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Joint Committee on the Judiciary
Sen. Jamie Eldridge & Rep. Michael Day, Chairs

SUPPORT FOR S.1022 & H.1794

ENDING MANDATORY MINIMUM SENTENCES BASED ON JUVENILE ADJUDICATIONS

Dear Senator Eldridge, Representative Day, and members of the committee:

The American Civil Liberties Union writes in strong support of S.1022 & H.1794, *An Act to prevent the imposition of mandatory minimum sentences based on juvenile adjudications*, sponsored by Sen. Eldridge and Rep. Miranda.

We want to begin by expressing our deep appreciation to Sen. Eldridge for his leadership on this important issue. We hope the committee will again give this legislation a favorable report, as it did last session, to enhance justice and improve opportunities for young people.

The mistakes a person made as a child, which entangled them in the legal system at a young age, should not be considered strikes against them when they face punishment as an adult. These things are well documented: (1) developmental differences between children and adults make it inappropriate to hold children to adult standards of culpability and accountability¹; (2) Black and brown youth are disproportionately likely to become entangled in the delinquency system.² Combined, these facts mean that mandating longer sentences for adults who got into trouble when they were young is both fundamentally unfair and inequitable.

When the Supreme Judicial Court ruled in *Commonwealth v. Baez* that it was constitutionally permissible to allow juvenile adjudications to be considered predicate offenses for the purpose of adult mandatory minimum sentencing, the Court was not suggesting it is wise to do so. Indeed, the late Chief Justice Gants wrote in his concurrence: "I agree with the court that it is not unconstitutional to use the adult defendant's two juvenile adjudications [...] as predicate offenses for enhanced sentences [...]. I write separately to encourage the Legislature to consider the wisdom and fairness of the

¹ This principle has been articulated repeatedly by both the U.S. Supreme Court (*Miller v. Alabama*, 567 U.S. 460, 479 (2012); *Graham v. Florida*, 560 U.S. 48, 75 (2010); *Roper v. Simmons*, 543 U.S. 551, 568, 578 (2005)) and the Massachusetts Supreme Judicial Court (*Commonwealth v. Okoro*, 471 Mass. 51, 60 (2015); *Diatchenko v. Dist. Attorney for Suffolk Dist.*, 466 Mass. 655, 669-671 & n.14 (2013)).

² Massachusetts Trial Court, *Disproportionate Minority Contact Statewide Assessment Report* at 29 (October 2018).

mandatory minimum aspect of those enhanced sentences, especially where the predicate offenses were committed when the defendant was a juvenile.”³

Today, Massachusetts is one of only a handful of states that count youthful adjudications toward adult mandatory minimum sentencing “enhancements.” Doing so means that people like Brandon Baez are locked up longer, sentenced to far-flung state prisons instead of local county facilities, incarcerated and socialized in an environment with people convicted of more serious crimes, and deprived of supportive programming options that are more widely available at the county level *because of their actions as children*.

Massachusetts should stop this unjust and counterproductive practice. We urge you to swiftly and favorably report S.1022 & H.1794 out of committee. Thank you.

³ *Commonwealth v. Baez*, 480 Mass. 328, 332 (2018).