



Co-Chairs Lieber and Kropf and Speaker Rayfield,

As a longstanding stakeholder in the criminal legal system and civil rights and liberties advocate space at the Oregon Capitol, we have serious concerns about HB 4002:

- First, what we've learned about the forthcoming amendments to HB 4002 indicate that the **changes are more severe** than the -1 amendment. Indeed, it is likely that HB 4002's recriminalization of Oregonians experiencing drug addiction will be, in practice, functionally similar to the regressive, harsh policies pushed by the so-called "Fix and Improve Ballot Measure 110" interest group, which is led by the former head of Oregon prisons and funded by billionaires. (Our analysis is based on verbal summaries of additional amendments, as no language has been shared.)
- Second, legislative leadership **failed to meaningfully engage** with all necessary stakeholders and constituents, including lawyers and advocates for civil rights and liberties. What we heard and experienced during the meetings and hearings of the Joint Committee on Addiction and Community Safety Response ("Joint Committee") strongly indicate that a return to criminalization had already been done and decided outside these meetings and hearings.
- Third, HB 4002's process and content show **disdain for values** such as civil rights and liberties, racial justice, and sound science-based public policy making, **as well for the people** who have been historically and disproportionately excluded, marginalized, and punished in this state for the health condition of addiction.

In summary, Oregon's legislative leadership is digging a deep, unconscionable, and costly trench of human suffering by recriminalizing Oregonians experiencing drug addiction.

Our concerns are set out in more detail below.

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- **HB 4002’s forthcoming changes are more severe than its already problematic prior version; functionally, it likely will be similar to the regressive, harsh policies pushed by the so-called “Fix and Improve Ballot Measure 110” interest group.**

It is a sad and unsurprising truth that the most current iteration of HB 4002 is more severe than the already problematic -1. Previously, legislative leadership contemplated deflection and health care access **being required** in every county across Oregon, consistent with their vision and hope at that time that people with addictions would be sent by police to treatment, not jail. However, reports about the next changes to HB 4002 indicate that deflection now will be **merely optional** for each county. What this means is that someone addicted to drugs in one county may be arrested and left to suffer and potentially die in jail, while a person addicted to drugs in the next county over might be offered access to deflection and treatment services. Access to justice and care in Oregon will be determined by geography.

Every iteration of HB 4002 refuses to see a glaring issue: the criminalization proposals require Oregon to have significantly more public defense lawyers and related professional staff than it currently has or can develop over the next couple years. Oregon is already experiencing a severe shortage of needed defense attorneys and professional staff; this shortage has been more than a decade in the making. By stacking crisis upon crisis, the Legislature is ensuring that our state further entrenches itself in the suffering caused by addiction and poverty – which exists across Oregon in deeply concerning and increasingly public ways.

HB 4002’s evolution also seems to repeatedly ignore or minimize the downstream impacts of the criminal approach – including the very serious negative impacts on the child welfare system (including the impacts on the Oregon Public Defense Commission which also provides attorneys to kids and parents in the system), the costs of supervision, and other already overburdened systems like the foster care system.

- **Legislative leadership failed to meaningfully engage with all necessary stakeholders and constituents; by all accounts, a return to criminalization had already been done and decided.**

The ACLU of Oregon has repeatedly seen the legislative process underlying HB 4002 ignore the expertise and experiences of our Black, Indigenous, and People of Color (“BIPOC”) partner organizations. Despite clear experience and evidence that the return to criminalization will be a return to racial harms – including the government-inflicted harms of police violence, mass incarceration, and drug overdose deaths – the ACLU of

Oregon has been told flat out that our state's return to criminalization for people experiencing addiction is not up for debate.

This occurred in the few technical meetings to which the ACLU of Oregon was invited to attend and which we were eventually excluded from – an example of another very troubling aspect of this process.

The ACLU of Oregon has provided a legal voice at the legislature going back more than 35 years. Our organization and other civil rights and liberties advocates provide an important perspective on legal systems; we help safeguard our state's commitment to justice by ensuring that our legal systems are built on integrity, fairness, and humanity. However, the leadership and composition of the “technical” workgroup underlying HB 4002 was highly skewed towards and dominated by prosecutors and law enforcement – lawyers and nonlawyers alike. There was a troubling lack of balance in the inclusion of participants with viewpoints different from prosecutors and law enforcement.

Indeed, the ACLU of Oregon was only invited to attend the initial meetings of the technical workgroups on deflection and *Boyd* deliveries. Neither our legal director or our policy director were invited to any subsequent meetings, and leadership did not respond to our legal director's emails offering good faith input on deflection and *Boyd* deliveries. The echo chamber that legislative leadership built drowned out everyone but prosecutors and law enforcement.

As we have repeatedly tried to tell legislative leadership, HB 4002 is not designed to work the way they claim it will. State branches and agencies like the Oregon Judiciary and Oregon Public Defense Commission stand to bear a significant portion of the burdens and negative consequences resulting from HB 4002. However, it is not clear to us that feedback and guidance from experts representing all key government agencies were incorporated in a necessary and meaningful way into HB 4002's development. Indeed, on February 5, 2024, the Chief Justice of the Oregon Supreme Court sent an eight page letter detailing the Judiciary's many serious concerns about HB 4002. More troubling still, it appears that this letter in its full form was not shared with all Joint Committee members, some or more of the technical work group participants, and the greater legislative body.

The fact is, there are incredibly disturbing truths about HB 4002's financial and societal costs, as well as the many problems and complexities of its implementation. This policy will be incredibly expensive and complicated – not just now but going forward into the future. Moreover, it goes against what a mountain of evidence says will actually help people heal from addiction and build safer communities, *i.e.*, more treatment, housing,

prevention education, non-police mobile crisis teams, and community revitalization programs. However, legislative leadership has not surfaced or discussed the many serious issues and questions about their policy in any meaningful way with all the constituencies and stakeholders who should be part of the policy conversations.

No matter on what side of the debate one falls, the above concerns demonstrate incredibly troubling and significant process breaches that should give serious pause to anyone who cares about democracy and integrity.

➤ **HB 4002's process and content show disdain for values such as civil rights & liberties, racial justice, and sound science-based public policy making, as well as for the people who have been historically and disproportionately excluded, marginalized, and punished in this state for the health condition of addiction.**

Because this **must** be repeated, we do so: we all know that the government harms and violence of HB 4002 will continue to be carried by Black, brown and indigenous people, families, and communities. This cannot be stated enough, and it must not be overlooked. There is a long and well documented history of the criminal system's disproportionately racist impacts on these communities – which includes government harm and violence in forms such as police violence, harassment, and surveillance; systemically racist prosecutorial charging and conviction practices; more severe prison sentences; and family separation due to incarceration and child welfare interventions.

Finally, we firmly believe that recriminalization will inevitably result in more overdose deaths in the communities that most desperately need access to care. People will die, not only on our streets and in our homes, but in our jails and prisons. While we know there are high rates of addiction in the incarcerated population, incarceration will only increase with the passage of HB 4002. We also know that drug use has been soaring in Oregon's prisons and state officials have struggled to provide sufficient treatment.

We stated this before and it bears repeating again: Oregon's legislative leadership is digging a deep, unconscionable, and costly trench of human suffering by recriminalizing Oregonians experiencing drug addiction.

With deep frustration and sorrow,

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