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Governor



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Senate Committee on Judiciary
Testimony in support of SB 966, 968, 1008
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 966, 968, and 1008. These bills will advance a fairer and more humane criminal system for youth and safer communities. Specifically, these policies will create meaningful opportunities for release from incarceration for youth who were convicted in the adult system and have demonstrated rehabilitation.

Due in large part to the passage of Measure 11 during the ill-informed "tough on crime" era, youth in Oregon are being harshly punished as adults and sentenced to long mandatory minimum sentences, in some cases life without the possibility of parole. These lengthy prison terms, which research now shows have little to know deterrent effect and do not generally improve the welfare of communities, were enacted when the politics of fear and vengeance drove our criminal justice policy decisions.

In recent decades, jurisdictions around the country are increasingly incorporating data and science into their criminal justice policy decisions. Of significance to policies regarding youth in our criminal system is the scientific research that is now widely accepted about brain development. Research shows that the brain of a young person is fundamentally different from the brain of an adult; and different in ways that make youth less culpable and with an increased capacity to change as a result of 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, has 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. It should be noted that the cases in the "*Roper-Graham-Miller* trilogy" involved serious crimes,

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including murder. Even in these contexts, the court made clear that youth may naturally mature out of dangerous behaviors and can develop healthier and positive behaviors and ways of thinking. As a result, other states have amended their sentencing laws consistent with rationale articulated by the U.S. Supreme Court.

The U.S. Supreme Court further took the position that based on brain science and justice, youth should have “a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” SB 966, 968, 1008 provide prudent meaningful opportunities for release.

- SB 966 would require a review of youth who, due to the length of their sentence, will transfer into an adult prison after their time in a youth facility. A judge would determine if the person is sufficiently rehabilitated and can serve the remainder of their sentence under community-based supervision, rather than adult prison.
- SB 968 would eliminate life without parole sentences for youth in Oregon and establish a process to ensure that anyone convicted of a crime, which they committed under age eighteen, would receive an opportunity to parole after fifteen years of incarceration.
- SB 1008 establishes a process where all youth convicted in adult court have access to a “second look” hearing half way through their sentence. At that hearing, a judge can determine whether the youth has taken responsibility for their crime and has rehabilitated and can therefore serve the remainder of their sentence under community-based supervision.

These opportunities for release will not result in a lack of accountability and increased crime. Research shows that youth have great capacity to grow and change. Offering these prudent opportunities for release creates compelling incentives for individuals to engage in treatment and programs, exhibit good behavior, and make genuine positive changes. These opportunities create hope, hard to find in prison, that is needed to start people on paths toward rehabilitation that make for safer and healthier communities.

We believe that people should be held accountable for their actions. We also believe that youth should be treated as youth. The opportunities for release after an adequate showing of rehabilitation provided for in SB 966, 968, and 1008 hold youth accountable, while utilizing scientific research to promote safer and healthier communities. We urge an AYE vote on SB 966, 968, and 1008.



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