



## ODAA's 2026 Proactive Legislative Agenda

The Oregon District Attorney Association's 2026 proactive legislative agenda focuses on recent Oregon Supreme Court and Court of Appeals decisions that have significantly altered the way criminal cases proceed in Oregon. Below is a brief summary of each case along with a proposed approach to address or restore the applicable law.

---

### #1 Case: [State ex rel Torres-Lopez v. Fahrion](#), 373 Or. App 816 (2025)

**Summary:** The Oregon Supreme Court held in *Torres-Lopez v Fahrion*, 373 Or 816 (2025), that DOC must give an adult in custody (AIC) credit toward a prison sentence for time previously spent in multiple county jails for conduct unrelated to the prison sentence because such credit for time served is legally permissible under ORS 137.370(4) and is what the sentencing judge specifically intended to occur in that particular case.

**Impact:** As a result of the *Torres-Lopez* decision, DOC has reviewed time computation for approximately 12,000 cases and issued new release dates. In many instances, the revised release date is months or years earlier than the original release date. No advance notice was provided to victims and many changes appear contrary to the intent of the sentencing judge.

Under DOC's new approach to credit for time served, many AICs will receive credit for more time than they *actually served* because DOC is applying the same credit multiple times for each count in a judgment of conviction. For example, if an AIC spent one year in jail prior to conviction on a single case involving 3 counts, when the AIC is ultimately sentenced on that case, the AIC will receive 3 years' worth of credit for time served (1 year per count).

**Possible Fix:** Amend ORS 137.370 to include a provision that under no circumstances can a person receive more credit than *actual* time served and that the date of custody should be included in the judgement.

---

## #2 Case: [Hill v. Miller](#), 330 Or App 386 (2024)

**Summary:** ORS 138.510(3) and ORS 138.550(3) allow criminal defendants to file PCR claims more than two years after a case is closed (final judgment, no appeals remaining, etc.) provided that the defendant was unable to file the claim within the two year window because the ground for relief “could not reasonably have been raised in the original or amended petition.” *Hill* holds that ORS 138.510(3) and ORS 138.550(3) do not toll the two year period to file a PCR claim, rather they are an escape clause to the two year limitation.

**Impact:** If a defendant becomes aware of grounds for PCR after two years from the case being closed, then they could file a petition for PCR at any point in the future—not just two years from the date that they become aware of the grounds for PCR. In *Hill*, the defendant unsuccessfully filed for PCR in 2010 and 2011. Then, in 2015, the defendant learned of new grounds for PCR, but didn’t file for PCR until 2021—six years after he became aware of the new grounds for PCR. In essence, *Hill* further upsets the finality of verdicts and could lead to a re-trial (or a first trial if the conviction was based on a plea) decades after the original conviction, which could cause innumerable problems for successful prosecution of the case.

**Possible Fix:** Amend ORS 138.510(3) new (d) to read:  
**(d) The date the grounds for relief could reasonably have been raised, if the court finds grounds for relief asserted which could not reasonably have been raised within the time periods specified in (a) – (c) of this subsection.**

---

## #3 Case: [State. v. Stevens](#), 343 Or. App. 321 (2025)

**Summary:** In *State v Stevens*, 343 Or App 321 (2025), the Oregon Court of Appeals considered a case where a defendant caregiver was convicted by jury of assault 1, assault 3, and criminal mistreatment 1 for causing serious physical injury to an 18-month-old child through blunt force trauma and for causing the child to test positive for methamphetamine. The Court of Appeals overturned the criminal mistreatment 1 conviction related to the methamphetamine exposure. In reaching this decision, the Court of Appeals determined that the methamphetamine exposure was insufficient evidence of a failure to provide physical care to support a criminal mistreatment 1 conviction because the exposure did not place the child “at imminent risk of serious physical injury or pain, long-term harm, or death.”

**Impact:** This decision is the most recent example of a trend of previous decisions that have severely limited the ability to prosecute caregivers who expose children to

dangerous drugs like methamphetamine and fentanyl. As a result, the state is unable to prosecute the vast majority of cases where defendant caregivers cause this harm. Currently caselaw requires the state to prove that the defendant caregiver *intentionally* exposed a child to such a level that the child faced imminent risk of serious physical injury, or used the child's residence primarily to run an illegal drug operation. A caregiver who knowingly exposes a child to dangerous levels of methamphetamine or fentanyl, but does not imminently risk causing their death or serious physical injury, is not subject to criminal prosecution. This severely limits the ability of the state to protect vulnerable children and hold accountable dangerous caregivers.

Possible Fix: Include a new provision in the Criminal Mistreatment statute (ORS 163.205) that allows a person who has a legal duty to provide care for a dependent person to be held accountable if they knowingly expose that dependent person to a detectable level of controlled substances.

---