



Oregon

Kate Brown, Governor

Oregon Youth Authority
Director's Office
530 Center Street NE, Suite 500
Salem, OR 97301-3777
Voice: 503-373-7205
Fax: 503-373-7622
www.oregon.gov/OYA

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Chair Jennifer Williamson
House Committee on Judiciary
900 Court St. NE
Salem Oregon 97301

Chair Williamson and Members of the House Judiciary Committee:

For the record, I am Joe O'Leary and I have the honor of serving as director of the Oregon Youth Authority (OYA). I'm also an adjunct professor of law at Lewis and Clark Law School. I previously practiced law in juvenile court and served as public safety advisor and general counsel to former Oregon Governor Ted Kulongoski.

On behalf of the OYA leadership team, I speak in support of the juvenile sentencing reform concepts contained in SB 1008. OYA was happy to be at the table as an informational resource to the interim workgroup that developed the concepts contained in this bill. These are realistic, sensible policies that will bring Oregon sentencing law incrementally closer to what research tells us works for public safety and positive outcomes for youth.

There are three reasons we support SB 1008:

- 1) **Interventions we take with kids should be different from what we do with adults.** As a society, we incarcerate youth to hold them accountable and an opportunity for rehabilitation. But we know that youth are different from adults: they're still developing.
 - a. Experts tell us that the human brain gets built in an ongoing construction project that continues into at least our mid-20s. And adolescence is a time of especially rapid brain development that affects youths' judgment, decision-making, and behavior. That means that kids are works-in-progress with tremendous capacity for growth and change. How we steward that growth is important.
 - b. It also means that we need to treat youth differently than we do adults. That's why OYA has been implementing the developmental approach to juvenile justice. To be effective at changing youth behavior and protecting the public, we seek to provide youth with the opportunity to learn and practice new skills – not just what's on the curriculum, like math or reading, but the soft skills that we adults take for granted: how to manage conflict, how to navigate our emotions, how to make good decisions. The quality of supports we give them will have a lasting effect on their capacity to develop into healthy adults and responsible community members.
- 2) **Data:** With the help of the legislature, OYA has invested in research and data-informed decision-making that tells us:
 - a. Therapeutic approaches significantly outperform punitive approaches when it comes to reducing recidivism. Punitive control models like boot camps and "Scared Straight" actually make youth *more* likely to commit new crimes. More to the point, the Centers

for Disease Control concluded in 2007 that transferring youth to adult court “typically results in greater subsequent crime, including violent crime, among transferred youth”.

- b. We also know that many youth sent to youth correctional facilities are more likely to recidivate than if they were placed in residential or community settings.
 - c. In addition, a recent OYA analysis found that overall, with all other things held equal, youth charged with Measure 11 crimes sent to the Department of Corrections instead of OYA are twice as likely to recidivate as Measure 11 youth sent to OYA. That’s an amazing statistic that confirms the commonsense conclusion that we need to send fewer youth to DOC so that we create fewer victims in the future.
- 3) **Racial and Ethnic Disparities:** It’s not a matter of opinion that racial disparities exist in Oregon’s juvenile justice and criminal justice systems. The deeper you get in the system, the more impact those disparities have:
- a. Compared to White youth, African American youth are 6.8 times more likely to be committed to DOC.
 - b. Compared to White youth, Native American youth are 3.4 times more likely to be committed to DOC.

By making the changes proposed in SB 1008, we have the opportunity to reduce those disparities. Under the proposed changes, judges will have more discretion about where to send youth who commit serious crimes, and all youth transferred to adult court will have the motivation and opportunity to show they have rehabilitated themselves and earn the ability to come back to our communities. Youth will still be held accountable, and victims can be assured that the option to keep youth in the adult system is available. But we’ve learned a lot about how youth end up in the justice system and how to keep them from coming back — it’s time to use that knowledge to make our justice system fairer and more effective for everyone.

One of the most incredible things I’ve seen up close in my last six years as OYA deputy and now the last year as its director, is the capacity of kids to grow and change if they are in the right circumstances where their basic needs are met and they have meaningful opportunities to participate in their own development. It’s nothing less than inspiring. Here are three examples of kids whose trajectories might have been different if SB 1008 had been law at the time of their entry to the system:

- A young woman who was automatically waived to adult court and sentenced to a mandatory minimum term for an offense that caused serious harm and represented her only contact with the system. The underlying conduct was widely viewed as triggered by a combination of trauma and untreated mental health issues. Today, she lives at Oak Creek Youth Correctional Facility and is a mentor for younger girls. She has earned several certifications and is taking college classes. She even works on special projects with OYA’s research team. She may complete her sentence with OYA and not have to go to DOC, but upon release she won’t have the same access to OYA’s statewide network of residential step-down and transition services that a youth committed by the juvenile court does. Because she was handled in adult court, the collateral consequences of her adult conviction will follow her for life and make it harder for her to be a successful member of society.

- A young man who committed a serious offense in his late teens and was sentenced to a mandatory term that extended after his 25th birthday. At OYA, he reengaged and excelled in his education. He became a certified barber and was one of our mentors that visited with youth (as well as with their families) at Multnomah County juvenile detention who had pending Measure 11 charges, in order to reduce the anxiety of their pending commitment to state care for a determinant period. He transferred to DOC at 25 to take up a prison bed for the few remaining months of his mandatory sentence. This wasted a prison bed resource and put our substantial investment in him at risk.
- A young man who is serving a functional life sentence for causing the death of another human being. Even though he has virtually no incentive, he's taken advantage of every treatment, academic, vocational and enrichment program OYA has offered. Because of his good behavior, he earned the opportunity to live in a low-drama dorm for older youth with the highest privilege levels. Instead, he volunteered to be a live-in mentor on one of our cottages that houses some of our most challenging and trauma-affected younger kids. This individual demonstrates how young people can grow and change by being a positive resource to others, but instead of allowing him the chance to earn conditional supervision in the community, we are using our limited resources to keep him incarcerated.

These are representatives of our DOC youth at OYA. We are proud of them. They are all our kids. And we cannot judge them immutably by what they did at their worst moment. To be clear, the changes contained in this bill are not retroactive, so they are not going to apply to anyone that has already been sentenced. That is a principled policy decision consistent with truth in sentencing. And none of the provisions guarantee release from custody -- only the opportunity for meaningful judicial review where all parties, including crime victims, will have the opportunity to give input. The court will decide the disposition.

This bill represents thoughtful, effective sentencing policy that is consistent with the developmental approach to juvenile justice. It is consistent with what research says is more likely to prevent future victimization and to create positive outcomes. And it is consistent with the goal of reducing racial and ethnic disparities.

For these reasons, we ask you to support SB 1008.

Sincerely,



Joseph O'Leary
Director
Oregon Youth Authority