

April 5, 2021

To the Senate Committee on Judiciary and Ballot Measure 110 Implementation:
Senators Prozanski, Thatcher, Dembrow, Gelser, Heard, Linthicum, and Manning Jr..

Re: Senate Bill 191

Dear Senators:

As the close friend of an inmate sentenced for a Measure 11 crime, I welcome this opportunity to offer testimony regarding SB191.

Seven years ago, after an unspeakable tragedy led to his brother's death, my friend entered the Oregon State Penitentiary to serve a mandatory 10-year sentence for involuntary manslaughter. Had the judge been allowed to review the case, I've no doubt that my friend would be serving time for manslaughter I, not II, a difference in sentencing of 4 years.

I cannot overstate the strength of my belief in our criminal justice system, but only if judicial discretion ensures its fairness, taking into account the individual circumstance, defendant and offense. An independent and nonpartisan poll conducted by DHM Research in Portland showed just 2 years ago that 81% of Americans agree with me, either strongly or somewhat supporting giving judges more sentencing discretion. (<https://www.oregonlive.com/politics/2021/02/could-measure-11s-mandatory-prison-sentences-disappear.html>)

There are those who claim that Measure 11 is working in Oregon, but how can this be defended when crime rates are dropping in many other states, as well, *regardless of their sentencing policies?*

But I am not writing today to provide testimony against Measure 11 and its gross inconsistencies, the unfair plea bargaining process, the ugliness of over-sentencing and inability of those convicted to appeal their sentences. I am writing to support SB191.

My friend is in his 60's, and fell deeply ill, 3 years into his sentence. For months, his pain went ignored until he was finally diagnosed and treated for tongue cancer. In the prison hospice, he lost 100 pounds. He can no longer swallow solid food or taste what he eats, and he has trouble speaking. As a Measure 11 inmate, his circumstance is not uncommon, as thousands of other inmates are ravaged by illness while incarcerated, and even when dying, aren't released.

When Covid-19 began to spread, and the risk of infection was understood to be 10 times higher in Oregon prisons than in the general population, the chance of release for Measure 11 inmates was impossible as well.

This is not a plea for sympathy, but rather a reminder, with compassion and all due respect to the victims of crimes in Oregon, that the 12,500 + Oregon prisoners housed in cages, *are human beings, too*, with families: mothers and fathers, husbands and wives, siblings and children and friends who love them.

I am well aware that there are many criminals who are beyond hope of rehabilitation, and should never be released. But many, like my friend, are what one would call “exemplary inmates,” demonstrating cooperation and compliance at all times, respectful and courteous to all those around them, fellow prisoners and correction officers alike. For those sentenced under Measure 11, however, no matter how sick, or how proper their conduct, they have no hope for early release.

What I’ve learned from my friend about the realities of prison life is that for those who have no incentive for good behavior, boredom and despair are not the only result. If good behavior isn’t rewarded, then *bad behavior gains ever further ground*.

The most vicious inmates rule the prisons; they rule the cells, the showers, and the yard. Earning no reward for any goodness shown means that inmates learn simply not to show any.

An extensive study from Marquette University Law School in 2015 on Early Release for Good Behavior in Prison (<https://scholarship.law.marquette.edu/facpub/655/>) proved that programs that allow inmates to be released early for good behavior improves prison safety for both inmates and correction officers.

In addition, they provide not only a safe way to reduce prison overcrowding, but they decrease the likelihood of more crimes committed by inmates when released.

Programs such as Washington state’s “ERT “ (“Earned Release Time”) have proven, too, that allowing release of inmates for good behavior *significantly lowers tax payer costs*, an important consideration as our state budget, like so many others, sits, post-Covid, in tatters.

When Measure 11 passed in 1994, a Gallup poll showed that 83% of Americans thought the criminal justice system wasn’t tough enough; the same survey just last year showed that only 41% of Americans feel the same way now. *Over half* of Oregonians polled

supported lowering mandatory minimum sentences, *and of repealing Measure 11 altogether*: (<https://www.oregonlive.com/politics/2021/02/could-measure-11s-mandatory-prison-sentences-disappear.html>)

I add my voice to the ever-growing chorus of those calling for criminal justice reform, for fairness.

Please consider The First Step Act (FSA), signed into law by President Trump in December 2018, which among other things reformed federal sentencing laws, and please remember that *in all federal prisons*, early release is allowed for exemplary compliance with institutional disciplinary regulations.

Punishment and retribution are central to American's prison system but need not supersede goals of rehabilitation, forgiveness and reform.

I urge the Senate Committee to bring fairness to our state's prison system, to give inmates the incentive to improve their behavior, to enroll and complete programs designed to ensure that they will be co-operative, safe and law-abiding citizens when they return to our communities.

In conclusion, I strongly support SB191, allowing the early release of Measure 11 inmates who have demonstrated good behavior and who have indicated, after participation in appropriate DOC programming, that they will pose no risk upon release.

Thank you for your time.

Sincerely,

Jennifer Sachs