

Retired Oregon Circuit Court and Appellate Judges Urge the Legislature to Pass SB 1008

Dear members of the Oregon Legislative Assembly,

We are retired circuit court and appellate judges from around Oregon who have joined together to urge the Oregon House of Representatives to pass SB 1008. As retired trial judges from rural and urban communities across the state and retired Court of Appeals judges and Supreme Court Justices, we have had the honor of serving our communities for many decades. Collectively we have a wealth of experience in making difficult and serious decisions that profoundly impact all of those before us, as well as the health and safety of our diverse communities. As permitted by our judicial code of conduct, we are speaking out in favor of SB 1008 because of its importance in the administration of justice.

The legislatively established goals of the Oregon juvenile justice system are “to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation.” Therefore, the system is based upon a duality of purpose: to protect the community and to ensure accountability and rehabilitation of youthful offenders, all while ensuring procedural fairness. In our democracy it is the judicial branch that ensures that principles of fairness and impartiality are maintained whenever personal liberties are at issue.

There can be few more important settings in which an impartial decision-maker is essential than the determination of whether to try and to sentence a 15, 16, or 17- year-old charged with a crime as an adult. Judges follow a consistent and constitutionally mandated process of hearing evidence from both the prosecution and the defense and applying the comprehensive statutory criteria developed by the legislature. Additional safeguards for both the prosecution and defense are found in appellate review.

However, since 1994, the decision about where a juvenile is tried and sentenced has become one made by the prosecution at the time of charging. Once a youth has been charged with one of the crimes listed in ORS 137.707, that youth is automatically tried and sentenced as an adult.

SB 1008 returns Oregon to the previous system which had an impartial factfinder— a judge—balancing public safety, accountability and reformation and guaranteeing that procedural justice is afforded to all in a public setting. Once again, the hearings on this issue will be open to the public’s view and the court will take evidence from the prosecution and the defense. Importantly, the victim is guaranteed the right to be heard in court when this decision is made. Evidence will include the nature of the offense, impact on the victim, and what services either in the community or in juvenile corrections are available, if any, to ensure community safety while at the same time working with the youth and family to address reformation.

At times, evidence may be compelling that the community can remain safe and a youth can be rehabilitated by retaining the matter in Juvenile Court. We, like the United States Supreme Court, have been educated about the role of adolescent and teen brain development on risk-taking and immature behavior. Treatment models designed specifically for young offenders (combined with confinement when necessary), which emphasize accountability and reformation may often keep our communities safer and cost less, both fiscally and in terms of human potential.

At other times judges will find that there are insufficient safeguards available in the juvenile system and will order that the youth be tried as an adult. In these cases, SB 1008 recognizes that some offenders can turn their lives around as their youthful brains develop and mature. Therefore, SB 1008 allows for a judicial hearing at the age of twenty-five prior to transfer from juvenile to adult corrections, and for youth with lengthy sentences at the halfway point of their incarceration. Even if a judge is convinced that accountability and rehabilitation have occurred, the offender will still be required to serve community-based supervision.

It is for these procedural justice issues that we support the passage of SB 1008. This legislation returns Oregon's juvenile justice system to be true to its legislative mandate.

Thank you for your consideration,

Hon. Richard C. Baldwin, retired Oregon Supreme Court Justice
Hon. Robert D. Durham, retired Oregon Supreme Court Justice
Hon. Governor Theodore Kulongoski, retired Oregon Supreme Court Justice
Hon. Susan M. Leeson, retired Oregon Supreme Court Justice
Hon. Virginia L. Linder, retired Oregon Supreme Court Justice
Hon. Richard William Riggs, retired Oregon Supreme Court Justice
Hon. George A. Van Hoomissen, retired Oregon Supreme Court Justice
Hon. David Schuman, retired Oregon Court of Appeals judge
Hon. Robert Wollheim, retired Oregon Court of Appeals judge
Hon. Pamela L. Abernethy, retired circuit court judge, Marion County
Hon. Daniel J. Ahern, retired circuit court judge, Jefferson and Crook Counties
Hon. Richard L. Barron, retired circuit court judge, Coos and Curry Counties
Hon. Paula M. Bechtold, retired circuit court judge, Coos and Curry Counties
Hon. Linda Louise Bergman, retired circuit court judge, Multnomah County
Hon. Alta J. Brady, retired circuit court judge, Deschutes County
Hon. Nancy W. Campbell, retired circuit court judge, Washington County
Hon. Patricia Crain, retired circuit court judge, Jackson County
Hon. Paul G. Crowley, retired circuit court judge, Hood River, Wasco, Sherman, Wheeler and Gilliam Counties
Hon. Deanne L. Darling, retired circuit court judge, Clackamas County
Hon. Gregory Foote, retired circuit court judge, Lane County
Hon. Julie E. Frantz, retired circuit court judge, Multnomah County
Hon. Robert D. Herndon, retired circuit court judge, Clackamas County
Hon. Janet Schoenhard Holcomb, retired circuit court judge, Benton County

Hon. Edward J. Jones, retired circuit court judge, Multnomah County
Hon. Paula J. Kurshner, retired circuit court judge, Multnomah County
Hon. Jerome LaBarre, retired circuit court judge, Multnomah County
Hon. Terry Ann Leggert, retired circuit court judge, Marion County
Hon. Kip W. Leonard, retired circuit court judge, Lane County
Hon. Donald R. Letourneau, retired circuit court judge, Washington County
Hon. Marilyn E. Litzenberger, retired circuit court judge, Multnomah County
Hon. Jean Kerr Maurer, retired circuit court judge, Multnomah County
Hon. Eve L. Miller, retired circuit court judge, Clackamas County
Hon. Daniel R. Murphy, retired circuit court judge, Linn County
Hon. Michael Newman, retired circuit court judge, Josephine County
Hon. Rebecca G. Orf, retired circuit court judge, Jackson County
Hon. Ronald J. Pahl, retired circuit court judge, Umatilla and Morrow Counties
Hon. Steven B. Reed, retired circuit court judge, Columbia County
Hon. Joan Glawe Seitz, retired circuit court judge, Douglas County
Hon. Diana I. Stuart, retired circuit court judge, Multnomah County
Hon. Patricia A. Sullivan, retired circuit court judge, Malheur County
Hon. Kirsten E. Thompson, retired circuit court judge, Washington County
Hon. Russell B. West, retired circuit court judge, Union and Wallowa Counties
Hon. John A. Wittmayer, retired circuit court judge, Multnomah County
Hon. Merri Souther Wyatt, retired circuit court judge, Multnomah County