



Oregon

Tina Kotek, Governor

Oregon Department of Corrections

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February 25, 2026

Senator Floyd Prozanski
900 Court St. NE, S-413
Salem, OR 97301

Senator Kim Thatcher
900 Court St. NE, S-307
Salem, OR 97301

Subject: House Bill 4041-A

Chair Prozanski, Vice-Chair Thatcher, and Members of the Senate Committee on Judiciary:

Thank you for the opportunity to testify to HB 4041-A on Monday, February 23. As I mentioned in my oral testimony, the situation we are currently in as a result of the *Torres-Lopez* decision is fraught with confusion, chaos, and instability for everyone involved – crime victims, offenders, and every organization charged with maintaining our public safety system.

HB 4041-A was carefully developed with the input of public safety partners and legislators. As a result, it passed out of the house with broad bipartisan support. The bill as written solves four current issues:

1. It clarifies everyone's understanding of how presentence incarceration credits are awarded in consecutive cases.
2. It reduces confusion by requiring victim, offender, court, defense, and prosecutor notification when a projected release date changes significantly.
3. It improves clarity of judgments by creating a pathway for the courts to determine whether an individual's return to custody is in the interest of justice.
4. It minimizes the chaos to individuals who have been released by expanding Short Term Transitional Leave (STTL) for those who are in the community and doing well on supervision.

Many others who testified on HB 4041-A have been impacted negatively because of the *Torres-Lopez* decision – victims, offenders, family members, and those of us in the criminal justice system. This has been a complex and unfolding matter that challenged everyone in the public safety community to agree on a path forward that will restore certainty for all parties.

I would like to address what I believe were concerning statements made by some who testified on the bill during the public hearing:

Topic	Concerning Statement	Clarification
Erroneous Releases	The Supreme Court made it clear that releases were not erroneous.	DOC has asked the Oregon Supreme Court to clarify their Torres-Lopez decision as it relates to DOC's sentence calculations. To date the court has declined to weigh in on this matter.
Retroactivity	The retroactivity included in this bill is a clear violation of both ex post facto and bill of attainder clauses.	The bill is not imposing new criminal liability or increasing criminal punishment retroactively, it is ensuring that the sentence originally imposed by the court has been fully served.
Expansion of District Attorney authority	Section 7 creates a new and unusual prosecutorial power over DOC's execution of prison sentences.	This section describes a process by which the sentencing court may be petitioned to clarify the original intent of the judgement. Petitions may be filed by DOC, the state, or the defense. This process does not constitute a new or unusual prosecutorial power.
Vague Bill Language	The language in Section 7 around court processes is ambiguous and full of technical issues.	The Oregon Judicial Department actively participated in the drafting of section 7 and did not express concern with ambiguity or technical issues.

In summary, HB 4041-A is the result of hours of negotiation that has required considerable compromise from all parties. It fixes a set of urgent problems and will bring needed clarity to what has been a confusing and chaotic chapter in Oregon's judicial history.

Thank you for your consideration,

Larry Bennett

C: Harvey Mathews, DOC Legislative Manager
Jennifer Black, DOC Chief of Staff
Valerie Colas, Governor's Public Safety Advisor

Timeline of Key Events

Guided by our commitment to public safety, transparency, and accountability, we recognize that a series of events led to the current situation affecting DOC, our public safety partners, victims, adults in custody, and their families. The following timeline outlines the key events that brought us to where we are today.

July 2025

The current challenges began with an Oregon Supreme Court ruling issued in July 2025, known as the *Torres-Lopez* decision. The ruling, which was retroactive to 2015, marked a significant change in the way presentence incarceration credit is awarded. Upon receipt of the ruling, DOC recognized there were likely hundreds of sentences impacted, if not more. Given the significance of the ruling and potential impacts, DOC immediately sought legal advice from their counsel, the Oregon Department of Justice (DOJ) on implementation. DOJ also filed a request for reconsideration with the Supreme Court, citing a technical error decision.

August 2025

Beginning in August 2025, DOC's sentence computation team hand-reviewed 11,000 Judgment Orders to determine eligibility for the additional credit. The team had to do this work quickly, as there was a good chance the *Torres-Lopez* ruling meant DOC was overincarcerating some AICs. Following the review, 388 of the 11,000 cases had their PRD adjusted to an earlier date—most by days or months, and a small number by several years.

During DOC's review of approximately 11,000 judgment orders, we identified language in some cases indicating that the court had ordered duplicate credit. In those instances, credit was applied as directed by the court.

Fall 2025

By early Fall, DOC began to hear concerns related to cases in which duplicate credit was awarded based on judgment orders. Based on those concerns, DOC sought additional legal counsel from DOJ and began regularly communicating with impacted stakeholders on affected cases.

November 2025

In November 2025, the Supreme Court denied DOJ's request for reconsideration and opened the door a bit further as it relates to what qualifies as presentence incarceration credit. Also in November, following legal consultation, DOC made a policy decision to recalculate sentences where duplicate credit was applied, essentially removing the duplicate credit. The recalculations had to be applied consistently, which meant it would not only impact those still in custody, but also those who'd been released under the initial calculation.

Although computation errors resulting in premature releases are historically rare, for decades DOC has relied on its statutory authority ([ORS 144.350](#)) to issue an order of arrest and subsequent warrant in such cases. We proceeded in exactly that way with these cases and, as a result, 22 people were returned to

DOC custody. The remaining individuals were either incarcerated with another agency or were able to avoid law enforcement contact while the warrants were active.

December 2025

In mid-December, the first Habeas Petitions were filed with the Supreme Court for three of the individuals taken back into custody. On Christmas Eve, the court ruled that DOC lacked the appropriate statutory authority to return these individuals to custody using ORS 144.350. DOC was ordered to release all three individuals and did so without delay. In addition, we canceled the remaining open warrants for those individuals who could not be located and were not brought back into custody.

January 2026

By mid-January, additional petitions were filed with the court on behalf of three additional AICs. In late January, DOC was again ordered by the Supreme Court to release them, and we did so.

In addition to the six released on Habeas Petitions to date, others with short amounts of time remaining to serve released normally. Currently there are 12 individuals remaining in DOC custody who were returned on warrants and have not completed their court-ordered sentence, and Habeas Petitions continue to be filed. Eighteen individuals have been released to the community despite owing additional court-ordered time. The process for returning them to custody is unclear.

February 2026

DOC engaged with Representative Kropf, Representative Chotzen, Representative Wallen, our public safety partners, and committee staff to share details around the process the agency goes through to respond to court rulings. We remain committed to working with our partners in enhancing public safety to provide clarity in the law.

While we are navigating uncharted territory, we remain committed to working collaboratively toward a resolution. We share a common goal: safe communities, a functional and fair legal system, and prison sentences that lead to accountability and meaningful transformation. Thank you for your leadership in bringing us to this moment, including a statutory fix that addresses many of the challenges we have worked through over the past six months.