IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

O.G., Petitioner, v. THE SUPERIOR COURT OF VENTURA COUNTY, Respondent; THE PEOPLE OF THE STATE OF CALIFORNIA, Real Party in Interest.	No. S259011 (Court of Appeal 2nd Dist. No. B295555; Ventura Superior Court No. 2018017144)

APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE LOS ANGELES COUNTY DISTRICT ATTORNEY in support of Real Party in Interest The People of the State of California

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TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

The District Attorney of Los Angeles County hereby applies for permission to file a brief as amicus curiae in the above-entitled matter pursuant to rule 8.520, subdivision (f), of the California Rules of Court, in support of the People of the State of California, Real Party in Interest herein, represented by the District Attorney of Ventura County.

The underlying case pertains to the constitutionality of Senate Bill 1391 (SB 1391). Specifically, the issue before this Court is whether SB 1391 improperly amended Proposition 57, "The Public Safety and Rehabilitation Act of 2016," in contravention of Article II, Section 10, subdivision (c) of the

California Constitution. The Court of Appeal properly ruled that SB 1391 is unconstitutional because it does not comply with the amendment provisions of Proposition 57.

The District Attorney of Los Angeles County represents the People of the State of California in two cases for which this Court granted review on this issue and then deferred further action pending disposition of this case:

1. *People v. Superior Court (Tony B.)* (February 4, 2020, B294813) [nonpub. opn.], review granted, S261174, in which the California Court of Appeal for the Second Appellate District, Division Two, found that SB 1391 was an unconstitutional amendment to Proposition 57; and
2. *Narith S. v. Superior Court* (2019) 42 Cal.App.5th 1131, review granted, S260090, in which the California Court of Appeal for the Second District, Division Three, found SB 1391 to be constitutional.

The amicus curiae brief bound with this application argues:

1. This Court's precedents require strict application of California Constitution Article II, Section 10, subdivision (c);

2. The intent of the voters as expressed in Proposition 57 is defined by reference to the multiple expressed purposes listed in the Proposition;

3. An amendment to an initiative statute is not consistent with the intent of the voters when the amendment contravenes one of the purposes that define that intent;

4. Substantive amendments are possible to the juvenile provisions of Proposition 57;

5. The cases pending before this court provide examples of the serious conduct by 14- and 15-year-old offenders that voters expected would lead juvenile judges to consider transfer to criminal court; and

6. Disregarding multiple purposes in favor of one single "primary" purpose is contrary to precedent and would lead to confusion in future cases.

The District Attorney of Los Angeles County has read the briefs previously filed by the parties and believes that a need exists for additional argument on the points specified above.

If this Court grants this application, then the District Attorney of Los Angeles County, as amicus curiae, requests that this Court permit filing of the brief which is bound with this application.

Respectfully submitted,

JACKIE LACEY
District Attorney of
Los Angeles County

By

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JOHN POMEROY
Deputy District Attorney

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

O.G., Petitioner, v. THE SUPERIOR COURT OF VENTURA COUNTY, Respondent; THE PEOPLE OF THE STATE OF CALIFORNIA, Real Party in Interest.	No. S259011 (Court of Appeal 2nd Dist. No. B295555; Ventura Superior Court No. 2018017144) **BRIEF OF AMICUS CURIAE DISTRICT ATTORNEY OF LOS ANGELES COUNTY**

INTRODUCTION

Among states that allow voters to enact statutes by initiative, California places the most restrictions on the ability of the Legislature and the Governor to amend those statutes. Unique among all states, the California Constitution establishes as the default rule that "The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors." The only exception to that rule is where "the initiative statute permits amendment or repeal without the electors' approval." (Cal. Const., art. II, § 10, subd. (c); *People v. Kelly* (2010) 47 Cal.4th 1008, 1030 (*Kelly*).)

Since 1911, California voters have enacted many statutes by initiative. Sometimes the voters allowed the Legislature to amend those statutes with no limitations. At other times, the voters required a super-majority of both houses of the Legislature. Quite often, as here, the voters sought to prevent amendments that conflicted with any stated purpose of the initiative.

On November 8, 2016, the voters passed Proposition 57 (Prop. 57), "The Public Safety and Rehabilitation Act of 2016," enacting the amended sections 602 and 707 of the Welfare and Institutions Code. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, pp. 142-145.) In recent years, voters have enacted other statutes in such diverse public policy areas as the allocation of mental health services funding (Prop. 63, the "Mental Health Services Act" of 2004), the regulation of many different types of insurance (Prop. 103, the "Insurance Rate Reduction and Reform Act," of 1988), and court-supervised drug rehabilitation (Prop. 36, the "Substance Abuse and Crime Prevention Act of 2000"). None of these propositions allowed unlimited amendments by the Legislature. While the Legislature otherwise has plenary authority to enact laws they deem to be in the public's interest, in these particular areas that authority is restricted.

Prop. 57, like many initiatives, was motivated by multiple purposes. Courts of Appeal have established the rule that where the voters pursued multiple purposes in enacting initiative statutes and allowed the Legislature to amend such statutes to further those same purposes, a later amendment by the

Legislature is unauthorized where it contravenes any of the purposes behind the initiative. (*Gardner v. Schwarzenegger* (2009) 178 Cal.App.4th 1366, 1378 (*Gardner*); *Foundation for Taxpayer & Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, 1370–1371 (*Foundation*).)

Several of the Court of Appeal opinions on this issue have distilled the multiple purposes stated in Prop. 57 into a single "primary" or "overriding" purpose. If this Court accepts that approach, the effect would be to overrule *Gardner* and *Foundation* and to remove many of the restrictions that voters have placed on the Legislature's ability to act.

Petitioner contends that, since the ability to transfer minors to adult court was expanded in California in 2000, there has been a "sea change" in juvenile delinquency law and policy based on the latest scientific studies of adolescent development. (Opening Brief on the Merits, pp. 32-34.) This is clearly true. Juvenile policy in California should take into account such advances in science.

Had voters not enacted a statute in this area by initiative, the Legislature would be free to enact whatever statutes they saw fit. But the voters have acted. Therefore, the California Constitution specifies the procedure the Legislature must follow to pursue these worthy policy goals: they may amend Welfare and Institutions Code sections 602 and 707 by a statute that "becomes effective only when approved by the electors." (Cal. Const., art. II, § 10, subd. (c).)

STATEMENT OF THE CASE

Amicus curiae (hereafter "amicus") relies upon the Statement of the Case presented by the Real Party in Interest in the Answer Brief on the Merits.

STATEMENT OF FACTS

Amicus relies upon the Statement of Facts presented by the Real Party in Interest in the Answer Brief on the Merits.

ISSUE PRESENTED

The issue presented is whether the amendments to Proposition 57 enacted by Senate Bill 1391 satisfy the proposition's language requiring that any legislative amendments be consistent with the intent of the proposition, where that intent is specifically defined by reference to enumerated purposes and the amendments contravene one or more of those purposes.

ARGUMENT

1. This Court's Precedents Require Strict Application of California Constitution Article II, Section 10, Subdivision (c)

In *People v. Kelly, supra,* 47 Cal.4th at p. 1025, this Court stated:

> [T]he purpose of California's constitutional limitation on the Legislature's power to amend initiative statutes is to 'protect the people's initiative powers by precluding the Legislature from undoing what the people have done, without the electorate's consent.' [Citations.]

California voters established the initiative process when they enacted Proposition 7 in 1911. (*Kelly, supra*, 47 Cal.4th at pp. 1035-1036.) Since then, repeated efforts through the political process to change the rules regarding legislative amendments to initiative statutes have been unsuccessful. (*Kelly, supra*, 47 Cal.4th at pp. 1036-1042.) Effectively, the minors in this case and the several other cases pending before this Court on the same issue are asking this Court to do what the voters have repeatedly refused to do: make it easier for the Legislature to amend initiative statutes.

Strict application of the limits on legislative amendments to initiative statutes as provided in Article II, Section 10, Subdivision (c) has resulted in the invalidation of certain legislation. In *Gardner*, legislation that would have allowed incarceration for drug-related violations was found to be an unconstitutional amendment to Proposition 36, the Substance Abuse and Crime Prevention Act of 2000. (*Gardner, supra*, 178 Cal.App.4th at pp. 1378, 1379.) In *Foundation*, legislation that would have allowed for changes in auto insurance premiums was found to be an unconstitutional amendment to Proposition 103, the "Insurance Rate Reduction and Reform Act," which was passed in 1988, because that proposition sought to prohibit discrimination against previously uninsured drivers. (*Foundation,* supra, 132 Cal.App.4th at p. 1370.)

In both of those propositions, voters allowed the Legislature to amend the initiative statutes provided the amendments furthered each of the purposes of the propositions. The courts in

each case found that the amendments made by the Legislature contravened at least one purpose of the respective proposition. The effect of these rulings was to restrict the Legislature's ability to act without voter approval in the subject areas where the voters had acted. (See Section 3, *infra*.)

Such limitations on the Legislature are not onerous. In fact, the Legislature knows just how to work with such limitations: via a legislative proposition. From 1974 through 2020, the Legislature has placed numerous statutory amendments on the ballot for voter approval[1].

One such legislative proposition was Proposition 1E (Prop. 1E), which was placed by the Legislature on the ballot of May 19, 2009, and addressed mental health services funding. Prop. 1E proposed amendments to Welfare and Institutions Code sections 5891 and 5892, which had been added by Proposition 63, the "Mental Health Services Act," in 2004. Prop. 1E would have changed the manner in which mental health services funding was allocated. (Ballot Pamp., Spec. Elec. (May 19, 2009) summary of Prop. 1E, pp. 38-39.)

As Petitioner points out in his reply brief, Proposition 63 contained the same language regarding substantive legislative amendments as Prop. 57: any such amendments were allowed "so long as such amendments are consistent with and further the intent of this act." (Reply Brief, p. 25.)

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[1] See Legislative Analyst's Office, Ballot Measures by Type, 1974-Present, <https://lao.ca.gov/BallotAnalysis/BallotByType> [as of July 6, 2020].

When the Legislature wanted to make substantive changes to statutes enacted by Prop. 63, and recognized that their proposed amendments were not consistent with the intent of the proposition, the Legislature promptly acted to place Prop. 1E on the ballot. The Legislature should have done the same thing here. Had they done so in 2018 instead of passing SB 1391, the proposition would have been placed on the ballot of the next statewide election occurring at least 131 days after their action. (Elec. Code § 9040.) And the voters would have told us long ago whether the proposed changes were consistent with their intent when they enacted Prop. 57.

2. The Intent of the Voters as Expressed in Proposition 57 Is Defined by Reference to the Multiple Expressed Purposes Listed in the Proposition

In determining whether SB 1391's amendments to the initiative statute are "consistent with and further the intent of" Prop. 57, we need to carefully define the word "intent," and assess how it is related to the multiple purposes behind the proposition, both expressed and implied. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 145.)

The word "intent" is always singular in Prop. 57. The necessary determination is what the voters' intent was when they enacted the proposition. How do the various purposes behind the proposition affect that determination? While in some propositions this may be difficult to divine from the text of the proposition, here it is easy because the term "intent" is expressly defined by reference to the five enumerated purposes in Section 2 of the proposition:

> SEC. 2. Purpose and Intent.
>
> In enacting this act, it is the purpose and intent of the people of the State of California to:
>
> 1. Protect and enhance public safety.
>
> 2. Save money by reducing wasteful spending on prisons.
>
> 3. Prevent federal courts from indiscriminately releasing prisoners.
>
> 4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles.
>
> 5. Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court.

(Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 141.)

There may be additional implied purposes that could be gleaned from the language describing the proposition in the ballot pamphlet, and from the arguments contained therein. But, whatever else may be contained in the definition of "intent" in this context, at a minimum it is defined by each of the five enumerated purposes.

In Section 3, Proposition 57 enacted changes to the California Constitution regarding the parole process for adults. In sections 4.1 and 4.2, the proposition enacted the statutes at issue in this case regarding juvenile justice. Did the voters have two different "intents" in enacting the adult vs. the juvenile provisions? If so, are both intents defined by each of the five enumerated purposes?

The language of the proposition indicates that, whatever purposes are contained in the definition of the "intent" behind the adult provisions, the "intent" behind the juvenile provisions is defined by reference to all five enumerated purposes. This is

because, in the first words of Section 3, the language of the proposition further limits the purposes motivating the adult provisions of the proposition:

> SEC. 3. Section 32 is added to Article I of the California Constitution, to read:
>
> SEC. 32. (a) The following provisions are hereby enacted to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order…

(Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 141.)

By contrast, Sections 4.1 and 4.2 of the proposition, which enacted the statutes effecting the changes in juvenile policy, have no expressed limitation on their purposes. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, pp. 141-145.) Voters saw that the drafters could have limited the expressed purposes and chose not to. Each of the enumerated purposes in Section 2 therefore define the voters' "intent" in enacting the juvenile provisions.

Because the voters' intent is defined by reference to the five enumerated purposes, any amendment that contravenes one of those purposes cannot be consistent with the intent of the act, as required by Section 5. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 145.)

3. An Amendment to an Initiative Statute Is Not Consistent With the Intent of the Voters When the Amendment Contravenes One of the Purposes That Define That Intent

When an interpretation of a proposition contravenes an express purpose of the proposition, the benefits of the proposition

would not be realized, and "the voters' intent and expectations would be frustrated." (*Harris v. Superior Court* (2016) 1 Cal.5th 984, 992.)

When a Legislative amendment to an initiative statute undermines the specific rules within an initiative's comprehensive scheme, and therefore contradicts one or more of the stated purposes of the initiative, the amendment is inconsistent with the initiative and therefore invalid. (*Gardner*, *supra*, 178 Cal.App.4th at p. 1378.)

In *Foundation*, *supra*, 132 Cal.App.4th 1354, 1359, the court addressed Proposition 103, the "Insurance Rate Reduction and Reform Act," which was passed in 1988, and a later enacted law by the Legislature related to auto insurance premiums. Proposition 103 allowed legislative amendments "to further its purposes." One specific purpose of the proposition was to prohibit discrimination against previously uninsured drivers. (*Id.*, p. 1369.) The Court of Appeal found that the law enacted by the Legislature contradicted that specific purpose. Therefore, even though it may have furthered other general purposes of the proposition, the conflict with that one specific purpose rendered the law unconstitutional. (*Id.*, p. 1370.)

In *Gardner*, the Legislature had passed Senate Bill 1137 (SB 1137) in 2006, amending Proposition 36, the Substance Abuse and Crime Prevention Act of 2000. (*Gardner*, *supra*, 178 Cal.App.4th at p. 1369.) SB 1137 added language allowing incarceration for drug-related violations. (*Id.*, pp. 1375–1376.) The court described the three primary purposes of Prop. 36 as

promoting public health, enhancing public safety by freeing up jail space for violent offenders, and saving money by reducing incarceration costs. (*Id.*, pp. 1377–1378.) The court in *Gardner* held that SB 1137 contravened the last two of those purposes, causing it to be an invalid amendment to the initiative statute and thus violating the California Constitution. That result was necessary even if SB 1137 furthered Prop. 36's public health purpose. (*Id.*, pp. 1378–1379.)

Like Prop. 36, Prop. 57 enacted a comprehensive scheme to address the complex problem of rehabilitating juvenile offenders who commit serious offenses. Prop. 57 took previously existing statutes and recast them to provide more discretion to judges and take away the ability of prosecutors to file on any juvenile directly in adult criminal court. Just like the courts in *Gardner* and *Foundation*, this court must examine SB 1391 to determine if it contravenes any of the purposes of Prop. 57.

It is clear that SB 1391 contravenes the purpose of protecting and enhancing public safety. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 141.) As part of its overall scheme, Prop. 57 requires juvenile judges to assess whether minors may be rehabilitated prior to the expiration of juvenile court jurisdiction. Clearly the voters intended that fewer juveniles would be prosecuted as adults. Among the Proposition's stated purposes was "emphasizing rehabilitation." But doing so at the expense of public safety was not the voters' intent.

Prior to Prop. 57, 14- and 15-year-old offenders who were charged with murder or certain sex offenses were filed directly

into adult criminal court. Voters wanted such offenders to have the opportunity to receive rehabilitation in the juvenile system, but only if a juvenile judge found them amenable to such rehabilitation. After the passage of SB 1391, however, even if a judge would find that a 14- or 15-year-old offender of such a serious offense would not likely be rehabilitated prior to the expiration of juvenile jurisdiction, that minor is required to remain in the juvenile court regardless of present or future effects on public safety. This contravenes one of the express purposes behind the voters' approval of Prop. 57.

SB 1391 also contravenes the express purpose to require that a juvenile judge determine whether a minor charged with a serious offense should remain in the juvenile court system or be transferred to adult criminal court. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 141.) The effect of the statutory changes in Prop. 57 was that any transfer of a minor to adult criminal court had to be made after an order by a juvenile judge, after considering all of the information before the court. Much of that information is contained in confidential juvenile court files and is not public. This includes proceedings on any previous delinquency petitions, the minor's previous conduct on probation, any dependency proceedings that affected the delinquency proceedings, and the substance of interviews by probation officers with family members, victims, and individuals running programs that the minor participated in. Only a juvenile judge would have access to all of that information, and voters expected that such judge would consider such information and then make an

individualized determination as to what was in the minor's best interests and the interests of the public. Furthermore, voters expected this process to occur for all persons aged 14, 15, 16, or 17, who were charged with the enumerated serious offenses listed in Welfare and Institutions Code section 707, subdivision (b).

The Legislature, in enacting SB 1391, disregarded the language in the last of the express purposes listed in Prop. 57. Regarding 14- and 15-year-old offenders, they have effectively crossed out the word "judge" and replaced it with "the Legislature," so the final express purpose now reads "For 14 and 15 year-old offenders, the Legislature decides whether juveniles should be tried in adult court." This is surely a step too far.

4. Substantive Amendments Are Possible to the Juvenile Provisions of Proposition 57

Petitioner and the Real Party in Interest discuss whether, under the strict interpretation of Proposition 57's amendment provisions that Real Party advances, any substantive amendments are possible. Clearly they are.

The Court of Appeal in *People v. Superior Court (Tony B.)* stated:

> It is correct that, given its amendment provision, Proposition 57 anticipated future amendment of section 707. And it is possible to think of hypothetical amendments to section 707 that might have furthered the intent of Proposition 57, while still preserving the stated intent of allowing a judge to decide, in appropriate circumstances, that a 14- or 15-year-old should be tried in criminal court. For instance, the former section 707, subdivision (b),

> contained a fairly extensive list of offenses that subjected a 14- or 15-year-old to a possible transfer motion. (See former § 707, subd. (b)(1)-(30).) A legislative amendment that limited those offenses to only murder and violent sex crimes, for example, would narrow the class of 14- and 15-years-olds potentially subject to trial in criminal court, but still allow a judge to make a transfer decision in an appropriate case. Or, alternatively, the Legislature might have chosen to amend the criteria governing a juvenile court's transfer determination, setting a higher bar for transfer. Again, these are just hypothetical examples, and we do not intend to tell the Legislature how to do its job or to determine the constitutionality of hypothetical amendments. The point is: SB 1391 did not represent the only potential way of amending Proposition 57.

(*People v. Superior Court (Tony B.)* (February 4, 2020, B294813) [nonpub. opn.], pp. 13-14.)

These potential amendments discussed by the court in *Tony B.* would retain the balanced approach between the protection and enhancement of public safety as enumerated in the first purpose listed in Prop. 57, and the enumerated purpose to emphasize rehabilitation for juveniles. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 141.)

If the Legislature wishes to stray beyond the range of permissible amendments the voters allowed, they simply need to put such amendments before voters for their approval.

5. The Cases Pending Before this Court Provide Examples of the Serious Conduct by 14 and 15 Year-Old Offenders that Voters Expected Would Lead Juvenile Judges to Consider Transfer to Criminal Court

In enacting Prop. 57 voters declared their intent to be protected from dangerous offenders, both adults and also juveniles of the ages that Prop. 57 allowed to be transferred to criminal court. That included 14 and 15 year-old offenders. The underlying facts of this case appear to raise the issue of transfer that voters expected to be raised. Voters intended that juvenile judges would rule upon transfer to criminal court after proper application of the criteria set forth in Welfare and Institutions Code section 707.

Another pending case before this Court, *People v. Superior Court (Tony B.)*, provides an example of conduct that voters sought to address through application of the transfer provisions in section 707. In *Tony B.,* when the minor was 14, he allegedly entered a house to burglarize it, armed himself with a knife, accidently woke the 86-year-old sole occupant, killed her by stabbing her 41 times, left the house to observe, and then reentered the house and completed the burglary. (*People v. Superior Court (Tony B.)* (February 4, 2020, B294813) [nonpub. opn.], p. 3.)

The facts of such a case are part of the whole context that the juvenile judge must consider. In the case of *Tony B.,* the case had been directly filed in adult criminal court. After the passage of Prop. 57, the case went back to juvenile court for a determination on transfer under the rules enacted by the voters.

Per the voters, there was no longer a presumption of unfitness. Per the voters, the juvenile judge reviewed all the criteria, including factors related to the minor's age and maturity, his previous conduct and all extenuating circumstances known to the court. The judge, not the prosecutor, then made the determination that transfer was appropriate. The Court of Appeal upheld that determination. (*People v. Superior Court (Tony B.)* (May 29, 2018, B285555) [nonpub. opn.], pp. 5, 17.)

The *Tony B.* case is one of many cases where a determination made by a juvenile judge pursuant to Prop. 57 was rendered a nullity by the Legislature's action in passing SB 1391.

6. Disregarding Multiple Purposes in Favor of One Single "Primary" Purpose is Contrary to Precedent and Would Lead to Confusion in Future Cases

In two of the pending cases before this Court on this issue, the Court of Appeal conflated the purposes listed in Prop. 57 into a single "primary" or "overriding" purpose, and declared that any amendment consistent with that single purpose was permissible. (*People v. Superior Court (K.L.)* (2019) 36 Cal.App.5th 529, 541; *People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360, 374.) As described above, this is inconsistent both with this Court's precedents and also with the Court of Appeal opinions in *Gardner* and *Foundation*.

This Court should not approve the approach of reducing complex voter intent to a singular purpose. If this Court does so, many future cases and legislative decisions will be affected. The

next time that the Legislature faces a situation like they did when they placed Prop. 1E before the voters, the Legislature would have a Supreme Court precedent giving them newly found latitude to ignore certain of the purposes enumerated in the proposition they seek to amend. The Legislature would feel more free to amend a proposition like Prop. 36 in the direction of enhanced incarceration if they determine that it is supported by the purpose that they find to be primary.

Further, it is unclear how lower courts should sort through multiple purposes and determine which one is the "primary" or "overarching" purpose. This Court would do a disservice to Courts of Appeal who seek to square such a holding with earlier opinions emphasizing the restrictions on the Legislature's ability to act alone.

This may be the "easy case that makes bad law." Given the growing consensus that past approaches to juvenile delinquency law improperly assessed a juvenile's maturity at these young ages, and given the significant recent body of U.S. Supreme Court case law affecting juvenile's culpability and the range of sentences available to them when they engage in very serious conduct, it is tempting to allow the changes that the Legislature enacted. But the Legislature simply did not follow the restrictive procedures that California alone requires to amend initiative statutes. Taking the easy way here would open up to legislative action many policy areas where the voters believe they have, up to now, restricted the Legislature's ability to act.

CONCLUSION

For the reasons set forth, amicus respectfully requests that this Court affirm the Court of Appeal's denial of Petitioner's petition for writ of mandate.

Respectfully submitted,

JACKIE LACEY
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By

JOHN NIEDERMANN
Assistant Head Deputy
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JOHN POMEROY
Deputy District Attorney

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that the enclosed Brief of Amicus Curiae is produced using 13-point Roman type, and contains approximately 4,016 words, including footnotes and excluding the Table of Contents and Table of Authorities, cover information, signature block, certificate of compliance, notice of filing by mail, and notice of electronic service. Counsel relies on the word count of the computer program used to prepare this brief.

Dated: This 6th day of July, 2020

LOS ANGELES COUNTY
DISTRICT ATTORNEY'S
OFFICE, WRITS AND APPEALS
DIVISION

_____

John Pomeroy
Deputy District Attorney

DECLARATION OF SERVICE VIA TRUEFILING

The undersigned declares under the penalty of perjury that the following is true and correct:

I am over eighteen years of age and employed in the Office of the District Attorney of Los Angeles County with offices at 320 West Temple Street, Suite 540, Los Angeles, California 90012. On the date of execution hereof I served the attached document entitled APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE by electronic service through the TrueFiling filing system to the following persons at the following electronic mail addresses:

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Executed on July 6, 2020, at San Gabriel, California.

/s/
JOHN POMEROY

DECLARATION OF SERVICE BY MAIL

The undersigned declares under the penalty of perjury that the following is true and correct:

I am over eighteen years of age, not a party to the within cause, and employed in the Office of the District Attorney of Los Angeles County with offices at 320 West Temple Street, Suite 540, Los Angeles, California 90012. On the date of execution hereof I served the attached document entitled APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE by depositing true copies thereof, enclosed in sealed envelopes with postage thereon fully prepaid, in the United States mail in the County and City of Los Angeles, California, addressed as follows:

Honorable Kevin J. McGee
Ventura County Superior Court
4353 E. Vineyard Avenue, Dept. J3
Oxnard, CA 93036

Executed on July 6, 2020, at Los Angeles, California.

_____/s/_____
LAURA VEGA

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **O.G. v. S.C. (PEOPLE)**
Case Number: **S259011**
Lower Court Case Number: **B295555**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **jpomeroy@da.lacounty.gov**

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7/6/2020

Date

/s/John Pomeroy

Signature

Pomeroy, John (217477)

Last Name, First Name (PNum)

Los Angeles County District Attorney

Law Firm