

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 968**

1 On page 1 of the printed bill, delete lines 6 through 26 and delete page  
2 2 and insert:

3 **“SECTION 1. (1) A court may not impose a sentence of life**  
4 **imprisonment without the possibility of release or parole on a person**  
5 **who was under 18 years of age at the time of committing the offense.**

6 **“(2) In determining the appropriate sentence for a person who was**  
7 **under 18 years of age at the time of committing the offense, if the**  
8 **court is provided information concerning the following circumstances,**  
9 **or any other relevant circumstances, the court shall consider those**  
10 **circumstances in imposing the sentence:**

11 **“(a) The person’s age, intellectual capacity and impetuosity at**  
12 **the time of the offense.**

13 **“(b) The person’s family and community environment, history of**  
14 **trauma and prior involvement in the juvenile dependency system at**  
15 **the time of the offense.**

16 **“(c) The person’s ability at the time of the offense to appreciate the**  
17 **risks and consequences of the conduct constituting the offense.**

18 **“(d) The person’s community involvement prior to the offense.**

19 **“(e) Any peer or familial pressure to which the person was subjected**  
20 **at the time of the offense.**

21 **“(f) Whether and to what extent an adult was involved in the**

1 **commission of the offense.**

2 **“(g) The person’s capacity for rehabilitation.**

3 **“(h) The person’s school records and special education evaluations.**

4 **“(i) Any other mitigating factors or circumstances presented by the**  
5 **person.**

6 **“(3)(a) If the court is provided with a report of a mental health**  
7 **evaluation of the person, the court shall give the evaluation substan-**  
8 **tial weight in imposing the sentence if:**

9 **“(A) The evaluation was conducted by a psychiatrist or psychologist**  
10 **whose primary practice involves the treatment of adolescents; and**

11 **“(B) The report includes the assessment of the person’s degree of**  
12 **insight, judgment, self-awareness, emotional regulation and impulse**  
13 **control.**

14 **“(b) Paragraph (a) of this subsection does not constitute a require-**  
15 **ment that a person obtain or submit an evaluation for sentencing.**

16 **“(4) When sentencing a person who was under 18 years of age at the**  
17 **time of committing the offense, under no circumstances may the court**  
18 **consider the age of the person as an aggravating factor.**

19 **“(5) When sentencing a person who was under 18 years of age at the**  
20 **time of committing an offense to a term of imprisonment, the court**  
21 **shall indicate in the judgment:**

22 **“(a) The age of the person at the time of committing the offense;**  
23 **and**

24 **“(b) That the person is eligible for a hearing and release under**  
25 **section 2 of this 2019 Act.**

26 **“SECTION 2. (1)(a) A person convicted of an offense or offenses**  
27 **committed when the person was under 18 years of age, who is serving**  
28 **a sentence of imprisonment, is eligible for release on parole or post-**  
29 **prison supervision as provided in this section after the person has**  
30 **served 15 years of imprisonment.**

1       **“(b) Nothing in this section is intended to prevent a person from**  
2 **being released prior to serving 15 years of imprisonment under any**  
3 **other provision of law.**

4       **“(c) As used in this subsection, ‘served 15 years of imprisonment’**  
5 **means that 15 years have passed since the person began serving the**  
6 **sentence, including pretrial incarceration but not including any re-**  
7 **duction in sentence under ORS 421.121 or any other statute.**

8       **“(2) This section applies notwithstanding the fact that the person**  
9 **was:**

10       **“(a) Sentenced to a minimum sentence under ORS 163.105, 163.115**  
11 **or 163.155.**

12       **“(b) Sentenced to a mandatory minimum sentence under ORS**  
13 **137.700, 137.707 or 137.717, a determinate sentence under ORS 137.635,**  
14 **or a sentence required by any other provision of law.**

15       **“(c) Sentenced to two or more consecutive sentences under ORS**  
16 **137.123.**

17       **“(3) When a person eligible for release on parole or post-prison**  
18 **supervision as described in subsection (1) of this section has served 15**  
19 **years of imprisonment, the State Board of Parole and Post-Prison**  
20 **Supervision shall hold a hearing. The hearing must provide the person**  
21 **a meaningful opportunity to be released on parole or post-prison**  
22 **supervision.**

23       **“(4) The board may require the person, before holding a hearing**  
24 **described in this section, to be examined by a psychiatrist or psychol-**  
25 **ogist with expertise in adolescent development. Within 60 days of the**  
26 **evaluation, the examining psychiatrist or psychologist shall file a**  
27 **written report of the findings and conclusions of the examination with**  
28 **the board. A certified copy of the report shall be provided to the person**  
29 **and the person’s attorney.**

30       **“(5) During a hearing under this section, the board shall consider**

1 and give substantial weight to the fact that a person under 18 years  
2 of age is incapable of the same reasoning and impulse control as an  
3 adult and the diminished culpability of minors as compared to that of  
4 adults. The board shall also consider the following circumstances, if  
5 relevant to the specific person and offense:

6 “(a) The age and immaturity of the person at the time of the of-  
7 fense.

8 “(b) Whether and to what extent an adult was involved in the of-  
9 fense.

10 “(c) The person’s family and community circumstances at the time  
11 of the offense, including any history of abuse, trauma and involvement  
12 in the juvenile dependency system.

13 “(d) The person’s subsequent emotional growth and increased ma-  
14 turity during the person’s imprisonment.

15 “(e) The person’s participation in rehabilitative and educational  
16 programs while in custody if such programs have been made available  
17 to the person and use of self-study for self-improvement.

18 “(f) A mental health diagnosis.

19 “(g) Any other mitigating factors or circumstances presented by the  
20 person.

21 “(6) Under no circumstances may the board consider the age of the  
22 person as an aggravating factor.

23 “(7) If the board finds that, based on the consideration of the age  
24 and immaturity of the person at the time of the offense and the  
25 person’s behavior thereafter, the person has demonstrated maturity  
26 and rehabilitation, the person shall be released on post-prison super-  
27 vision in accordance with ORS 144.096 and 144.098 within 60 days of the  
28 date of the hearing.

29 “(8) Unless the context requires otherwise, the provisions of ORS  
30 144.101, 144.102, 144.103, 144.104, 144.106, 144.107 and 144.108 apply to a

1 person released on post-prison supervision under subsection (7) of this  
2 section.

3 “(9) If the board determines that the person has not demonstrated  
4 maturity and rehabilitation under subsection (7) of this section, the  
5 board may postpone a subsequent hearing to a date that is at least two  
6 years but no more than 10 years from the date of the hearing.

7 “(10) The person may waive a hearing under this section. Not-  
8 withstanding waiver of the hearing, the board shall hold a hearing  
9 under this section upon the person’s written request.

10 “(11) The board shall provide notice of the hearing to:

11 “(a) The district attorney of the county in which the person was  
12 convicted; and

13 “(b) The victim of any offense for which the person is serving a  
14 sentence, if the victim requests to be notified and furnishes the board  
15 with a current address.

16 “(12) A person has the right to counsel, including counsel appointed  
17 at board expense, at a hearing under this section.

18 “(13) The board may adopt rules to carry out the provisions of this  
19 section.”.

20 On page 3, delete lines 1 through 39.

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