



**Testimony of Kimberly McCullough, Policy Director
In Support of SB 321
Senate Committee on Judiciary
February 11, 2019**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports SB 321, which is a much needed improvement to Oregon's post-conviction DNA testing statute. SB 321 will better enable justice for the wrongfully convicted, victims, and the people of Oregon.

Oregon's post-conviction DNA testing statute was originally passed in 2001 with the support of the ACLU of Oregon. At that time, arguments were made that the law would open up the door for abuse of the system and an impossible number of requests for testing. To accommodate that concern, the law was structured to allow testing in an extremely limited set of circumstances. The law was also passed with a four-year sunset to allow legislative review before its reauthorization.

By 2005, not even a single convicted person had been able to use the statute to obtain DNA testing. ACLU of Oregon again supported legislation to reenact the post-conviction DNA testing statute. In order to improve the bill, amendments were included to allow testing even when an individual had pled guilty. This was not allowed under the original bill's limitations, despite substantial evidence that many innocent people do in fact plead guilty. Again, arguments were made that the law would be abused and would cause a flood of litigation. To address these concerns, another two-year sunset was added to the bill in order to alleviate these concerns.

In 2007, because it was clear that evidence of abuse had not surfaced, the statute was reenacted, this time without a sunset. The rest of the bill, including the significant limitations on when testing could be obtained, remained unchanged.

In 2015, it was abundantly clear that not only has abuse of the statute not occurred, but the bill's limitations were so restrictive that the statute was nearly impossible to use. To our knowledge, only one request for DNA testing had been granted since the law was originally enacted 14 years prior. Justice for the wrongfully convicted should not be so difficult to obtain.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 45,000 members and supporters statewide.

Now, in 2019, this legislature is once again faced with the reality that our DNA testing laws are still not working. However, that means we also have the incredible opportunity to finally fix the law.

As we have urged this legislature in the past, do not be swayed by arguments that these improvements will give rise to abuse. Similar statutes have been enacted in many other states, and the truth is they do not create a flood of litigation. And much more importantly, they provide justice where justice has failed.

For these reasons, the ACLU of Oregon urges you to support SB 321. Please feel free to contact us if you have any questions, comments, or concerns.