



Improving Criminal Justice in Oregon DNA Evidence Retention Law: Support SB 731

Take Action: Oregon Needs Uniform Practices for Retaining DNA Evidence

The ACLU of Oregon is pleased to introduce SB 731, the DNA evidence preservation law. SB 731 will require that biological evidence related to very serious crimes is retained, regardless of whether there was a conviction or the case remains unsolved. This bill is an important next step on Oregon's path to providing necessary safeguards in the criminal justice system in light of the increasing use of DNA technology for purposes of criminal investigation, prosecution and exoneration.

Oregon's DNA Innocence Law

The Oregon Legislature first approved Oregon's DNA Innocence law in 2001. It provides for post-conviction DNA testing of biological evidence that was secured in the original investigation of the case. Across the country, DNA testing has proven the innocence of many convicted defendants. Wrongful convictions have been overturned both because DNA technology has been rapidly improving in recent years and because, in some cases, the original testing was improperly performed. However, Oregon currently has no process to guarantee that evidence will remain available to account for likely improvements in technology that will occur in the next 5, 10, 20 or even 30 years.

Preserving DNA Evidence: The Next Step

SB 731 will establish uniform statewide evidence preservation practices to eliminate this gap in Oregon's justice system. This bill will ensure that DNA evidence will have the power to exonerate as well as to convict criminal defendants. It will increase Oregon's commitment ensuring that justice is carried out in our courts.

Broad-based Workgroup

SB 731 is the product of a workgroup that included all stakeholders. In addition to the ACLU, the group included law enforcement, property custodians, prosecutors, defense counsel and the courts. There is no opposition to SB 731 and the Oregon Chiefs of Police and Oregon State Sheriffs' Association testified in support before the Senate Judiciary Committee.

Details of SB 731

SB 731 provides for the preservation of biological evidence secured in the course of murder and rape investigations. It sets the time-line for how long the evidence shall be retained, but also allows a process for early destruction. It does not require the property custodian to preserve evidence if it is of such size, bulk or physical characteristic as to render retention impracticable. In those cases, the custodian is authorized to remove and preserve the portions likely to contain biological evidence in a quantity sufficient to permit future DNA testing.

Flexibility of SB 731

It also requires the Oregon Attorney General to adopt rules establishing the proper collection, retention, preservation, and cataloging of biological evidence in consultation with the Oregon State Police and other custodians. This provides important flexibility because the means of retaining biological evidence are not only changing, but are becoming easier for property custodians. Rather than place particular requirements in the law, this will give the state the ability to update the rules as best practices evolve.

**IMPROVE CRIMINAL JUSTICE:
SUPPORT SB 731, THE
DNA EVIDENCE RETENTION ACT**