

SB 969 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/28

WHAT THE MEASURE DOES:

Removes requirement that youth age 15, 16, and 17 charged with criminal offenses listed in ORS 137.707 be automatically waived into adult criminal proceedings. Provides the confidentiality protections of ORS 419A.255 to criminal proceedings involving youth charged with a crime listed in ORS 137.707. Permits the state to file a motion requesting a hearing under ORS 419C.349 to determine whether to waive a youth who has committed aggravated murder or an offense listed in ORS 137.707 into adult court. Adds as an additional consideration when determining whether to waive a youth into adult court: whether the youth can be safely rehabilitated under the jurisdiction of the court. Gives the victim of the alleged offense the right to appear at the waiver hearing and provide the court with information reasonable related to the court's determination. Provides a right to counsel. Takes effect 91 days after sine die, permits Oregon Judicial Department to take action before the act becomes operative on January 1, 2020. Applies to acts committed on or after January 1, 2020.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Permits the juvenile court to order a psychiatric evaluation to aid in its waiver determination. Makes measure take effect 91 days after sine die. Applies to acts committed on or after the effective date.

BACKGROUND:

Ballot Measure 11, passed by Oregon voters in 1994, requires mandatory minimum sentences for specific serious crimes. It also requires young people 15, 16 and 17 years of age charged with Ballot Measure 11 offenses to be automatically waived adult criminal court for prosecution where, if convicted, they are sentenced. The law took effect on April 1, 1995, and has been codified as ORS 137.700 through 137.712.

In the interim the Senate Committee on the Judiciary convened a work group to examine the treatment of youth in the juvenile and criminal justice system under Ballot Measure 11. The work group was comprised of a wide range of local stakeholders and national experts who collectively examined case law, brain science, best practices, national trends, and relevant data to better understand whether Oregon law, and specifically the juvenile provisions of Ballot Measure 11, ensure justice for victims, effectively protect the public, hold offenders accountable, and provide opportunities for reformation and rehabilitation that reduce recidivism and promote a productive citizenry. One topic that the work group discussed was the mandatory prosecution of youth age 15, 16, and 17 who commit Measure 11 offenses.

Generally, under current law, youth who commit offenses that would be considered crimes if committed by an adult are subject to the jurisdiction of the juvenile court. ORS 419C.005. Three exceptions exist: youth age 15, 16, and 17 charged with the serious offenses listed in ORS 137.707 and subject to the Ballot Measure 11 sentencing scheme must be prosecuted in adult criminal court, ORS 137.707; the state can request a hearing to determine whether a youth age 15, 16, or 17 charged with a Class A or B felony or a specified Class C felony should be waived into adult criminal court, ORS 419C.349; and the state can request a hearing to determine whether a youth under age 15 who committed one of four serious offenses should be waived to adult court. ORS 419C.352.

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Under ORS 419C.349, in order to waive a youth into adult criminal court the court must find, by a preponderance of the evidence, that the youth was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct involved and that retaining jurisdiction is not justified because it will not serve the best interests of the youth and society . ORS 419C.349(2). In determining the second factor the court must consider the amenability of the youth to treatment and rehabilitation given the treatment available, the protection required by the community, the manner of the offense, the history of the youth, the youth's prior record, the gravity of the loss, damage or injury caused during the offense, the prosecutive merit of the case, the desirability of disposing of the cases in one trial if there were adult co-offenders.

Senate Bill 969 requires the state to request a hearing under ORS 19C.349 to determine whether to waive a 15, 16, or 17 year old into adult court regardless of the offense. It provides counsel in those hearings and allows for victims to appear and provide the court with information reasonably related to the court's decision whether to waive the youth into adult criminal court.