

Dear Senator Prozanski and members of the Committee,

My name is Joshua Marquis and I've practiced criminal law in Oregon for 40 years, most of that as a state prosecutor in Eugene, Newport, Bend, and finally Astoria where I was first appointed DA by Gov. Brown, then elected six more times, retiring on Jan. 1, 2019.

I'm going to let others discuss how Measure 11 has greatly equalized racial disparity, reducing Black prison population from 13% in 1992, pre Measure 11, to about 8.5% today. They can explain how critical it is to victims that everyone speaks truthfully about what a sentence shall be, and it's not just a falsehood, wrapped in confusing legalize.

Instead I want to explain, as someone who tried felony cases for 10 years before M11 existed was looking at, but more importantly, what the law WILL BE, if SB 401 becomes law, invalidating two overwhelming votes of the people.

I will let others argue that a six year sentence for child molestation, a 9- year sentence for violent rape are in fact just and appropriate sentences.

I'm here to tell you, from decades of experience, as a prosecutor, defense attorney, and legal news analyst, what actually happened in the 1980s and 1990s and will happen again. I'm not going to predict violent crime rates, which were at all time highs in 1988, then have been continuously reduced as M-11 has been used. Some can argue "oh, that happened everywhere," ignoring the documented fact that crime dropped most in those states that had implement truth in sentencing schemes.

For decades Oregon used something called "Matrix sentencing." This allowed, even encouraged judges and prosecutors to seek and obtain very long prison sentences. In the 1980s it was common, throughout Oregon, for a man convicted of Burglary 1 to get 20 years in prison.

Similarly 5 year prison sentences for car theft or passing bad checks were common. What the judges and lawyers knew, but the public did not, was that the actual sentence was calculated by an unelected group of gubernatorial appointees, the Parole Board. Recognizing that 20 years for a burglary was too long, and having barely 20% of the beds we have today, they reduced actual time to six months or less.

Proponents of this bill would have you believe that under the current law all power is concentrated in the prosecutor to determine how long the sentence will be. That is simply not true anymore than the prosecutor decides what crime the person has committed. The judge sets out the facts and if the person meets those facts and the state has evidence beyond a reasonable doubt that the person can be prosecuted for that. The legislature, through the people in this case, determined that sentences of a minimum of six years for child molestation, eight years for rape, and 25 years for intentional murder or appropriate. I will note that this bill excludes murder, in terms of changing the sentence, but that is very illustrative given that a "life" sentence handed down in 1985 meant the person would serve no more than eight years on that life sentence. Presumably backers of the bill realize that even that is a step too far and life now means 25 years.

Very few of the lawyers appearing before you today and sitting in the chair that I used to sit in as the elected district attorney were practicing felony criminal law in the late 1980s and early 1990s. I challenge Senator Prozanski or any supporter of this bill just explain why the sentencing patterns that existed back then will not recur if we strip measure 11 out of the equation.

Please keep in mind that measure 11 does not deal with burglaries or drug crimes or perjury or theft or even embezzlement in the amounts of millions of dollars. Your current state law most of the people convicted of those crimes will never spend a day in prison.

Instead we are talking about whether, after Oregon achieved a greater reduction in violent crime per capita than almost any state in the country after 20 years,