



1785 NE Sandy Blvd #300
Portland, OR 97232
youthrightsjustice.org
(503) 232-2540

To: Joint Committee on Drug Addiction and Community Safety Response
From: Lisa Kay Williams, Supervising Attorney

Re: **HB 4002**

Dear Co-Chairs Senator Lieber and Representative Kropf and Members of the Committee,

Founded in 1975, Youth, Rights & Justice is Oregon's only non-profit juvenile public defense firm. Each year, we provide holistic, client-centered representation to hundreds of children, youth, and parents in Oregon's juvenile court system. Additionally, we provide early defense advocacy to keep families together and educational advocacy so children can attend, graduate, and succeed in school. In 2021, we launched our juvenile expunction clinic.

Through our advocacy for Oregon's children, youth, and parents, we often see the same systemic problems and we work to change the policies that contribute to these problems. One glaring systemic problem is that Black, Indigenous and People of Color are overrepresented in child welfare and juvenile justice systems.

YRJ opposes HB 4002 and the -24 Amendments Because They Authorize Youth Incarceration Without Requiring a Diversion Opportunity First

As the legislature addresses drug addiction and community safety in Oregon, we ask the legislature to consider the impacts of legislation on youth who may be referred to the juvenile justice system for drug possession misdemeanors.

Of the New Procedures, Only the Incarceration Provision Applies to Youth

The amendment recriminalizes drug possession and addresses procedures for adults (deflection, conditional discharge and expunction). There are a limited number of criminal procedure statutes incorporated into the juvenile code because many procedures in juvenile court are different. The procedures for deflection, conditional discharge and expunction do not apply to youth. The only part of the -24 amendments that do impact youth is the maximum term of confinement (180 days). See ORS 419C.501(1)(a).

Incarceration Harms Youth and Therefore Should be Used as a Last Resort

Given the harms associated with youth confinement, the legislature should require that it should be used as a last resort.

“Incarceration harms young people’s physical and mental health, impedes their educational and career success, and often exposes them to abuse. And the use of confinement is plagued by severe racial and ethnic disparities.”ⁱ

The Legislature Should Give Youth Opportunities at Diversion

Youth also should be given access to treatment and opportunities to be diverted from formal prosecution and confinement. The opportunities for youth to be diverted from formal prosecution and confinement should be racially equitable, equitable across Oregon counties, and consistent with best practice.

Racial & Geographic Equity Is Needed

While the State of Oregon, as part of their Racial and Ethnic Disparities Reduction Plan, is committed to increasing access to diversion for all youth, data shows that youth of color particularly Black, Indigenous and Asian youth, are less likely to be diverted from formal prosecution than their white peers.ⁱⁱ

Current law provides local juvenile departments and district attorneys discretion over diversion decisions. Unfortunately, this results in drastically different approaches to youth with similar behaviors depending on the county in which they reside.

Juvenile Best Practice Requires Repeated Diversion

According to juvenile justice best practices, except for chronic reoffending that poses a significant threat to public safety, youth should be diverted for misdemeanors.ⁱⁱⁱ This research-based position replaces the position that youth should only be allowed diversion once. Because of the risks of negative outcomes associated with involvement in the juvenile legal system and the positive outcomes associated with diversion, youth need a “right sized” intervention every time they are referred to the juvenile department.

A multi-site, longitudinal study of first-time adolescent offenders that investigated the long-term impacts of formal versus informal processing found that:

“[Y]outh who were formally processed during adolescence were more likely to be re-arrested, more likely to be incarcerated, engaged in more violence, reported a greater affiliation with delinquent peers, reported lower school enrollment, were less likely to graduate high school within five years, reported less ability to suppress aggression, and had lower perceptions of opportunities than informally processed youth.”

“[F]ormally processing youth not only is costly, but it can reduce public safety and reduce the adolescent’s later potential contributions to society.”^{iv}

As this committee continues to refine drug possession legislation, we strongly urge this committee to consider the impact on youth. We oppose the provision for up to a 180-day sanction without a provision that allows youth to avoid entering the juvenile legal system and instead be offered an opportunity at diversion and treatment for each referral.

ⁱ Richard Mendel, The Sentencing Project, *Why Youth Incarceration Fails: An Updated Review of the Evidence*, December 2022. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

ⁱⁱ State of Oregon – FY 2023 Title II Formula Grant Application – Racial and Ethnic Disparities (R/ED) Reduction Plan 3 <https://www.oregon.gov/youthdevelopmentdivision/Juvenile-Justice/Documents/FY%202023%20Racial%20and%20Ethnic%20Disparities%20Reduction%20Plan.pdf>

ⁱⁱⁱ Annie E Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting it Right 25* (2018) <https://www.aecf.org/resources/transforming-juvenile-probation>

^{iv} The Pennsylvania Juvenile Justice Task Force, *Report & Recommendations 14* (June 2021) https://www.pacourts.us/Storage/media/pdfs/20210622/152647-pajuvenilejusticetaskforcereportandrecommendations_final.pdf

(quoting Dr. Elizabeth Cauffman, principal investigator of the Crossroads Study (<https://sites.uci.edu/crossroadsinfo/>) who presented to the Pennsylvania Juvenile Task Force, October 2020.)