

# Youth, Rights & Justice

ATTORNEYS AT LAW

February 10, 2020

Chair Prozanski  
Vice-Chair Thatcher

Re: *Support for SB 1573*

Members of the Senate Committee on Judiciary,

As Oregon's defense firm dedicated exclusively to juvenile law, Youth, Rights & Justice, Attorneys at Law (YRJ) is court-appointed to represent children in foster care, parents whose children have been removed, and youth in the juvenile justice system. We are a team of 34 attorneys, legal assistants, and other specialists. We represent over 800 clients each year. Roughly 80% of our clients are in the child welfare (foster care) system, with the balance in the juvenile justice system. All of our clients come from low income families. Most have suffered significant trauma and many have physical, mental health and/or substance abuse issues. Approximately 45% are children of color. Over our four-decade history, we have also worked with the systems supporting vulnerable children, youth and families, changing them for the better. Because of our unique position handling court-appointed juvenile cases, we often see the same systemic problems and we work to change the policies that contribute to these problems. Through this, our work has touched hundreds of thousands of Oregonians.

**YRJ supports Senate Bill 1573, with consensus amendments.**

## **What SB 1573 Does**

SB 1573 eliminates barriers to expunction of juvenile court records by providing for the automatic expunction of some juvenile court records and allowing individuals access to court appointed counsel earlier in the expunction process. Currently, the juvenile department may apply for expunction (in addition to the person and the court). SB 1573 requires, instead of allows, the juvenile department to initiate expunction for persons over 18 years old who have never been found within the juvenile court jurisdiction but have had "contact" (a law enforcement report of a behavior that could have resulted in juvenile court involvement). SB 1573 also allows a young person seeking expungement to request appointed counsel before beginning the application process, rather than waiting until the District Attorney objects to the application. Under SB 1573, young people won't have to fill out the complex paperwork by themselves and will be able to get advice about eligibility before they start the process. SB 1573 makes a few technical amendments to clarify the expunction statutes.

## **What SB 1573 Does Not Do**

SB 1573 does not reduce the legal requirements that young people must satisfy to get their juvenile records expunged.

An independent, not-for-profit law firm, Est. 1975  
1785 NE Sandy Blvd., Ste. 300, Portland, OR 97232 • (503) 232-2540 F: (503) 231-4767  
[www.youthrightsjustice.org](http://www.youthrightsjustice.org)

## How SB 1573 Was Drafted

Senator Dembrow convened a multi-disciplinary workgroup that included all juvenile justice stakeholders. These stakeholders met several times during the interim. This bill reflects the consensus of that workgroup.

## The Status of the Current Juvenile Court Records Law

When a youth has contact with law enforcement or the juvenile court, paper and electronic records are created. Although the records are confidential, information in the records is publicly available and is often later accessed in a variety of contexts- e.g. employment and housing. Oregon's current juvenile records expunction statutes, ORS 419A.260-419A.265, provide a process for removing and destroying juvenile records. After expunction, a person can lawfully assert that the record never existed and the contact, which was the subject of the record, never occurred. The law is complicated and difficult to understand. Young people have very limited access to attorneys to help them through the process. A small percentage of young people are currently accessing expunction.

## Why it is Important to Improve the Law

Juvenile records create collateral consequences that can indefinitely forestall a youth's ability to become a productive adult.

- Juvenile court records are treated the same as adult criminal court records for most collateral consequences.<sup>i</sup>
- Juvenile records limit an individual's access to housing, employment, school enrollment, college admission, and professional licensure.<sup>ii</sup>

These collateral consequences cost taxpayers.

- These costs come in the form of lost wages and increased justice system expenditures.<sup>iii</sup> Some estimates show that the reduced output of goods and services from individuals in the United States with records creates a loss in the range of *billions* of dollars a year.<sup>iv</sup>

These collateral consequences make communities *less* safe.

- Studies indicate that individuals who are unable to find employment or attend school are more likely to commit crime or recidivate.<sup>v</sup>

Youth of color are disproportionately impacted.

- Youth of color are **overrepresented** in the juvenile justice system across Oregon.<sup>vi</sup> Research shows that juvenile records are more debilitating to youth of color than their white peers.<sup>vii</sup>

Youth are capable of rehabilitation.

- Scientific studies show that youth are prone to impulsive, risk-taking behaviors because their brains are not fully developed.<sup>viii</sup> For similar reasons, science shows that youth are

particularly responsive to rehabilitative efforts and often “outgrow” their problematic behaviors.<sup>ix</sup>

- Youth who have successfully participated accountability and rehabilitative programs offered in juvenile justice systems should have the opportunity to be productive community members. Expunction plays an important part in that opportunity.

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<sup>i</sup> See e.g., OAR 414-061-0050 Office of Child Care considers juvenile adjudications for Assault IV disqualifying for a period of 15 years from the date of arrest, citation, charge or conviction.

<sup>ii</sup> Juvenile Law Center, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* (2016), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>;

<sup>iii</sup> Juvenile Law Center, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 3-6 (2016), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>;

<sup>iv</sup> Juvenile Law Center, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 5 (2016), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>

<sup>v</sup> Juvenile Law Center, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 4-5 (2016), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf> In fact, “over half of individuals between the ages of 18-25 with former juvenile justice system involvement who were unemployed reported at least one new conviction in the adult system, compared to roughly 28% of individuals in that age bracket with part- or full-time employment. *Id.*

<sup>vi</sup> Oregon Juvenile Justice Information System, *Data & Evaluation Report: Racial and Ethnic Disparities Relative Rate Index* (2017), <https://www.oregon.gov/oja/reports/jjis/2017/2017-RacialEthnicDisparity.pdf>

<sup>vii</sup> Juvenile Law Center, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 6 (2016), <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>. For example, “A 2003 study found that for people with records, the likelihood of a callback interview is reduced by 50% for white applicants and 65% for black applicants.” *Id.*

<sup>viii</sup> McArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *Issue Brief 3: Less Guilty by Reason of Adolescence* 2-3 (2006), [http://www.adjj.org/downloads/6093issue\\_brief\\_3.pdf](http://www.adjj.org/downloads/6093issue_brief_3.pdf)

<sup>ix</sup> Coalition for Juvenile Justice, *Applying Research to Practice: What are the Implications of Adolescent Brain Development for Juvenile Justice?* 5-10, 18, 19 (2006), [http://www.njjn.org/uploads/digital-library/resource\\_493.pdf](http://www.njjn.org/uploads/digital-library/resource_493.pdf)