

SB 902 STAFF MEASURE SUMMARY

Carrier: Rep. Morgan

House Committee On Judiciary**Action Date:** 04/26/23**Action:** Do Pass.**Vote:** 10-0-0-0**Yeas:** 10 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Lucy Ohlsen, LPRO Analyst**Meeting Dates:** 4/20, 4/26**WHAT THE MEASURE DOES:**

Allows person who is 20 years of age or older at time of resentencing following an appellate or post-conviction relief proceeding for a crime committed when the person was under 18 years of age to remain in custody of the Oregon Youth Authority if the person is or was resentenced after January 1, 2020. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Current law related to resentencing
- Example of person affected by current law
- Process for determining custody of adjudicated youth
- Current population in OYA custody

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2019, the Legislative Assembly adopted several changes to the juvenile justice system, including changes to the process by which juveniles may be waived to adult court and placed in adult custody, through Senate Bill 1008. Among other things, Senate Bill 1008 directed the Department of Corrections (DOC) to transfer the physical custody of certain individuals who are under 18 years of age at the time of committing an offense, but over 18 years old when criminal proceedings were initiated, to the Oregon Youth Authority (OYA) until their 25th birthday. The bill also directed DOC to transfer custody of the same individuals after a resentencing following an appellate or post-conviction relief proceeding on the same charges, even if the defendant is 20 years of age or older at the time of the resentencing. Senate Bill 1008 was not retroactive. Therefore, if an individual convicted prior to 2019 is resentenced on the same charges they committed when under 18 years of age, and that individual is over 20 years old at the time of the resentencing, that individual is required to be in the custody of the DOC until their sentence is served despite the change in current law.

Senate Bill 902 makes retroactive the portions of Senate Bill 1008 (2019) related to the transfer of custody of individuals resentenced after the effective date of the measure for a crime they committed when under 18 years of age, permitting an individual over 20 years of age to remain in Oregon Youth Authority custody upon resentencing that occurs or has occurred after January 1, 2020 if the individual was 18 at the time the crime was committed. Senate Bill 902 would also allow the DOC and OYA to determine whether to transfer an individual resentenced for a crime they committed when under 18 years of age after January 1, 2020, but before the effective date of the measure, to the custody of OYA due to the person's age, immaturity, mental or emotional condition, or risk of physical harm to the person in an adult correctional facility.