

SB 1008

Interim Workgroup

- The Senate Committee on Judiciary convened a work group to examine the treatment of youth in the juvenile and criminal justice system
 - Composed of a wide range of local stakeholders and national experts
 - Examined case law, brain science, best practices, national trends, and relevant data
 - **Goal:** To better understand whether Oregon law, and the provisions of Juvenile Measure 11
 - ensure justice for victims,
 - effectively protect the public,
 - hold juvenile offenders accountable, and
 - provide opportunities for reformation and rehabilitation that reduce recidivism and promote a productive citizenry.

Custody of Juvenile Offenders (p. 1-6)

- Ensures that youth who commit offenses before 18 years old are able to be placed in OYA custody even if the prosecution doesn't commence until after the individual is 18 years old
- Technical fix: Requires court to put the age of the juvenile at the time of the offense in the judgement
 - Clarifies what date to include, if there are multiple dates or a range of dates

Waiver (p. 6-20)

- Ends the automatic prosecution of 15-, 16- and 17-year-olds as adults for Ballot Measure 11 (1994) offenses.
- Authorizes adult prosecution and the imposition of Measure 11 sentences after the court holds a hearing pursuant to ORS 419C.349 and waives the person to adult court.

Waiver (p. 6-20)

- Waiver criteria in ORS 419C.349:
 - Youth was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct; and
 - Retaining jurisdiction will not serve the best interest of youth and society based on:
 - The amenability of the youth to treatment and rehab given what is available to the juvenile court versus criminal court
 - Protection of the community given the seriousness of the offense alleged and youth's ability to rehab in juvenile court
 - The aggressive, violent, or premeditated manner of the offense
 - History of youth
 - Prior treatment efforts and out-of-home placements
 - Prior record
 - Gravity of the loss, damage or injury caused by the youth
 - Merit of the prosecution's case
 - Need to dispose of cases in one trial if there are co-offenders
- State has a right to a psychological examination
- Victim has right to notice, accompaniment, to provide information and to community based services

Transfer & Second-look Hearings (p. 20-25)

- **Transfer Hearing:** Authorizes a conditional release hearing under ORS 420A.203 for DOC youth who will be required to transfer from OYA to DOC at 25 and then released before 27.
- **Second-Look Hearing:** Authorizes a conditional release hearing under ORS 420A.203 for a youth who received a Measure 11 sentence as a 15-, 16- or 17-year-old after serving half of the sentence imposed

Transfer & Second-look Hearings (p. 20-25)

- Conditional Release hearing requirements in ORS 420A.203:
 - Youth must prove by clear and convincing evidence that:
 - they have been rehabilitated and reformed
 - if conditionally released, they would not be a threat to the safety of the victim, victim's family or the community
 - they would comply with the conditions of release
 - The court must consider:
 - Experiences and character of the youth before and after commitment
 - Youth's Record
 - Gravity of the loss damage or injury caused by the offense
 - Manner in which the person committed the offense
 - Efforts, participation and progress in rehabilitation programs
 - Results of MH or SA treatment
 - Whether the youth demonstrates accountability and responsibility for past and future conduct
 - Whether the person will comply with and benefit from conditional release conditions
 - Safety of the victim, victim's family and community
 - Recommendations of the DA, OYA, and DOC
 - Any other relevant factors or circumstances raised by the DA, DOC, or OYA
- Victim has right to notice, accompaniment, to provide information and to community based services

Life Imprisonment (p. 25-31)

- Prohibits the imposition of a life sentence without the possibility of parole on a person who was under 18 at the time of committing the offense
 - Provides factors to be considered when sentencing a youth
 - Age, intellectual capacity, family and community environment, prior involvement in the justice system, ability to appreciate the risks and consequences of their action, capacity for rehabilitation, school record, whether and to what extent an adult was involved in the offense

Life Imprisonment (p. 25-31)

- Authorizes a parole hearing after 15 years of imprisonment for persons sentenced for a crime committed when the person was under 18 years of age
- Requires the Board to find that the person has demonstrated maturity and rehabilitation
 - Provides factors for the Board to consider:
 - Age and immaturity at the time of the offense, whether and to what extent an adult was involved, family and community circumstances, involvement with the juvenile justice system, emotional growth and increased maturity during imprisonment, participation in rehabilitative and educational programs while in prison, mental health diagnosis
- Provides notice of hearing to the DA and Victim
- Requires Board to promulgate rules

Victim Notification (p. 32-33)

- For waiver hearings under ORS 419C.349 and conditional release hearings under ORS 420A.203:
 - DOJ in consultation with DA victim assistance programs and community-based victim service providers must develop model policies for notice that are trauma-informed and culturally specific
 - Provides victims with a right to notice, accompaniment, and referrals to community-based services that are, where available, culturally specific pursuant to the developed protocol

Timing

- Applies to sentences imposed *on or after* January 1, 2020.
 - Not retroactive
- Operative January 1, 2020, but state agencies may take any action necessary before January 1, 2020 to implement the bill.
- Takes effect 91 days after sine die.