TESTIMONY ON HB 4041
SENATE COMMITTEE ON JUDICIARY
FEBRUARY 25, 2026**

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

My name is Mae Lee Browning, testifying on behalf of the Oregon Criminal Defense Lawyers Association (OCDLA).

Support: OCDLA has two proposals in HB 4041 that are simple, straightforward, sensible, fiscally responsible, and right-sized for a short session – Driving While Suspended and Inflation-Adjusted Dollar Amounts for Theft and Criminal Mischief.

Neutral: OCDLA is neutral on two of ODAA's proposals in that package - Ramos/Watkins/SB 321(2023) and their 3-part *Torres Lopez* proposal (notice, computation of credit for time served, and entry of a corrected judgment).

Oppose: OCDLA opposes DOC's recapture proposal and ODAA's felony elude proposal being included in this bill. ODAA added felony elude at the last minute during "negotiations." OCDLA has opposed felony elude before and I have consistently asked that it be taken out of this bill. The felony elude proposal should stand on its own with its own fiscal.

OCDLA proposal: Driving While Suspended (sections 1-2)

OCDLA's Driving While Suspended (DWS) proposal is narrowly tailored to reclassify two minor offenses as violations rather than misdemeanors. These provisions do nothing to change the underlying conviction or the license suspension. With the change in this bill, the person would be charged with a violation and subject to fines, but without the lasting harm of another criminal conviction.

OCDLA proposal: Inflation-Adjusted Dollar Amounts for Theft and Criminal Mischief (sections 13-18)

OCDLA's proposal simply updates outdated dollar thresholds to reflect inflation. These dollar amounts distinguish levels of theft and criminal mischief. The threshold for Criminal Mischief in the Second Degree, a Class A misdemeanor, is \$500. For Criminal Mischief in the First Degree, a Class C felony, it is \$1,000. Theft in the Third Degree (Class C misdemeanor) is for an amount under \$100, Theft in the Second Degree (Class A misdemeanor) is for an amount between \$100 and \$1,000, and Theft in the First Degree (Class C felony) is for an amount over \$1,000.

The dollar amounts were last adjusted in 2009 and no longer reflect the real value of money today. Inflation has significantly eroded those thresholds. Conduct that was treated as lower level in 2009 is now more likely to trigger higher criminal penalties

solely because of inflation. This bill simply updates these dollar thresholds to adjust for inflation, using the U.S. inflation calculator: \$100 in 2009 is \$150 now and \$1,000 in 2009 is \$1,500 now.

These amounts have been adjusted before. In 1971, the dollar threshold for theft was \$200, which is the equivalent of \$1,589 now. In 1987, the dollar thresholds were \$50 and \$500, the equivalent now of \$140 and \$1417, respectively.

This is not a policy expansion or reduction - it is a correction. It preserves the Legislature's original intent by keeping penalties aligned with real economic value.

ODAA proposal: Ramos/Watkins/SB 321 (2023) Extension (sections 5-6)

OCDLA is neutral on this provision. It extends SB 321 that passed in 2023 and creates a new deadline for the filing of post-conviction relief petitions based on nonunanimous jury verdicts 120 days from the effective date of this measure.

ODAA proposal: Torres Lopez proposal (notice, computation of credit for time served, and entry of a corrected judgment) (sections 9-11)

OCDLA is neutral on these provisions. While we initially argued that no legislative response to *Torres Lopez* was needed, we understood that the legislature and some stakeholders may want to "do something" given the publicity of ODOC's releases and sentencing recalculations. For the notice provisions, we ensured that notice would go to the defendant and defendant's counsel, and that defendant would be notified about how to challenge the recalculation. For entry of a corrected judgment, while we originally suggested language that was rejected, in the current language, we were able to ensure that defendant would be appointed counsel, a hearing would be held concerning the ambiguous term, and the court may not modify the judgment to achieve a result that is unsupported by the record from the original sentencing proceeding.

DOC proposal: Recapture (sections 7-8)

This proposal should stand on its own for legislators to vote on. It is offensive that this proposal is included in a bill that is at the request of the Oregon Criminal Defense Lawyers Association.

ODAA proposal: Felony Elude (sections 3-4)

Felony Elude was included at the last minute in "negotiations." This was not part of ODAA's 2026 legislative agenda that was shared in October 2025. This was not part of the package I had been negotiating up until that point. We have opposed felony elude before in the 2025 session and I have consistently asked in workgroup discussions for it be taken out of HB 4041. It is not fair play to add this proposal to HB 4041. The legislature should not condone this ambush in negotiations.

The felony elude proposal should stand on its own with its own fiscal. OCDLA's proposals are fiscally responsible and result in cost savings. I did not know that the fiscal impact of felony elude would be neutralized with the cost savings from OCDLA's proposals until late in the discussions. Had I known that felony elude would be included

in the 2026 ODAA legislative agenda that was shared in October 2025, and had I known then that our proposals would have been used to fiscally offset felony elude, it would have factored into my decision-making about whether or not to proceed with the package or to remove our proposals.

Lawmakers should be transparent with the public about the actual fiscal impact of felony elude. In 2025, HB 3097, which was the stand-alone felony elude bill, had the following fiscal impact:

\$37,000 for this biennium
\$685,000 for the 2027-29 biennium
\$1.9 mil for the 2029-31 biennium
\$2.3 mil for the 2031-33 biennium
\$2.4 mil for the 2033-35 biennium

Balance matters in criminal justice policy. When the Legislature considers bills that increase sentences or expand criminal liability, it is equally important to advance measures that restore balance in the system. A balanced legislative approach strengthens confidence in the justice system and produces more sustainable outcomes. It is not a balanced approach if felony elude stays in this bill, so we are asking that it be taken out. The elevation from a crime seriousness level 2 to a 6 and 8 in certain circumstances for felony elude does not balance with the very minor changes to DWS and adjusting the dollar amounts for theft and criminal mischief to reflect inflation.

Felony elude captures a range of conduct. What legislators will hear about are the long, scary car chases. What defense attorneys know is that our clients are charged with felony elude for taking 4 blocks to pull over. If legislators have the will to pass the felony elude provision and if the budget environment can sustain such an increase in this crime, there should be a misdemeanor offramp to reflect the range of conduct encompassed in felony elude and to offset the increase to a crime seriousness level 6 and 8. Additionally, if the legislature has the will to increase the crime seriousness level of this crime, it should also look at what crimes should have the crime seriousness level decreased.

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¹ OCDLA's 1,200+ members statewide include public defense providers, private bar attorneys, investigators, experts, and law students. Our attorneys represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, and adults in criminal proceedings at the trial and the appellate level, as well as civil commitment proceedings throughout the state of Oregon. Our mission is championing justice, promoting individual rights, and supporting the legal defense community through education and advocacy.