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Senate Committee on Judiciary  
Testimony in support of SB 969  
March 28, 2019, at 8am, Hearing Room C

Chair Prozanski, Vice-Chair Thatcher, and Senators Bentz, Fagan,  
Gelser, Linthicum and Manning, Jr.,

The Oregon Commission for Women (OCFW), in its role as advocate for all women and girls in Oregon, and the Oregon Commission on Black Affairs (OCBA), in its role as advocate for the Black community in Oregon, strongly support SB 969, which would end the automatic adult prosecution of youth under Measure 11 and contribute to a more just and humane youth justice system, and safer and healthier communities.

Ballot Measure 11, approved by Oregon voters in 1994, created harsher mandatory minimum prison sentences for person-on-person crimes and caused youth, as young as 15 years old and charged with Measure 11 offenses, to automatically enter the adult criminal system and receive punitive adult sentences and collateral consequences. Measure 11 passed at the height of the tough-on-crime era and when many Americans held misguided and unsubstantiated fears of the rise and danger of "super predator" youth.

With Ballot Measure 11, we chose to no longer treat youth as youth. Between 1995 and 2012, 3,976 Oregon youth were charged with Measure 11 offenses and automatically waived into the adult criminal system, an average of 221 cases per year. Two-thirds of youth automatically waived into the adult system do not end up with Measure 11 convictions. Yet, a Measure 11 charge results in youth entering a more adversarial and less rehabilitative-focused system than the juvenile system; facing less flexible and individualized sentencing options; receiving adult felony convictions, which will likely remain on their records for the rest of their lives; and struggling with all the life-long collateral consequences of an adult conviction. Also, studies show that public safety declines when youth are placed in the adult criminal system. For the youth convicted of Measure 11 crimes, they additionally face long and overly punitive mandatory prison sentences, which research shows have little to no deterrent effect.

Furthermore, youth of color are disproportionately impacted. Data shows that racial disparities between black and white youth charged with Measure 11 crimes grew between 1995 and 2012. Black youth are about 8.6 times more likely to be charged with a Measure 11 crime than expected based on their percentage of the general population. In 2012, black youth were 26.1 times more likely to be charged with a Measure 11 crime than white youth.

Scientific research on brain development does not support the policy of treating and punishing youth as adults. In fact, research shows that the brain of a young person is fundamentally

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different from the brain of an adult; and different in ways that make youth less culpable and with an increased capacity to change with natural maturity. A person's brain is undergoing significant change well into their 20's. The last part of the brain to develop is the prefrontal cortex, responsible for executive functioning, including assessing risk, anticipating consequences, and impulse control. Therefore, as a result of normal brain development, youth are more likely to engage in risky behaviors and violate the law than adults; and have greater potential to naturally develop out of such behaviors as they grow out of their 20's and become law-abiding members of the community.

The U.S. Supreme Court, using the scientific research on brain development, have declared in a series of cases, known as the "*Roper-Graham-Miller* trilogy," that youth are different. Youth are less culpable, with "a 'lack of maturity and an underdeveloped sense of responsibility' that frequently leads to 'impetuous and ill-considered actions and decisions'" and "a reduced ability to control or escape their environments." Youth, having "a 'more transitory, less fixed' character that is 'not as well formed as that of an adult,'" have an increased capacity for positive change.

In light of the data on Measure 11 and the accepted scientific research on brain development, the automatic waiver of youth into the adult criminal system, with more severe adult punishments, is fundamentally unjust. We should treat youth as youth. We urge an AYE vote on SB 969.



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