

SB 966 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/28

WHAT THE MEASURE DOES:

Provides that any person that was 18 years at the time of the commission of all of the offenses for which the person was sentenced, who is in the physical custody of (OYA), and has a release date that falls after their 25th birthday by before their 27th birthday is eligible for a conditional release hearing as prescribed by ORS 240A.206. Permits the person to waiving this conditional release hearing. Takes effect 91 days after sine die, permits OYA to take action before the act becomes operative on January 1, 2020. Applies to sentences imposed on or after January 1, 2020.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

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 prosecuted in adult court and if convicted, sentenced in adult court. 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 assessed was the transfer of juveniles from youth correctional facilities to adult correctional facilities at age 25.

Under current law, offenders who have committed a Measure 11 offense before 18 years of age who are also under 18 years of age at the time of sentencing are committed to the Department of Corrections (DOC) but transferred to the physical custody of the Oregon Youth Authority (OYA) for placement in a youth correctional facility. ORS 137.124. OYA can only provide for the physical custody of a youth until age 25, so youth offenders with sentences that last beyond their 25th birthday are transferred back to the physical custody of DOC before their 25th birthday for placement in an adult correctional facility for the remainder of their sentence. ORS 420A.200; ORS 137.124.

ORS 420A.203 currently creates a conditional release hearing process for certain youth offenders. Under this law, notice must be provided to the person, the district attorney, the victim, and the records supervisor of the correctional institution where the person resides. In the release hearing the person has the right to counsel and has the burden of proving by clear and convincing evidence that: they have been rehabilitated and reformed; if conditionally released would not be a threat to the safety of the victim or community; and, that they will comply with the conditional release conditions. ORS 420A.203(3)(k). The statute also provides thirteen factors to be

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considered by the court when making a decision to order conditional release of a youth offender. ORS 420A.203(4)(B). If the youth offender meets their burden, the court may order the young offender conditionally released under ORS 420A.206. ORS 420A.203(4)(B).

Senate Bill 966 ensures that any youth offender in the physical custody of OYA who has a projected release date that comes after age 25 but before age 27 is eligible for a conditional release hearing under ORS 420A.203.