

No. 92605-1

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

ZYION HOUSTON-SCONIERS AND TRESON ROBERTS,

Petitioners.

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**MOTION OF AMERICAN CIVIL LIBERTIES UNION OF  
WASHINGTON, CENTER FOR CHILDREN & YOUTH JUSTICE,  
COLUMBIA LEGAL SERVICES, THE FRED T. KOREMATSU  
CENTER FOR LAW & EQUALITY, TEAMCHILD,  
WASHINGTON DEFENDER ASSOCIATION, AND  
WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE  
LAWYERS FOR LEAVE TO FILE *AMICI CURIAE*  
MEMORANDUM IN SUPPORT OF PETITIONS FOR REVIEW**

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Counsel list for *Amici Curiae* appear on following page:

TRAVIS STEARNS, WSBA 29935  
Cooperating Attorney for ACLU-  
WA Foundation  
WASHINGTON APPELLATE  
PROJECT  
1511 Third Avenue, Suite 701  
Seattle, WA 98101  
[travis@washapp.org](mailto:travis@washapp.org)  
(206) 587-2711

NANCY L. TALNER, WSBA  
11196  
Senior Staff Attorney  
ACLU-WA Foundation  
901 Fifth Avenue, Suite 630  
Seattle, WA 98164  
[talner@aclu-wa.org](mailto:talner@aclu-wa.org)  
(206) 624-2184

HICKORY M. GATELESS,  
WSBA 41031  
Center for Children & Youth  
Justice  
615 2nd Ave. Ste 275  
Seattle, WA 98104  
[HGateless@ccyj.org](mailto:HGateless@ccyj.org)  
(206) 696-7503

SUZANNE ELLIOTT, WSBA  
12634  
Washington Association of  
Criminal Defense Lawyers  
705 2nd Ave. Ste 1300  
Seattle, WA 98104  
(206) 623-0291  
[suzanne@suzanneelliottlaw.com](mailto:suzanne@suzanneelliottlaw.com)

Attorneys for *Amici Curiae*

ROBERT S. CHANG, WSBA  
44083  
LORRAINE K. BANNAI, WSBA  
20449  
JESSICA LEVIN, WSBA 40837  
The Fred T. Korematsu Center for  
Law & Equality  
Seattle University School of Law  
901 12th Ave.  
P.O. Box 222000  
Seattle, WA 98122  
[changro@seattleu.edu](mailto:changro@seattleu.edu)  
[bannail@seattleu.edu](mailto:bannail@seattleu.edu)  
[levinje@seattleu.edu](mailto:levinje@seattleu.edu)  
(206) 398-4073

HILLARY BEHRMAN, WSBA  
22675  
TeamChild  
1225 South Weller Street, Suite 420  
Seattle, WA 98144  
[hillary.behrman@teamchild.org](mailto:hillary.behrman@teamchild.org)  
(206) 322-2444

AMANDA LEE, WSBA 19970  
CINDY A. ELSBERRY, WSBA  
23127  
Washington Defender Association  
110 Prefontaine Pl S Ste 610  
Seattle, WA 98104  
[amanda@defensenet.org](mailto:amanda@defensenet.org)  
[Cindy@defensenet.org](mailto:Cindy@defensenet.org)  
(206) 623-4321

NICHOLAS B. ALLEN, WSBA  
42990  
Columbia Legal Services  
101 Yesler Way Ste 300  
Seattle, WA 98104  
[nick.allen@columbialegal.org](mailto:nick.allen@columbialegal.org)  
(206) 464-0838

*Amici* respectfully move, pursuant to RAP 13.4(h), to file an *Amicus Curiae* Memorandum in support of review on the issue described below.

**I. IDENTITY AND INTEREST OF *AMICI***

The American Civil Liberties Union of Washington (ACLU) is a statewide, nonpartisan, nonprofit organization of over 50,000 members and supporters dedicated to the preservation of civil liberties, including the rights of youth charged with criminal offenses. The ACLU strongly supports consideration of individual circumstances and the exercise of judicial discretion in deciding whether youth should be subjected to adult proceedings and sentences. The ACLU has participated in numerous cases involving these issues.

The Center for Children & Youth Justice (CCYJ) is a 501(c)(3) non-profit with a mission to improve – through systems reform – the outcomes of children and youth who enter the juvenile justice, child welfare, and related systems. CCYJ works to ensure that such systems are integrated, unbiased, fueled with innovative ideas, and backed by rules and programs proven to achieve the best outcomes for children, youth, and young adults. One of CCYJ’s programs provides free limited legal advice to and/or secures pro bono counsel for youth and young adults on a variety of civil legal issues, often related to the collateral consequences of

criminal records. CCYJ has previously sought and received leave to file *amicus* briefing on issues related to the treatment of youth and young adults.

Columbia Legal Services (CLS) is a non-profit law firm that represents low income Washingtonians on a variety of legal issues. Juvenile justice and sentencing reform are important priorities that CLS pursues on behalf of its clients. CLS has sought and received leave to file *amicus* briefs on similar issues in the past.

The Fred T. Korematsu Center for Law and Equality (Korematsu Center) is a non-profit organization based at the Seattle University School of Law. The Korematsu Center works to advance justice through research, advocacy, and education. Inspired by the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of 110,000 Japanese Americans, the Korematsu Center works to advance social justice for all. It has a special interest in understanding and remedying the racial disproportionality that exists within our criminal justice system, including how the auto-decline statute disproportionately subjects youth of color to adult punishment. The Korematsu Center does not, in this brief or otherwise, represent the official views of Seattle University.

TeamChild is a nationally recognized, non-profit civil legal advocacy program for low-income children at risk of involvement or already involved with juvenile and adult courts in Washington State. With offices in King, Snohomish, Yakima, Pierce, and Spokane counties, TeamChild lawyers advocate for low-income youth across the state to help them access their basic civil rights to education, health care, safe and stable housing and other social services. TeamChild has participated as *amicus* in many cases involving the legal rights and civil liberties of youth and children in Washington State and nationally.

TeamChild frequently provides civil legal representation to children and youth who are facing the possibility of prosecution in the adult criminal justice system or who are under 18 years of age and are already under the jurisdiction of the adult criminal court. TeamChild partners with defense counsel to assist these youth in obtaining developmentally appropriate treatment and services in the juvenile justice system. TeamChild partners with juvenile justice stakeholders to achieve positive outcomes for the youth we serve.

The Washington Defender Association (“WDA”) is a non-profit association of over a thousand public defenders, criminal defense attorneys, investigators and others throughout the state of Washington. WDA and its members are committed to supporting and improving

indigent defense. A primary purpose of WDA is to improve the administration of justice and stimulate efforts to remedy inadequacies in substantive and procedural law that contribute to injustice. For many years, WDA has been involved in issues related to juvenile justice and juvenile representation, providing training for defenders working in the juvenile justice system and advocating for juvenile justice reform. WDA and its members have previously been granted leave to file *amicus* briefs on many issues related to criminal defense and representation of the indigent.

The Washington Association of Criminal Defense Lawyers (“WACDL”) was formed to improve the quality and administration of justice. A professional bar association founded in 1987, WACDL has over 1000 members – private criminal defense lawyers, public defenders, and related professionals committed to preserving fairness and promoting a rational and humane criminal justice system. WACDL joins this brief as a part of its mission to promote justice and protect individual constitutional rights.

## **II. FAMILIARITY WITH ISSUES**

*Amici* have obtained copies of, and are familiar with, the briefing submitted by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. *Amici* are familiar with the scope of the

argument presented by the parties and will not unduly repeat arguments raised by any of the parties.

**III. ISSUE TO BE ADDRESSED BY *AMICI***

Whether review should be granted under RAP 13.4(b) because recent case law supports the constitutional requirement of individualized consideration prior to subjecting youth to adult court proceedings.

**IV. WHY *AMICI* BRIEFING WILL ASSIST THE COURT**

The Court's decision on whether to grant review in this case will significantly impact an important area of law in this state: the constitutionality of the automatic decline statute. The statute unconstitutionally restricts the due process rights of youth charged with certain crimes and eliminates the requirement that a judicial officer make an individualized determination of culpability before subjecting a youth to adult court jurisdiction. RCW 13.04.030(1)(e)(v). Automatic decline also fails to reduce recidivism and creates harmful racial disparities. These issues are of substantial public interest that should be determined by this Court. It is essential that Washington's highest court be able to make a fully-informed decision, and the additional information provided by the *amici* Memorandum will be helpful to the Court. RAP 10.6(a). For the reasons explained in the petitioners' petitions for review and in the *amici* Memorandum in support of review, all the grounds for review are met and

it should be granted.

**V. CONCLUSION**

For the foregoing reasons, *amici* respectfully request that the Court grant leave to file the attached *amici* Memorandum in Support of Review.

Respectfully submitted this 23rd day of February, 2016.



By: \_\_\_\_\_

TRAVIS STEARNS, WSBA 29935  
Cooperating Attorney for ACLU-WA  
Foundation  
WASHINGTON APPELLATE PROJECT  
1511 Third Avenue, Suite 701  
Seattle, WA 98101  
[travis@washapp.org](mailto:travis@washapp.org)  
(206) 587-2711

NANCY L. TALNER, WSBA 11196  
Senior Staff Attorney  
ACLU-WA Foundation  
901 Fifth Avenue, Suite 630  
Seattle, WA 98164  
[talner@aclu-wa.org](mailto:talner@aclu-wa.org)  
(206) 624-2184

HICKORY M. GATELESS, WSBA 41031  
Center for Children & Youth Justice  
615 2nd Ave. Ste 275  
Seattle, WA 98104  
[HGateless@ccyj.org](mailto:HGateless@ccyj.org)  
(206) 696-7503

NICHOLAS B. ALLEN, WSBA 42990  
Columbia Legal Services  
101 Yesler Way Ste 300  
Seattle, WA 98104



[nick.allen@columbialegal.org](mailto:nick.allen@columbialegal.org)

(206) 464-0838

ROBERT S. CHANG, WSBA 44083

LORRAINE K. BANNAI, WSBA 20449

JESSICA LEVIN, WSBA 40837

The Fred T. Korematsu Center for Law &  
Equality

Seattle University School of Law

901 12th Ave.

P.O. Box 222000

Seattle, WA 98122

[changro@seattleu.edu](mailto:changro@seattleu.edu)

[bannail@seattleu.edu](mailto:bannail@seattleu.edu)

[levinje@seattleu.edu](mailto:levinje@seattleu.edu)

(206) 398-4073

HILLARY BEHRMAN, WSBA 22675

TeamChild

1225 South Weller Street, Suite 420

Seattle, WA 98144

[hillary.behrman@teamchild.org](mailto:hillary.behrman@teamchild.org)

(206) 322-2444

AMANDA LEE, WSBA 19970

CINDY A. ELSBERRY, WSBA 23127

Washington Defender Association

110 Prefontaine Pl S Ste 610

Seattle, WA 98104

[amanda@defensenet.org](mailto:amanda@defensenet.org)

[Cindy@defensenet.org](mailto:Cindy@defensenet.org)

(206) 623-4321

SUZANNE ELLIOTT, WSBA 12634

Washington Association of Criminal

Defense Lawyers

705 2nd Ave. Ste 1300

Seattle, WA 98104

[suzanne@suzanneelliottlaw.com](mailto:suzanne@suzanneelliottlaw.com)

(206) 623-0291