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☛ **10/03/2013 Public Hearing**

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2013-14

(session year)

Assembly

(Assembly, Senate, or Joint)

**Committee on ...
Corrections
(AC-Co)**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR ... bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (December/2014)



**Testimony of Representative Garey Bies
Assembly Committee on Corrections
Assembly Bill 387 – Raising the Age to 18**

Good Morning committee members. Thank you for the opportunity to submit testimony on Assembly Bill 387, which would return 17 year-old non-violent, first-time offenders to the juvenile justice system.

This bill has been introduced over several sessions by my co-author Rep. Kessler. At the beginning of this session, the two of us sat down together to find a compromise that we could both live with to accomplish our main objective – giving young adults a second chance to be productive members of our society. I believe the bill before you today does just that.

Since the mid-1990's our country and state, governed by the slogan, "Tough on Crime". Building more jails and prisons and locking away bad people was the answer for dealing with rising crime numbers. If we only knew then, what we know! We'd have better recidivism rates, safer communities, and we wouldn't be spending so excessively on corrections. Over the last 20 plus years, the amount spent on prisons has grown by 620%. It's time for Wisconsin to change its slogan, and be "Smart on Crime".

There is now overwhelming research showing what interventions are effective in reducing the likelihood of youth reoffending. More than half of Wisconsin Counties have already been trained in implementing more cost-effective, evidence-based programming for youthful offenders, providing better assessments of youth referred for more strategic interventions for the youth and the family. The United States Supreme Court has also recognized and relied upon research of adolescent development in its rulings declaring youth are fundamentally different from adults and must be treated differently under the law.

When talking with people about this bill I am often asked "What about the kid who keeps stealing, or what about the kid who runs around waving a gun in their hand"? My simple answer is: those aren't the kids we're talking about in this bill. Any 17 year-old who has a prior record or who is charged with a violent crime would remain in the adult system. (Please see attached Legislative Council Memo which details the list of crimes that would automatically subject a 17 year-old offender to the jurisdiction of adult criminal court).

Ninety-Eight percent of juvenile arrests in Wisconsin are for non-violent crimes, yet they're treated the same as adults who commit much more heinous acts. When a 17 year old is arrested and booked into jail, they are likely still in high school and must miss school. And, this does happen for cases in which there is no danger to the public; and typically educational

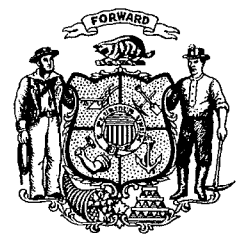
First for Wisconsin!

programming in jail for youth who remain there is pretty limited. We know that youth with adult criminal records are less likely to graduate from high school; they have difficulty finding future employment; and face barriers to higher education and military service.

I don't believe that a 17 year old who commits a non-violent crime is capable of understanding how the rest of their lives can be impacted by one wrong decision. These young adults shouldn't be sitting in our jails and missing school. They deserve a second chance to change the trajectory of their lives and become responsible adults.

I'd like to thank the many groups and individuals that have worked tirelessly on this bill. With their help AB 387 is truly a bipartisan bill with 54 legislators from both houses and both parties signing on to the initial draft of the bill. Many of them are here today and will provide their own testimony and personal story.

Once again thank you for the opportunity to testify on Assembly Bill 387 and I will be happy to answer any questions you may have.



Representative Garey Bies, Chair Assembly Committee on Corrections
Room 216 North
State Capitol
PO Box 8952
Madison, WI 53708

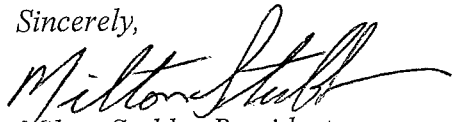
Dear Representative Bies,

I am writing on behalf of the Wisconsin Juvenile Officers Association (WJOA) in support of AB 387, a bill to give first-time, non-violent 17 year olds a second chance by having their cases referred to juvenile rather than adult court. WJOA has been an active organization for 60 years, representing a variety of members of the law enforcement community who work primarily with youths. In our various roles, our members have direct contact with youthful offenders, including 17 year olds on a daily basis. As we have learned more about adolescent brain development and what works with youthful offenders, we believe that the juvenile system is best prepared to provide the assessment and supervision services that first-time, non-violent youths need.

We believe this bill provides adequate protection for the public by keeping some of the more violent and chronic offending youth in the adult system. It also builds on the research that supports the likelihood of re-offending is higher for youth who are dealt with in the adult system than similar youths in the juvenile system. We have concerns that under the current system many 17 year olds unnecessarily end up with an adult record, albeit sometimes even for a relatively minor offense. This can follow them for many years and create obstacles for future employment, education, and housing. This proposal can help individual youths. At the same time, this proposal appropriately holds more chronic and serious offenders accountable for their action, including not altering the current capacity of a prosecutor to file a waiver petition for any youth age 15 and above for any offense if needed.

We do understand that some aspects of this bill may create some implementation challenges, so we appreciate a delayed implementation date that will allow us to develop the necessary procedures to make it work. In the end we believe these challenges are outweighed by the long-term benefits to youth and our communities, and we are happy to be able to support this change.

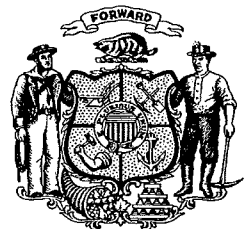
Sincerely,



Milton Stubbs, President
Wisconsin Juvenile Officers Association



WISCONSIN STATE LEGISLATURE



Testimony in Support of AB 387

My name is Phyllis Greenberger and I am here today, representing Disability Rights Wisconsin, to testify in support of AB 387. Disability Rights Wisconsin is the state and federally mandated protection and advocacy system for people with disabilities for the State of Wisconsin. While DRW believes that there are many policy reasons to treat seventeen year olds as juveniles when it comes to criminal prosecution, today I will focus on the specific issues that affect youth with disabilities.

It is an unfortunate fact that many of the youth who find themselves involved in the justice system have significant mental health needs. This includes a higher risk of suicide than other teens. Another unfortunate fact is that Wisconsin's adult criminal justice system is already burdened beyond its capacity to provide mental health treatment.

As a disability advocate, I sometimes visit adolescent clients in adult county jails. On more than one occasion I have encountered a very frightened youth who, after feeling suicidal and crying out for help, has been put in solitary confinement or segregation to minimize risk, without the provision of much needed treatment. Sometimes these youth will tell me that at least in solitary there are not in constant fear of older inmates. I have also had more than one client with significant mental health needs, whose medications were not given to them correctly by jail staff, and at least one where they were not given at all, resulting in an avoidable increase in symptoms. In another situation, my young client, whose condition had improved, was about to be released from an adolescent mental health unit when her case went to court. Although the offense was relatively minor, she deteriorated rapidly when moved to an adult coed forensic unit. Although she had been on the verge of discharge, due to this decompensation she ended up spending two years on that adult forensic unit in constant fear of the adult male residents.

The reality is that a youth's ability to access mental health treatment is greatly enhanced within the juvenile system. Therefore they have a better chance of receiving mental health treatment to help them deal with issues, such as the risk of suicide, in the juvenile system. The reverse is true in the adult system; if a youth ends up in an adult jail there is a higher risk of suicide.

Additionally, seventeen year olds with disabilities who need special education and other services and supports are much more likely to receive those services if they stay in the juvenile system. Adult programs are simply not equipped to evaluate an individual's needs or provide that kind of specialized programming.

Current research on brain development shows that at 17, the part of the brain that helps control impulsive behaviors is still maturing. Many 17 year olds who commit a first non-violent offense, as this bill addresses, will not go on to commit further offenses if they get the right services and opportunities.

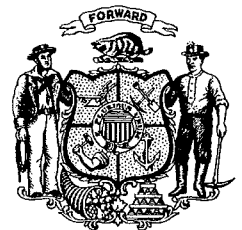
Again, these are just not available in the over-burdened adult corrections system. In fact, youth treated as adults are more likely to reoffend than those treated as juveniles. Therefore, it is actually safer for the community and less expensive in the long run, to treat seventeen year olds as the youth that they are and keep them in the juvenile justice system.

Finally, keeping these youth in the juvenile system will also prevent them from having an adult criminal record that can interfere with their ability to get post-secondary education and employment. A seventeen year-old, first time, non-violent offender surely deserves another chance.

Therefore, I urge you to support AB 387 and return non-violent, first time 17 year old offenders to the juvenile justice system.



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children
& families

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TESTIMONY OF JIM MOESER, WCCF RE:AB387

Good morning. Thank you Chairperson Bies for scheduling this hearing, and to a number of members of the committee for signing on as co-sponsors. My name is Jim Moeser and I am currently the Deputy Director of the Wisconsin Council on Children and Families. I have been in that position for almost five years, but prior to that spent 34 years working on juvenile justice issues at the local, state, and national level. My experience includes serving as the Juvenile Court Administrator for Dane County, the Administrator for the Division of Juvenile Corrections, as a member of the Federal Advisory Committee on Juvenile Justice, and as a juvenile justice consultant and trainer in Wisconsin and around the country.

As you know, the Wisconsin Council on Children and Families has been an active voice over the past several legislative sessions for the return of 17 year olds to the juvenile system for reasons which I will speak to shortly. But, first I want to say a few words about how this particular proposal came about and why it is now time to pass this legislation.

As you have heard already, this bill is a compromise from prior proposals in two major ways: (1) by leaving a set of violent offenses committed by 17 year olds under adult court jurisdiction, and (2) by providing that 17 year olds who have a previous delinquency adjudication will remain in adult court. This proposal does not alter current provisions that permit a prosecutor to petition the court to waive any youth, age 15 and over, to adult court for any violation. These limitations represent a significant departure from prior proposals by substantially limiting the fiscal risk to counties compared to prior proposals. In fact, I estimate that this proposal reduces the overall fiscal impact to the system to \$8-10 million, at most, which is 10-15% of what prior proposals have been estimated to cost. Like others, we are concerned that returning some 17 year olds to the juvenile system does not endanger the capacity of counties to serve other youth, but take note that this amount is equal to only 1% of the overall Department of Corrections budget and will ultimately reduce court costs, correctional costs, and costs to victims of crime.

Let me list six reasons why I believe that the juvenile system is better suited to work with 17 year olds and why it is in the best interest of the state, both for these youth and our economic future, to give them a second chance.

FIRST, THE VAST MAJORITY OF THE APROXIMATELY 15,000 17 YEAR OLDS ARRESTED ARE ARRESTED FOR RELATIVELY MINOR, AND CERTAINLY NON-VIOLENT, CRIMES. Many of these arrests are for offenses that result in citations or tickets that are handled in adult municipal courts and do not result in an adult criminal conviction. But, the arrest itself gets listed as an adult arrest, and in fact commits your 17 year old son or daughter, even if ticketed for an offense such as disorderly conduct, underage drinking, or retail theft to being included in the public CCAP record, depending on where you live, that is accessible to everyone (employers, landlords, higher education institutions, etc.). For youth who are referred to the District Attorney's Office where decisions are made about filing criminal charges, that same 17 year old can very well end up with an adult record on CCAP that limits their opportunities for employment, housing, and in some cases financial aid to attend post-secondary education programs.

SECOND, WE HAVE LEARNED A LOT OVER THE LAST 12-15 YEARS ABOUT BOTH ADOLESCENT AND BRAIN DEVELOPMENT – in many ways scientific evidence reinforcing what we, as parents have probably asked ourselves on more than one occasion – “how can such a smart kid do something so stupid”? We have learned that the “executive function” of the brain, that function that operates when in a relatively calm state to weigh choices and make decisions, does not fully develop until the early 20's. This is not an issue about whether or

not 17 year olds know right from wrong – they do and need to be held accountable for their actions – but it is about how we respond and whether or not we give them a second chance to get back on track. There is really nothing to be gained by treating non-violent, first-time 17 year old offenders as adults in this one area of their lives.

THIRD, THE JUVENILE SYSTEM IS FOCUSED ON BEING EFFECTIVE, IS CONSISTENT WITH THE BEST RESEARCH ABOUT WHAT WORKS WITH YOUTHFUL OFFENDERS, AND IS CONSISTENT WITH WHAT MOST PEOPLE BELIEVE - THAT THESE YOUTHFUL OFFENDERS SHOULD BE HELD ACCOUNTABLE BUT ALSO CAN CHANGE. In addition to ensuring individualized assessment of youthful offenders and promoting victims' rights, the current Juvenile Code has a clearly articulated purpose that is based on a Balanced Approach to juvenile justice focused on three equally important goals:

- Promoting community protection by providing short-term and long-term strategies and interventions that ultimately lead to a youth choosing to make law-abiding decisions.
- Holding youth accountable for their behaviors, which includes having them understand the impact of their behavior on others and taking responsibility to repair/restore the harm when possible.
- Developing the competency of youth, helping them learn the skills needed to become contributing members of our community.

Statutes specifically provide that the court utilize the most effective disposition that meets these three goals. These goals make sense to the public, provide guidance for case planning, and provide guidance to the court in making critical decisions about youth on a case-by-case basis.

There is no comparable, clear purpose expressed in Wisconsin Criminal Codes. The adult system is based on a theory of crime control that finding the right punishment will deter persons from offending in the first place (general deterrence) or from reoffending (specific deterrence), and there is little evidence that this approach is applicable to youth.

So, returning non-violent, first-time 17 year olds, despite what some may portray, is not returning them to a system that is soft on crime. Rather it is returning them to a system that is focused on being effective.

FOURTH, EXISTING RESEARCH SHOWS THAT THE JUVENILE SYSTEM IS MORE COST-EFFECTIVE IN DEALING WITH THE VAST MAJORITY OF YOUTHFUL OFFENDERS, including that:

- There is no substantive research that supports the notion that having youth in the adult system deters them from criminal activity.
- In fact adult court jurisdiction increases the likelihood of disrupted pro-socialization and poor rehabilitation of youth. The Center for Disease Control review of research indicates that youth processed in the adult system are 34% more likely to reoffend than similar youth processed in the juvenile system.
- A short-sighted sense of savings by keeping 17 year olds in the adult system are ultimately outweighed by the costs associated with higher rates of recidivism and increased victimization.
- Youth who end up confined in the adult system (whether short or long term) are at much greater risk of harm (self-harm or abuse) than other adult inmates, and more importantly are exposed to higher levels of criminal thinking that tends to reinforce their own anti-social thinking.

- Youth in adult facilities do not receive adequate educational support that will help them keep up in school, let alone accelerate their learning.
- Significant percentages of older teens in the adult justice system have undiagnosed and/or untreated mental health, AODA, and trauma issues that are poorly assessed and addressed in the adult system.
- Youth who enter the adult system are less likely to graduate from high school, less likely to go on to post-secondary education, and ultimately less likely to earn more and contribute more to the economic stability of our state.

FIFTH, THE JUVENILE SYSTEM PROVIDES INDIVIDUALIZED ASSESSMENT AND TREATMENT TO MEET THE NEEDS OF THE YOUTH. For example the juvenile system provides:

- Individualized assessment at intake by trained social workers who can determine risk and needs of the youth and family referred
- A variety of mental health, AODA, sex offender, supervision, monitoring, and placement services that are designed to address the individual needs of the youth/family. Under the current system, in some cases 17 year olds in the adult system are not eligible to even access the much more limited services of the adult system due to not being considered an adult for any other purpose.
- Lower caseloads for social workers providing supervision for youthful offenders.
- Access to wraparound programs and services for youth who have needs that cross mental health and juvenile justice systems.
- Greater likelihood that the educational plan of youthful offenders will not be disrupted by periods of short-term confinement that are more common in the adult system (e.g. initial jail placement, probation revocations).

This is less common in the adult system, except for specialized programs like Treatment Alternatives and Diversion (TAD) and some specialized courts (e.g. drug courts, mental health courts).

SIXTH, THE CURRENT JUVENILE CODE PROVIDES BOTH OPPORTUNITIES AND REQUIREMENTS FOR GREATER PARENTAL RESPONSIBILITY THAN THE ADULT SYSTEM.

While there are many who would like to see improvements in this area, none of these expectations are part of the adult system. For example, the current juvenile code includes:

- Custody statutes that presume children arrested should be returned to their parents for supervision unless they are a danger to others or likely to run away and miss court
- Requirements that parents may be ordered to participate in certain programs of treatment with their child.
- Requirements that parents contribute to the cost of the attorney that provides legal counsel to their child and to the cost of supervision, treatment, and placement services.
- Statutes that hold parents potentially liable for restitution costs that are ordered by the court and not paid by their child.

This proposal is not perfect. Certainly some of our partners would want this bill to go further and bring all 17 year olds back to juvenile court, and others will suggest that some of the practical issues created by this compromise create some implementation concerns. But, we know that the cost of bringing all 17 year olds back would be much more expensive, and that this should not be about what is “easy” to implement.

We believe this is the right time to ensure that first-time, non-violent 17 year olds get a second chance.

For those who suggest that what we are doing now is working, I would ask some simple questions:

If the current system is working, why is it necessary to arrest and book a 17 year old in jail only to have the prosecutor exercise discretion to dismiss the case later?

If the current system is working, why has there been a 42% decline in juvenile arrests and only a 16% decline in adult arrests over the last ten years?

If the current system is working, why is it that our prisons are still full and our juvenile detention centers around the state, with the exception of one, averaged less than 50% of capacity in 2012? And the number of youth housed in juvenile correctional institutions is about two-thirds lower than it was a decade ago?

If the current system is working for youthful offenders, why has it been necessary for the federal government to pass, with bi-partisan support, the Prison Rape Elimination Act to prevent physical and sexual abuse of youth under 18 held in adult facilities around the country, including Wisconsin??

If the current system is working, why is it that the only studies done on this issue come to the same conclusion, that processing most youth in the juvenile system results in lower recidivism rates than similar youth processed in the adult system?

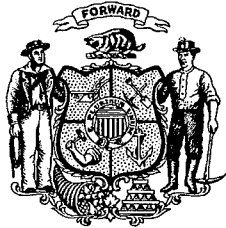
If the current system is working, why is that in a 2008 Legislative Council study on 17 year olds admitted to our state prison system found that those youth reoffended faster and more frequently than either 16-year olds released from juvenile corrections or adult offenders released from prison? And, that 50% of the 17 year olds on adult probation failed to successfully complete that probation?

If the current system is working, why is it that it is so difficult to get the funds needed to truly expand programs like TAD, mental health courts, mental health services for youthful offenders, and many other investments that have proven to be cost-effective?

And, if the scope of this proposal is too narrow or too complicated to implement, then why not support what the research clearly shows, that investing in redirecting youth is more cost-effective and more likely to reduce crime than incarceration and its unproven deterrent effect on many youthful offenders?



WISCONSIN STATE LEGISLATURE



The Cost-Benefit Proposition of Assembly Bill 387

*Testimony of Derek M. Cohen, M.S.
Criminal Justice Policy Analyst, Texas Public Policy Foundation
Doctoral Candidate, University of Cincinnati*

Summary:

- AB 387 represents evidence-based, incremental legislation that addresses a minor part of the correctional system
- Those directly affected by AB 387 are likely to experience exceptional benefits
- AB 387 will likely cost a modest amount to implement
- The direct cost of AB 387's implementation can be covered by re-appropriation of less than 2 percent of the existing Department of Corrections budget
- AB 387 will likely lead to future savings that outstrip the cost as fewer 17 year-olds recidivate

Introduction

- *Cognitive Development and Juvenile Justice*
 - As those who have testified before mentioned and those who will testify after will reiterate, the human brain has not reached full maturity until about 25 years of age. The late teenage years in particular are marked with impulsivity, poor emotional regulation, and risk-taking behavior. It is no surprise that even those who have become successful, productive members of society have had a minor "youthful indiscretion" during adolescence. That is who this bill seeks to assist: first-time, low-level 17 year-old offenders.
- *Penal Harm*
 - Adolescent cognitive development is further stunted with the introduction of trauma and lack of socialization. Most studies on the individual effects of juvenile waivers have shown transferred juveniles are at much higher risk for violent victimization, sexual assault, and even suicide. Such is not a commensurate punishment with a minor offense.
- *Effects on Recidivism*
 - Studies time and again have shown that juveniles who are adjudicated in the adult criminal court are much more likely to have poorer intermediate and long-term outcomes than similarly-situated youth charged with similar offenses. Wisconsin is no exception: A 2008 analysis of juveniles and adults released in 2002 found that 48.1 percent of 17 year-olds subject to the adult criminal court were re-incarcerated within a three-year follow-up window, compared to 21.3 percent of adults and 18.2 percent and 26.6 percent of juveniles (in the two- and four-year follow-up windows, respectively).

Estimating the Cost of Preventative Policy

- *The budgeted costs are immediately apparent*
 - Calculating the capital, personnel, and miscellaneous expenditure a policy will add to the budget is simple, though not necessarily accurate, and becomes less so as time goes on. When not part of a fixed expenditure, the estimates tend to overshoot the true mark. Regardless of accuracy, the negative stimulus is plain and immediate.
 - Cost estimates usually fail to account for changes in economies of scale. Here, the per-bed cost will likely markedly decline as 17 year-olds fall under the jurisdiction of the juvenile court.
- *The benefits, or savings, are not likely to be observed immediately*
 - Benefits of preventative programs are much more abstract. They are, essentially, the full system cost while operating at the status quo minus the probable system cost if the policy changes were implemented, over a given range of time. Even if forecasted accurately, it is not easy to sell speculative (even if highly probable) gains. There is some measure of “delayed gratification” required.
- *The costs of implementing successful programs can be re-appropriated from unsuccessful endeavors*
 - Rather than require a perpetuating increase in cost, legislatures can reallocate money from programs or policy items that are unsuccessful or inappropriate. Rudimentary estimates from the implementation of AB 387 are between \$8 and \$10 million, bore by the counties. This comprises a very small percentage of the Department of Corrections near \$1.2 billion yearly budget. This percentage could be given as a block payment to the counties to offset their increased cost.
- *Note: speculative cost-savings forecasts are likely moderately inaccurate*
 - Predicting the future is an imperfect business. Too many seen and unseen variables play into the causal density of crime and the cost of combating it and it is very unlikely that these estimates will be perfectly accurate. However, scholars who generate these analyses generally report the most likely *conservative* estimate. Likewise, they often report the most likely high-end cost of the programs. The result is that *post hoc* analyses show preventative, rehabilitation-oriented programs cost less and provide more benefits than originally estimated.
 - This is not guaranteed. This underscores the importance of implementing sound, evidence-based reforms

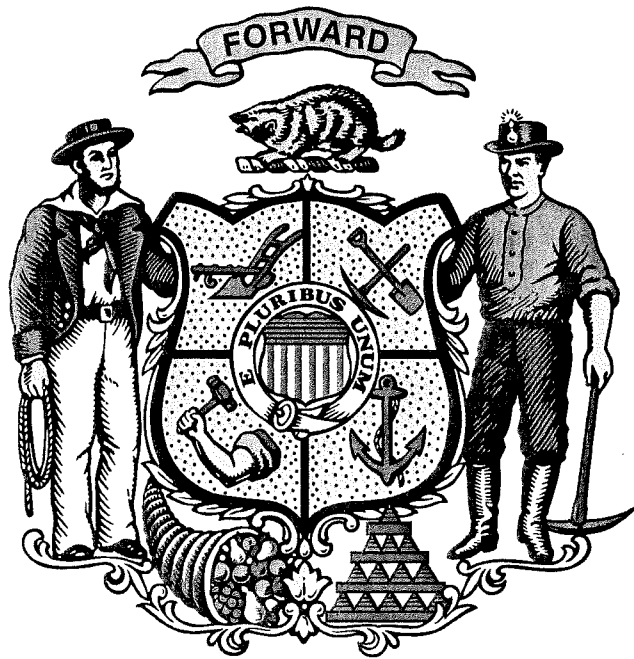
Experience in other states

- *Connecticut*
 - Prior to 2010, the jurisdiction of the juvenile court extended only to an adolescent's 16th birthday, after which they would fall under the jurisdiction of the adult criminal court. Similar to the current debate, lawmakers anticipated a massive swell in caseload. A 44 percent growth in juvenile caseloads were expected. However, the roll barely grew by half that much. The 22 percent growth, while still notable, cost the state nearly 12 million less than was expected. In 2012, the jurisdiction was extended again to cover 17 year-olds.
- *Illinois*
 - Also in 2010, Illinois sought to raise their juvenile court's jurisdiction to cover 17 year-olds convicted of both misdemeanors and felonies. Even with this this new group of delinquents, caseloads shrunk as juvenile arrests fell. Illinois has since been able to shutter three juvenile detention facilities.
- *North Carolina*
 - Similar legislation is currently being considered in North Carolina, raising the jurisdiction of their juvenile court to cover low-level 16 and 17 year-olds. While this legislation is currently under review, initial independent estimates forecast the net benefit of integrating 16 and 17 year-old delinquent youth conservatively at 45 million dollars per cohort.

Unbudgeted Future Cost/Liability Issues of Current Policy

- *Under federal standards, any offender 17 years of age or younger is considered a juvenile*
- *Housing juveniles in adult facilities will likely become more expensive*
 - In addition to the inadequacy of the per-day cost arguments mentioned above, recent addendums to the Prison Rape Elimination Act (PREA) will place additional burdens on the Wisconsin Department of Corrections. Under the new standards, wardens are no longer allowed to use solitary confinement as a means of protecting juveniles.
 - Also, it is mandated that juveniles be provided with educational programming
- *Housing juveniles in adult facilities will likely become riskier*
 - The PREA revisions also expand access to reporting and litigation as well as the potential of overactive "jailhouse lawyering."
- *Failure to comply can result in a 5 percent penalty in federal grant funds, leading to further fiscal hardship.*

Derek M. Cohen is a policy analyst in the Center for Effective Justice at the Texas Public Policy Foundation and the Right on Crime campaign. As an adjunct instructor and research associate at the University of Cincinnati, Mr. Cohen has taught several courses in research methods and statistics, and has worked directly on focused deterrence violence projects in cities like New Orleans, Detroit, and Baton Rouge.



Testimony

Patrick Fiedler	State Bar
Vicky Gunderson	Parent
Derek Cohn	Texas Policy Institute Right On Crime
Jim Moeser	WCCF
Lance Horozewski	Rock County Human Services

Linda Hall / Kathy Markeland WI Assn of Family and Children's Agencies

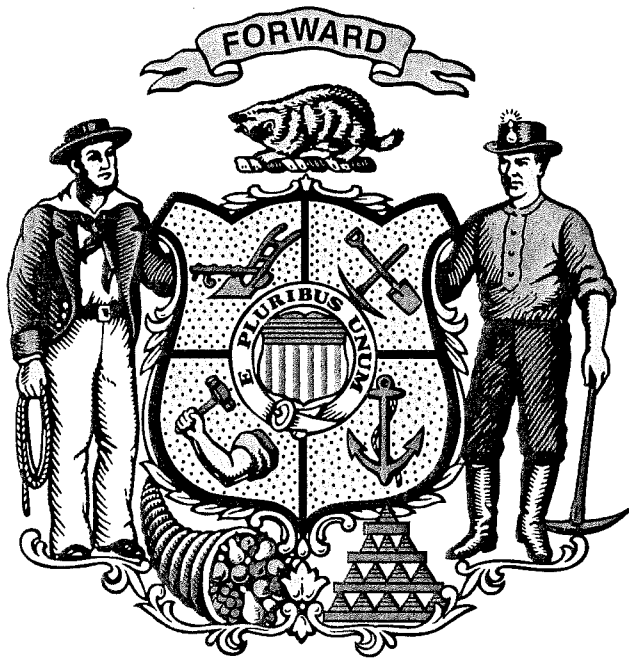
Adam Plotkin/Robin Dorman	Public Defenders Assn
Jesse Russell	National Council on Crime and Delinquency
Michael Malmstadt	Former Judge

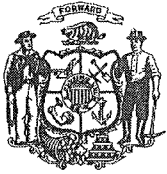
OTHER groups that we expect to testify (no order preference)

Barbara Sella	WI Catholic Conference
Marc Herstand	NASW - WI Chapter
Peter Bakken	WI Council on Churches
Minister Kaleef (Sp?)	WISDOM

Phyllis Fireberger - WI Dis. Rights
Minister Caliph Muab-el

10-03-2013
Hearing
AB 251
&
AB 387





STATE REPRESENTATIVE
FREDERICK P. KESSLER

WISCONSIN STATE ASSEMBLY

12TH DISTRICT

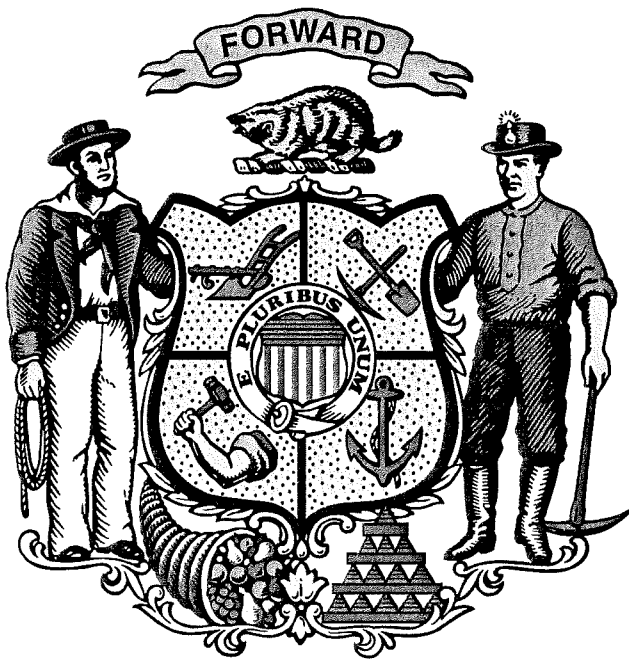
I have been an Assembly co-sponsor of this legislation for many years. This bill is very important to the people in my district, the 12th Assembly district, and I urge you to support its passage for the following reasons.

Recent census data compiled by UW-Milwaukee in April of this year showed that Wisconsin has the highest black male incarceration rate in the United States.

Milwaukee's incarceration rate is at epidemic levels for African American males - over half of African American men in their 30s and half of men in their early 40s have been incarcerated in state correctional facilities. AB 387 can start to reverse this trend by giving more young people a second chance and keeping them out of jail.

Returning 17 year olds to the juvenile justice system would allow us to work with our youth throughout their most formative years to ensure that a childhood mistake doesn't turn into a lifelong strike against them. Because the juvenile justice system's focus is on rehabilitation and education, the recidivism rate for 17 year olds placed in the juvenile system is much lower than that of 17 year olds placed in the adult system. 48% of 17 year olds placed in adult prisons reoffend within three years. Only 18% of juvenile offenders reoffend within two years, and 27% reoffend within four years.

New research shows that at 17 years old, teenagers' brains are still very much developing in crucial ways. For example, the front cortex of the brain, used for impulse control and good judgment, does not fully develop into the primary "decision-making" area of the brain until a person reaches their late 20's. In light of this research, returning 17 year olds to the juvenile justice system is the right thing to do. Thank you.





Wisconsin Juvenile Court Intake Association, Inc.
www.wjcia.org

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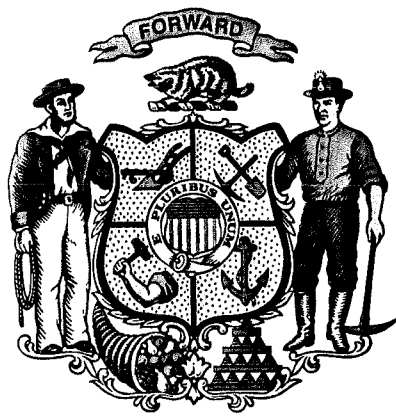
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The Wisconsin Juvenile Court Intake Association (WJCIA) is formally putting forth full support for the *second chance bill*. This association represents certified juvenile court intake workers from across the State of Wisconsin. Juvenile court intake workers have extensive knowledge of juvenile delinquency, effective treatment programming and risk assessment. It is our belief the majority of 17 year olds who currently enter the adult criminal justice system could still benefit from the services provided by the juvenile justice system. We believe passage of this bill will benefit both juveniles and adults in this state while continuing to maintain public safety at an acceptable level.

Passage of this bill would provide for a significant change in Wisconsin law regarding the treatment of 17 year olds in our justice system. Any discussion of public policy change must take into account potential financial implications. Currently the responsibility of providing services to juveniles is largely covered by county agencies. In order for counties to continue providing quality services it is imperative for appropriate funding to accompany any proposed change.

Sincerely,
WJCIA President Kurt Schumacher



Change of Age for Mandatory Referral to Adult Court

Issue:

A decade of research clarifies that trying youth in adult court has a detrimental impact on community safety as well as on many 17-year-olds. In addition, we know now an adolescent's brain development is not completed until they are into their 20's. Particularly, their prefrontal cortex is not done developing, which plays a role in thoughtful decision-making and the regulation of cognitive, emotional, and behavioral functioning. Current state law excludes all 17-year-olds from the juvenile court and the services available through that venue. Even if prosecutors and judges wanted to include a 17-year-old in an appropriate juvenile service or program, they would be unable to do so. Therefore, one way to improve community safety and better serve youth in Wisconsin is to return 17-year-olds to the juvenile system, where they would receive more appropriate and effective services than they do in the adult criminal justice system.

Researchers have studied how best to promote public safety **and** meet the needs of 17-year-olds, both nationally and in Wisconsin. They have found that:

1. Trying youth as adults is counterproductive as a means to protect the community and as a means to effectively use tax dollars.
2. In a Florida-based study, juveniles transferred to adult court had 34 percent more repeat offenses than juveniles retained in juvenile court.
3. In a Wisconsin-based study, 17-year-olds dealt with in the adult system had a 70 percent recidivism rate. The highest recidivism rate, 80 percent, was among those 17-year-olds sent to jail for part of their sentence.

Effectively reducing the likelihood of re-offending behavior by 17-year-olds reduces victimization, and the trauma and costs associated with it, and increases the benefits to the community resulting from having those youth productively engaged in school and in the workforce. Prior research has shown that for every youth redirected, there is a net benefit of \$2.4 - \$5.7 million to the economy.

People with adult criminal records are significantly more likely to be unemployed than those without criminal records. In this economy, we need to ensure that adolescent mistakes do not become permanent workforce barriers.

The vast majority of 17-year-olds arrested are accused of minor crimes. Ninety-eight percent of the juvenile arrests in Wisconsin in 2012 were for a small number of non-violent crimes, such as liquor law violations, drug possession, disorderly conduct, theft, truancy, and curfew violations.

The way violent offenders – 2% of juvenile arrests in 2012 – and repeat offenders are treated would remain unchanged. A 17-year-old charged with certain serious crimes would automatically be tried in adult court, and any 17-year-old could be moved to adult court through the waiver process.

Under the proposal, 17-year-olds would be treated the same way 16-year-olds are now. They would be provided services in juvenile court unless they commit a very serious crime or a judge decides that adult court would be more appropriate.

The main difference between referral to the juvenile vs adult court system is that the juvenile system has the ability to provide education and other needed services on an individual basis. There are very limited services available to 17-year-olds in adult court, and they are often barred from obtaining services because they are too young. Due to the lack of services in adult court, 17-year-olds tend to re-offend more than 17-year-olds in juvenile court, which results in tax dollars being used ineffectively.

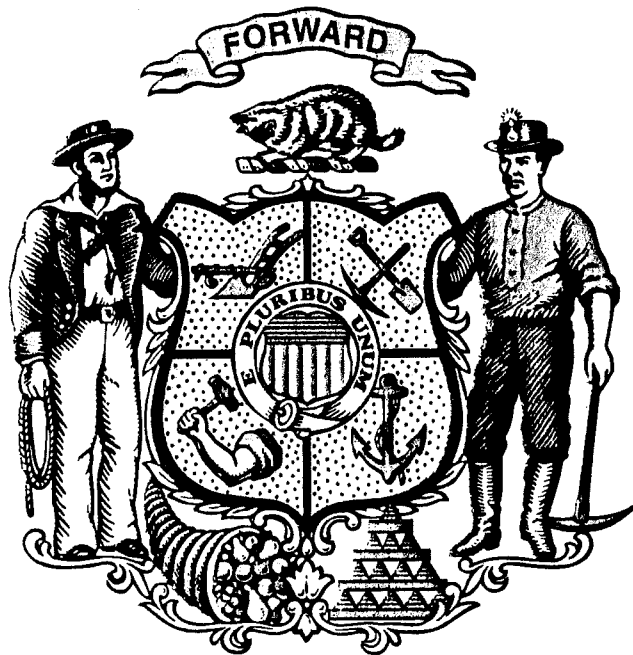
Solution:

- Return as many 17-year-olds as possible back to the jurisdiction of juvenile court, at least then if there is a move to waive them to adult court it would be reviewed by a judge.
- Give critical juvenile justice system partners time to prepare for the return by setting an effective date of January 1, 2015 for the change.

Position:

NASW-WI strongly supports a change in age from 17 to 18 for mandatory referral of juveniles to adult court.

Information in this Fact Sheet was provided by the Wisconsin Council on Children & Families



Brown County Human Services

Projected Costs for Human Service Department

(Under Proposed Bill to have Non-Adjudicated 17 year olds Treated as Juveniles Instead of Adults in Wisconsin)

Total 17 Year Olds Prosecuted for Criminal Offense (Felony or Misdemeanor)	114
Total Youth Served by Juvenile Justice Unit during 2011	662
Projected Youth Served Annually (Including Non-Adjudicated 17 year olds)	776
Percentage Increase in # of Youth Served	17.22%

Projected Costs to Serve Non-Adjudicated 17 Year Olds in Human Service Dept			
	Internal Staff (a)	Contracted Services	Total Avg Annual Cost Per Youth
Average Cost per Youth Served by JJ Unit	\$2,131	\$3,111	\$5,242
Total Non-Adjudicated 17 Year Olds Prosecuted in 2011	114	114	114
Projected Additional costs to Provide JJ Services	\$242,934	\$354,654	\$597,588
Projected Cost to Serve Non-Adjudicated 17 Year Olds in Juvenile Justice System			\$597,588

(a) These internal staff costs are based on assumption current staff/youth ratio would remain constant. Consequently, in order to serve an additional 114 youth, 3 social workers would have to be hired for the JJ unit.

*For 2011 there are still 9 cases under review with the District Attorney's office and 25 cases that were not prosecuted.

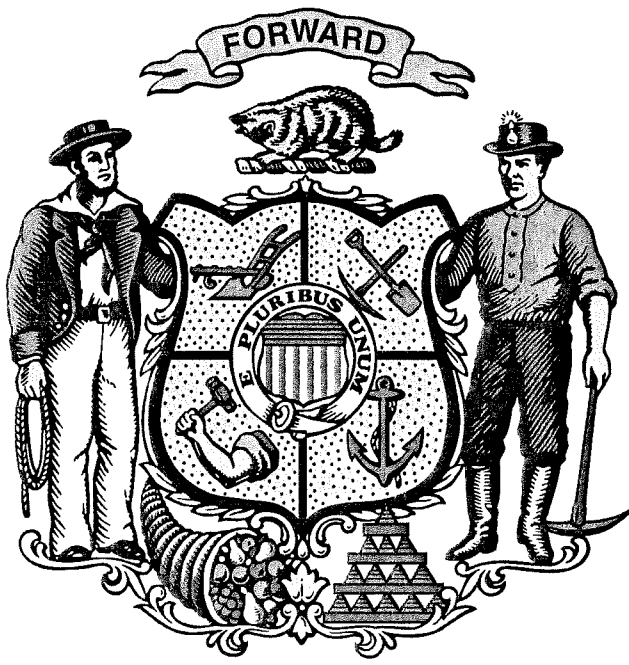


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HUMAN SERVICES DEPARTMENT

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A Helping Heart

Disability Rights
Wisconsin

National Association
of Social Workers –
Wisconsin Chapter

National Council on
Crime and
Delinquency

State Bar of
Wisconsin

State Public
Defender

Wisconsin
Association of Family
and Children's
Agencies

Wisconsin Catholic
Conference

Wisconsin Council of
Churches

Wisconsin Council on
Children and Families

Wisconsin Family
Ties

WISDOM

Frequently Asked Questions about the 2nd Chance Proposal

Q: What is the main purpose of this proposal?

A: This proposal returns first-time, non-violent 17-year-old offenders to the juvenile justice system.

Q: What 17-year-olds are NOT covered by the proposal?

A: The proposal includes a list of “violent offenses” that will remain as adult charges. The bulk of this list is drawn from existing statutes that define “violent offense.” It also keeps 17-year-olds who have previously been found delinquent in the adult system.

Q: Does this proposal affect provisions related to waiving youth to adult court?

A: No. The proposal preserves current options and standards for waiver to adult court. Prosecutors can file a waiver petition on any 17-year-old, but the court can then decide on a case-by-case basis what is best for the community. There are a few of the most serious offenses that are “directly filed” in adult court even as young as age 10.

Q: How many 17-year-olds are affected by this proposal?

A: There is no centralized data collected at various decision points in the process, but based on records from CCAP and the Public Defender’s Office, we believe about 2,000 more 17-year-olds would be referred to juvenile court statewide than under current law.

Q: What is the current law related to 17-year-olds?

A: As of January 1996, any 17-year-old alleged to have committed a crime is treated as an adult.

Q: Why was the law changed in 1996 to treat 17-year-olds as adults?

A: Most states made changes in their juvenile laws in the 1990s to reflect growing concerns about an increase in violent juvenile crime that began in the mid-1980s. “Tough on crime” became the theme of many policy changes during this time, sometimes at the expense of effectiveness and community needs.

Q: What has happened to youth crime since then?

A: Juvenile arrests in Wisconsin actually peaked in 1994, before the change was made. Since that time, the number and rate of juvenile arrests have both declined steadily.

Q: Doesn't that decline in youth crime mean the current policy is working?

A: There are many factors that have contributed to the decline in juvenile arrests, and it's important to recognize that adult arrests have declined as well. There is no evidence that the change has had any impact on the arrest rate for 17-year-olds. In fact, research on this issue concludes that placing youth in the adult system is not a deterrent to juvenile crime.

Q: How does recidivism compare between youth dealt in the adult system and youth in the juvenile system?

A: A number of studies have shown that youth in the adult system are significantly more likely to reoffend than youth dealt with in the juvenile system.

Q: Are there other negative consequences of placing youth in the adult system?

A: Yes. Youth confined with adults are at greater risk of personal harm. They are also at risk of "learning" more serious criminal behaviors from adults with whom they are confined. Moreover, youth with an adult record face major challenges obtaining post-secondary education and employment, making it much harder to turn their lives around.

Q: What else has changed over the last decade related to this issue?

A: Our understanding of brain development has grown dramatically. We now know that the parts of the brain that govern thoughtful decision-making are not really developed until into the 20s. This helps explain why youth often act impulsively when emotionally aroused. This knowledge has guided recent U.S. Supreme Court decisions related to capital punishment and life sentences for youth.

Q: What do other states do?

A: Wisconsin is one of only 10 states that treat all 17-year-olds as adults. The others are Georgia, Louisiana, Michigan, Missouri, New Hampshire, South Carolina, Texas, North Carolina, and New York.

Q: What is the cost of this proposal?

Based on an assumption of 2,000 added youth to the juvenile system and an average "per youth" cost of \$4-5,000/year, the total cost would be approximately \$8-\$10 million. But like other investments in our children's future, there is an overall net gain. Given the reduced re-offense rate of youth who are dealt with in the juvenile system, the long-term economic benefits of this proposal certainly far outweigh any upfront costs. This has been borne out by experience and studies in other states.