



**Testimony submitted to the Joint Committee on the Judiciary
In Support of H.1794 and S.1022
An Act to prevent the imposition of mandatory minimum sentences based on juvenile
adjudications
By Nancy Bettinger and Lucy Costa, LWVMA Criminal Justice Reform Specialists
June 15, 2021**

The League of Women Voters of Massachusetts represents 47 local Leagues across the state, from Cape Cod to the Berkshires. We ask you to support H.1794 and S.1022, which would discontinue the practice of counting juvenile adjudications as prior convictions for the purpose of calculating mandatory minimum sentences for adult offenses.

Our current sentencing policies in Massachusetts treat prior juvenile offenses as if they were adult convictions when calculating adult sentences. Only the federal government, Massachusetts and three other states (Iowa, California, and Texas) still allow juvenile court adjudications to lengthen mandatory-minimum sentences. This practice conflicts with the prevailing consensus that punishments for juveniles should be more lenient than sanctions for adults. Leniency for juveniles is supported by a growing body of scientific evidence that adolescent brain immaturity affects decision making and contributes to involvement in criminal activity (Scott et al. 20018, Mass DOC 2018). By counting juvenile adjudications as predicate offenses for mandatory minimum sentences for adults, we are effectively reverting to highly punitive sentences for juvenile offences.

Considering juvenile adjudications to calculate mandatory minimum sentences has the effect of amplifying the prevailing disparities in juvenile sentencing. Black and Latinx youth remain overrepresented in the Massachusetts juvenile justice system. Even as the total number of young people processed by the system decreased from FY 2018 to FY 2019, the disparity between youth of color and white youth increased (JJPAD 2020). As a consequence, juvenile adjudications disproportionately follow Black and Latinx people into adulthood, making it more likely that they will receive enhanced adult sentences based on juvenile adjudications.

LGBTQ youth are also likely to experience sentencing disparities. LGBTQ youth are overrepresented in juvenile justice facilities in the United States (Irvine and Canfield 2016, CAP/MAP/Youth First 2017, Wilson et al. 2017). According to a report by the National Center for Transgender Equality, an estimated 7% of youth in the U.S. are lesbian, gay or bisexual, while at the same time, between 12% and 20% of youth in juvenile detention facilities identify as lesbian, gay or bisexual. In one study, 85% of incarcerated lesbian, gay and bisexual youth were identified as people of color (NCTE 2018). Data are sparse, but similar disparities are likely to exist in Massachusetts, and a disproportionate number of LGBTQ adult defendants in Massachusetts are likely to receive mandatory minimum sentences based on juvenile adjudications.



A fundamental flaw in the practice of counting juvenile adjudications as predicate offenses for enhanced sentences is that juvenile adjudications do not involve due process and the right to a jury trial. Consequently, mandatory minimum sentences for some adults are based on decisions that were not reached through due process, raising serious questions about basic legal fairness. In the case of *Commonwealth v. Baez* in 2018, the Massachusetts Supreme Judicial court considered whether using a juvenile adjudication as a predicate offense for enhanced sentencing violates due process rights and protections under the Eighth Amendment of the United States Constitution. While the court held that the practice is not unconstitutional, the fairness of the practice was nevertheless called into question (*Commonwealth v. Baez*, 480 Mass 328, 332 (2018)). In a concurring opinion on that case joined by Justice Barbara A. Lenk and Justice Kimberly S. Budd (now Chief Justice), the late Justice Ralph D. Gants encouraged the Legislature to “consider the wisdom and fairness of the mandatory-minimum aspect of those enhanced sentences, especially where the predicate offenses were committed when the defendant was a juvenile.” The League of Women Voters believes the legislature should now act on Justice Gant’s advice.

The League of Women Voters of Massachusetts recognizes that purely punitive or over-long sentences can jeopardize rehabilitation and reintegration and has lobbied for reasonable prison sentences. For all of these reasons, the League urges you to report these bills out of committee favorably without delay.

Thank you for your consideration.

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