

Oregon Child Advocacy Program
University of Oregon

Date: March 28, 2019

To: The Honorable Floyd Prozanski, Chair; The Honorable Kim Thatcher, Vice-Chair; Members of the Senate Judiciary Committee

From: Mackenzie Klapp and Matthew Gaddis, OCAP

Re: Support for youth justice reform, SB 1008, SB 969, SB 968, SB 966

Chair Prozanski, Vice-Chair Thatcher, and members of Senate Judiciary Committee:

Our names are Mackenzie Klapp and Matthew Gaddis and we are fellows with the Oregon Child Advocacy Project (OCAP) at the University of Oregon School of Law. Our mission is to advocate for the legal interests and specific needs of children. We believe the current Measure 11 legislation is not in the best interest of children and is extremely harmful to Oregonians. We believe Oregon should have a more humane youth justice system that maintains accountability, but also provides youth with opportunities for growth and healing.

Over two decades ago, Measure 11 passed at the height of the tough-on-crime era. This measure created harsh penalties, causing youth as young as 15 to be charged and sentenced as adults for certain acts, facing the same mandatory minimum penalties as adults, despite their young age.

These harsh penalties have contributed to Oregon having the third highest rate of juveniles in custody in the country.¹ Comparatively, Oregon has much lower juvenile arrest rates², but because of measure 11 more youth remain in custody.

Oregonians believe that our youth justice system should focus on prevention and rehabilitation. We value forgiveness and second chances, and we should provide youth with the best chance to repair the damage they've caused, while also healing their own trauma and getting them the help they need.

¹ *Criminal Justice Facts: State-by-State Data*, The Sentencing Project (2016), <https://www.sentencingproject.org/the-facts/#rankings?dataset-option=JCR>.

² Office of Juvenile Justice and Delinquency Prevention, *Juvenile Arrest Rates by State, 2016*, U.S. Department of Justice (Dec. 6, 2017), <https://www.ojjdp.gov/ojstatbb/crime/qa05103.asp?qaDate=2016>.

There are four proposals in front of the legislature this session that focus on prevention and rehabilitation for youth in the criminal justice system that we support:

- **SB 969 (End Automatic Waiver into Adult Court)** places youth accused of any crimes in the juvenile justice system, instead of the adult justice system. To move a youth to the adult justice system, prosecutors would need to request a special hearing with a judge who would decide where the youth is placed. In practice, this would not mean that every juvenile accused of a serious crime would stay in the juvenile system. This reform employs an inquiry into the conditions of the youth and would allow the court to decide whether waiver to adult court is appropriate under the circumstances. This reform is important because it allows the judge to take the offender's age and life circumstances into account before making waiver decisions. Additionally, automatic transfer does not create a general deterrent effect. In fact, recent studies which examine the recidivism rates of juveniles tried in adult and juvenile court have found that youth who are tried in adult court are more likely to reoffend than youth tried in juvenile court.³
- **SB 966 (Hearing Before Transfer to DOC)** would require an additional review before a youth with a long sentence would be transferred to an adult prison. Currently, Oregon youth who are given long sentences for serious crimes can stay in juvenile detention until age twenty-five and are then transferred to an adult prison. This proposal would allow a judge to determine if the twenty-five-year old has been sufficiently rehabilitated to transfer them to community-based supervision, rather than adult prison. This reform makes sense because it allows the court to assess rehabilitation, one of the main goals of juvenile incarceration. Recidivism rates are lower from juveniles who only served time in a juvenile facility compared to those who serve time in an adult prison. Most importantly, this proposal would not work as a "get out of jail free" card. It allows a judge to make a determination either way. The judge can determine the twenty-five-year old *has* been sufficiently rehabilitated to transfer them to community-based supervision or that the twenty-five-year old *has not* been sufficiently rehabilitated and move them to adult prison.
- **SB 1008 (Second Look Hearings)** establishes a process for youth to have a review hearing "half-way" through their sentence where a judge can determine whether they have taken responsibility and been rehabilitated. This hearing is particularly important for youth because their crimes are committed while their brains are still developing, and this makes them ideal for rehabilitation. It does not mean that youth will only, serve half their sentence, but rather provides an opportunity to evaluate the efforts that they have made and determine what will best serve the individual and the community. Further, it sends an

³ Office of Juvenile Justice and Delinquency Prevention, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, U.S. Department of Justice (June 2010), <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>

important message to the youth that are incarcerated. Our state has not abandoned them and if they work towards rehabilitation our system will take notice and support them. Lastly, it can help provide important data about what how juvenile incarceration programs are working and what is successful in rehabilitating youth offenders.

- **SB 968 (End Juvenile Life without Parole)** would ensure that all children convicted of criminal offenses are given a chance for parole after serving 15 of incarceration. Children have a much greater potential for growth and development and this bill will take that into account when sentencing them. It would still hold youth accountable for the crimes that they have committed but would also provide them with an opportunity to rejoin our communities.

We respectfully request that this committee moves these proposals forward swiftly. Youth in the justice system should be held accountable for their actions. But we must also recognize the tremendous potential that youth have for growth and development. When young people take responsibility for their actions, we need to help them make a positive contribution to society through rehabilitation, education and opportunity, not prison.

Thank you for your time.

Sincerely,



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