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(FORM UPDATED: 08/11/2010)

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

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

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 ... 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) (May/2012)

- Jenny Boese, State Bar, Individual Rights and Responsibilities Section

February 27, 2002

EXECUTIVE SESSION

Present: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.

Absent: (0) None.

Moved by Representative Underheim, seconded by Representative Suder, that **Assembly Amendment 1** be recommended for adoption.

Ayes: (10) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs, Pocan and Colon.

Noes: (0) None.

Absent: (0) None.

ADOPTION RECOMMENDED, Ayes 10, Noes 0, Absent 0

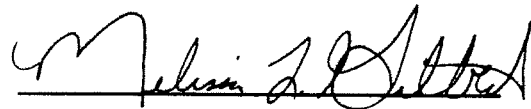
Moved by Representative Suder, seconded by Representative Underheim, that **Assembly Bill 729** be recommended for passage.

Ayes: (9) Representatives Walker, Suder, Friske, Owens, Skindrud, Underheim, Balow, Coggs and Pocan.

Noes: (1) Representative Colon.

Absent: (0) None.

PASSAGE RECOMMENDED, Ayes 9, Noes 1, Absent 0



Committee Clerk

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 2/27/02
 Moved by: Suder Seconded by: Underheim
 AB: 729 SB: _____ Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 9 1 0 0

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 2/27/02
 Moved by: Underheim Seconded by: Suder
 AB: 729 SB: _____ Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: 1
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

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 - Concurrence
 - Nonconcurrence
 - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 10 0 0 0





**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2001 Assembly Bill 729

Assembly Amendment 1

Memo published: February 28, 2002

Contact: Anne Sappenfield, Senior Staff Attorney (267-9485)

Under current law, a juvenile who is sentenced in adult court to a state prison must be held in a juvenile correctional facility until attaining a specific age. Current law contains inconsistent provisions concerning at what age a juvenile may be placed in or transferred to a state prison that permit placement or transfer at age 15, 16, or 17.

2001 Assembly Bill 729 amends these provisions so that the Department of Corrections may place a juvenile who is sentenced to prison and who has attained age 15 in a state prison.

Assembly Amendment 1 deletes the provisions of the bill relating to the age at which a juvenile may be transferred to or placed in a state prison to maintain current law.

The Assembly Committee on Corrections and the Courts unanimously recommended adoption of Assembly Amendment 1 and recommended passage of the bill, as amended, on a vote of Ayes, 9; Noes, 1, on February 27, 2002.

AS:ksm



AB 729, Relating to Juvenile Justice Changes

Date?

The Department of Corrections recommends passage of AB 729, a bipartisan bill relating to juvenile justice. The Assembly Committee on Corrections and the Courts recommended the bill for passage 9-1.

We consider most of the provisions to be essentially technical changes, and one to have positive implications for youth accountability and public safety.

1. Serious Juvenile Offender Confinement Limit

Speaking first to the most important part of the bill, from the Department's perspective, we urge your consideration of the proposal to permit extension of the three-year confinement limit for Serious Juvenile Offender youth (SJO). The vast majority, over 95%, of youth committed to DOC by the courts as Serious Juvenile Offenders, have been found delinquent for committing a Class B felony-type offense. As such, their SJO court order is for 5 years, of which only 3 years may be spent confined in a locked facility such as Ethan Allen or Lincoln Hills School. For most SJO youth, confinement of between 12 and 24 months is the norm, and they are returned successfully to the community to serve the rest of their order under DJC field supervision.

For a minority of youth, perhaps 15 to 20 in a year, the Division of Juvenile Corrections (DJC) has had significant problems related to the 3-year incarceration limit.

One common problem is ongoing dangerousness and defiance of authority. We have a small number of SJO youth who are retained in a secure facility for almost the entire three years of incarceration due to their lack of participation in treatment, and multiple stays in security because of threatening or violent behavior and/or gang activity. Since we cannot extend these youths' incarceration beyond three years, we must release them to community supervision with little or no sanction time remaining, even though it is against our best judgment to do so. These youth know exactly how many days they have left at Ethan Allen or Southern Oaks, and frequently will tell us "There's nothing you can do to me after..." their last confinement date.

Another frequent problem is lack of progress in treatment. We have a small number of SJO youth whose developmental delays or lack of motivation result in little or no progress in treatment while incarcerated. However, since their stay cannot be extended, they must be released. We try to place such youth in appropriate treatment facilities, but they may be too old or perceived as so unresponsive to treatment that they're not accepted. In those cases, a costly package of services must be put together to keep the youth safely in the family home or an independent living situation. It's unfortunate that if these youth violate their supervision rules, we have no ability to sanction them in a DJC facility. It's also unfortunate that such youth have to be released from our facilities before they were able to mature some more and possibly benefit from treatment.

These are real challenges our Department faces in supervising certain youth whose three years of incarceration have run out. For this small but

significant minority of SJO youth, the Department would like the ability to do two things:

- Administratively impose up to 30 days total of additional confinement time when needed as a response for significant violations, and
- Ask a judge to extend a youth's SJO confinement time for up to two years total, when warranted by rehabilitation and public safety considerations.

2. Placement of Juveniles in Adult Correctional Facilities and Programs

These provisions were drafted to implement the Wisconsin Supreme Court's 1998 decision in the "Hezzie R" case by removing from the statutes all references to the unconstitutional practice of transferring persons on juvenile orders under Ch. 938 to adult prisons or community correctional supervision. These changes do not result in any modification to current practice, since DJC has never transferred a youth to prison who was placed with us via a juvenile order under the new code.

Current law specifies multiple ages for either placement of a young offender in prison or transfer of a sentenced youth from a juvenile facility to prison. For example, Ch. 302 says that all prisoners under age 15 shall be placed in juvenile facilities, but may be transferred to prison at age 15. In contrast, Ch. 973 tells DOC to place prisoners under age 16 into juvenile facilities unless circumstances require otherwise. And Ch. 938 provides for possible transfer of certain sentenced youth to prison at age 17. In AB 729 these ages

were all set at 15, in the drafter's attempt to eliminate conflicts across various statutes. However, the Department did not initially propose the age changes. Working with the Assembly Corrections Committee and the WI Council on Children and Families, we requested an amendment to strike the specific sections and simply retain current law. Assembly amendment 1 was adopted by the Committee.

3. Termination of Juvenile Correctional Orders at Age 18

As we understand it, common interpretation of the law on duration of regular juvenile correctional orders is they must terminate no later than when the youth reaches age 18. However, not all courts consistently make this interpretation, and DJC deals with a couple of cases each year where judges send youth to a juvenile correctional facility under an order that extends beyond the youth's 18th birthday. We propose to re-write a very confusing section of Ch. 938 in order to clarify the special treatment of juvenile correctional orders. It should result in very little change in practice.

4. Notifying Parents of Possible TPR

This item concerns notifying parents that extended placement of their child outside their home may result in termination of parental rights. The Department of Health and Family Services, as the state agency that enforces federal child welfare law, asked DOC to propose this change. They want it to be clear in Ch. 938 that placements under delinquency orders are subject to the notification provisions, as are CHIPS- and JIPS-related placements in current law (children and juveniles in need of protection and services). In

Ch. 48, courts are required to inform parents of any applicable grounds for termination of parental rights whenever a child is placed out of the home. It is appropriate that the same information be given to parents of children who are removed from their homes in a delinquency proceeding under Ch. 938.

We consulted with the Wisconsin County Human Service Association and the Wisconsin Juvenile Court Intake Association which have no objection to the proposed changes.





AB 729
folder

WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM

TO: SENATOR ROBERT JAUCH AND REPRESENTATIVE SCOTT WALKER
FROM: Anne Sappenfield, Senior Staff Attorney
RE: LRB-2636/4, Relating to the Juvenile Justice Code
DATE: November 28, 2001

"15"
became
SB 384

This memorandum describes the provisions of LRB-2636/4 (hereinafter, "the bill draft"), relating to the Juvenile Justice Code [ch. 938, Stats.].

EXTENSION OF SECURE PLACEMENT IN THE SERIOUS JUVENILE OFFENDER PROGRAM

Current Law

Under current law, the Department of Corrections (DOC) operates the Serious Juvenile Offender Program. The program is designed to provide supervision, care and rehabilitation that is more restrictive than ordinary supervision in the community; component phases that are intensive and highly structured; and a series of component phases for each participant that is based on public safety considerations and the participant's need for supervision, care and rehabilitation. [s. 938.538 (2), Stats.] A juvenile may be placed in the program if he or she is adjudicated delinquent for the commission of one of several specified serious offenses. [s. 938.34 (4h), Stats.]

One of the component phases under the program is placement in a juvenile correctional facility or a secured child caring institution ("secure placement"). For a juvenile who has been adjudicated delinquent for an act that would be a Class B felony if committed by an adult, the placement must be for a period of not more than three years. If the juvenile has been adjudicated delinquent for committing an act that would be a Class A felony if committed by an adult, the juvenile must be placed in a secure placement for at least one year and may be placed in a secure placement until reaching 25 years of age. [s. 938.538 (2) and (3), Stats.]

Under current law, DOC may provide the component phases in any order and may return a juvenile to a component phase that was already used. [s. 939.538 (3) (b), Stats.]

The Bill Draft

The bill draft permits DOC or the juvenile court to extend the period of time a juvenile may be placed in a secure placement under the Serious Juvenile Offender Program. The provisions permitting such an extension apply only to the juveniles who have been adjudicated delinquent for a Class B felony and are subject to secure placement for not more than three years.

The bill draft permits DOC to extend the period for which a juvenile may be placed in a secure placement for an additional period of not more than 30 days. The bill draft specifies that a juvenile is not entitled to a hearing regarding an extension unless DOC provides for a hearing by rule.

Also under the bill draft, DOC or the district attorney (DA) of the county in which the juvenile's dispositional order was entered may petition the juvenile court to extend the period for which a juvenile may be in a secure placement by not more than two years. The petition must set forth in detail facts showing that the juvenile is in need of supervision, care and rehabilitation that a secure placement provides and that public safety considerations require that placement. The court must hold a hearing on the petition, unless written waivers of objection to the extension are signed by all parties entitled to receive notice and the court approves. If, at the hearing, the court finds by a preponderance of the evidence that the juvenile is in need of supervision, care and rehabilitation that a secure placement provides and that public safety considerations require that placement, the court may extend the period in that placement for an additional period of not more than two years.

DOC may also extend the period of secure placement or petition the juvenile court to extend the period for a juvenile who is not in a secure placement at that time but is being returned to secure placement from another component phase. [SECTION 17.]

The bill draft requires DOC to provide notice to all juveniles currently placed in the Serious Juvenile Offender Program that their period of secure placement may be extended. DOC may not extend, or petition for an extension of, the secure placement of a juvenile based on acts committed by that juvenile prior to the date on which the notice is given to that juvenile. [SECTION 20.]

PLACING JUVENILES IN STATE PRISON

Juveniles Who Have Been Adjudicated Delinquent

- Current Law

Under current law, DOC is permitted to place juveniles who have been adjudicated delinquent in a state prison under specified circumstances. However, the Wisconsin Supreme Court has ruled that the provisions of the Juvenile Justice Code allowing such placements are unconstitutional.

Current law provides that the component phase of the Serious Juvenile Offender Program relating to secure placement may include placement in a state prison for a juvenile who is 17 years old or older and placement in the Racine Youthful Offender Correctional Facility (hereinafter, the Racine facility) for a juvenile who is 15 years old or older. [s. 938.538 (3) (a) 1. and 1m., Stats.] In addition, there is a provision under current law that gives DOC the authority to transfer a juvenile who is placed in a juvenile correctional facility to the Racine facility if the juvenile is 15 years old or older and the Office of Juvenile Offender Review in DOC has determined that the conduct of the juvenile in the

juvenile correctional facility presents a serious problem to the juvenile or others. [s. 938.357 (4) (d), Stats.]

In *State v. Hezzie R.* [219 Wis. 2d 849, 580 N.W.2d, 660 (1998)], the Wisconsin Supreme Court severed from the Juvenile Justice Code provisions which permit the transfer of juveniles who have been adjudicated delinquent to prisons. In doing so, the court stated:

Due to the potential placement in an adult prison under Wis. Stat. ss. 938.538 (3) (a) 1, 938.538 (3) (a) 1m [the Serious Juvenile Offender Program], and 938.357 (4) (d) [transfer of disruptive juveniles to the Racine Youthful Offender Correctional Facility], we conclude that those provisions of the [Juvenile Justice Code] violate Article I, s. 7 of the Wisconsin Constitution and the Sixth and Fourteenth Amendments of the United States Constitution because they essentially subject a juvenile to the consequences of a "criminal prosecution" without the right to a trial by jury. [*Hezzie R.* at *45.]

- The Bill Draft

The bill draft deletes the provisions of the Juvenile Justice Code that permit DOC to transfer juveniles who have been adjudicated delinquent to state prisons and all related provisions of current statutes. [SECTIONS 1, 13, 14, 15, 16, 18 and 26 (a).]

Juveniles Under Extended Juvenile Court Jurisdiction or the Jurisdiction of the Adult Court

- Current Law

Under current law, DOC may transfer a juvenile who is subject to extended juvenile court jurisdiction under the Children's Code [ch. 48, Stats.] to a state prison after the person attains age 17. [s. 48.366 (8), Stats.]

Juveniles who are subject to proceedings and convicted in adult court are also subject to transfer to state prison. Under the Juvenile Justice Code, a juvenile who is waived into adult court must be transferred immediately upon waiver to an adult facility. A juvenile who is 14 years old may be waived into criminal court for specified crimes. [s. 938.18 (8), Stats.] Also, a juvenile over whom the criminal court has original jurisdiction must be held in a juvenile correctional facility until reaching age 17. For certain offenses, the adult court has original jurisdiction over juveniles 10 years old and older. [s. 938.183 (3), Stats.]

The Criminal Code provides that a person who is sentenced to state prison who has not attained age 16 must be held in a juvenile correctional facility. [s. 973.013 (3m), Stats.]

- The Bill Draft

The bill draft amends the provisions relating to juveniles under extended juvenile court jurisdiction and original criminal court jurisdiction and the Criminal Code so that such juveniles must be

transferred to a state prison upon attaining the age of 15. Juveniles waived into adult court are still transferred to an adult facility upon waiver under the bill draft. [SECTIONS 1, 8 and 24.]

DURATION OF DISPOSITIONAL ORDERS

Current Law

Under current law, the general provision governing the duration of dispositional orders under the Juvenile Justice Code provides that all orders must terminate at the end of one year unless the juvenile court specifies a shorter period of time. In addition, extensions or revisions of a dispositional order must terminate at the end of one year unless the juvenile court specifies a shorter period of time. The section further provides that no extension of an original dispositional order may be granted for a juvenile who is subject to an order requiring placement in a juvenile correctional facility, the Serious Juvenile Offender Program or a Type 2 child caring institution¹ or on aftercare supervision² if the juvenile is 17 years old or older when the original dispositional order terminates. Finally, any order made before the juvenile reaches the age of majority (18 years) is effective for a time up to one year after its entry unless the court specifies a shorter period of time. [s. 938.355 (4) (a), Stats.]

Current law provides that the juvenile court may make an order placing a juvenile in a Type 2 child caring institution or a juvenile correctional facility apply for up to two years or until the juvenile's 18th birthday, whichever is earlier. In addition, an order placing a juvenile in the Serious Juvenile Offender Program must apply for five years, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class B felony if committed by an adult, or until the juvenile reaches 25 years of age, if the juvenile is adjudicated delinquent for committing an act that would be punishable as a Class A felony. [s. 938.355 (4) (b), Stats.]

The Bill Draft

The bill draft provides that all dispositional orders, other than those requiring placement in a juvenile correctional facility, the Serious Juvenile Offender Program or a Type 2 child caring institution or on aftercare supervision, made before the juvenile reaches the age of 18 and all extensions made before the juvenile reaches the age of 18 must terminate at the end of one year unless the juvenile court specifies a shorter period of time. [SECTION 10.]

Under the bill draft, an order placing a juvenile in a Type 2 child caring institution or a juvenile correctional facility made before the juvenile reaches age 18 may apply for up to two years or until the juvenile's 18th birthday, whichever is earlier, unless the court specifies a shorter period of time. As under current law, an order placing a juvenile in the Serious Juvenile Offender Program made before the

¹ A Type 2 child caring institution is a secure facility. A juvenile may be placed in such a facility only if he or she has committed an offense that would be punishable by a sentence of six months or more and has been found to be in need of restrictive custodial treatment. [s. 938.34 (4d), Stats.]

² Aftercare supervision is provided for juveniles who have been released from a juvenile correctional facility, a secure child caring institution or a secure group home. [s. 938.34 (4n), Stats.]

juvenile reaches age 18 must apply for five years or until the juvenile reaches age 25, whichever is applicable.

Regarding extensions of an order requiring placement in a juvenile correctional facility, the Serious Juvenile Offender Program, a Type 2 child caring institution or on aftercare supervision, the bill draft provides that extensions made before the juvenile reaches age 17 must terminate at the end of one year unless the juvenile court specifies a shorter period of time. Further, no extension of such a dispositional order may be granted for a juvenile who is 17 years old or older when the original dispositional order terminates. [SECTION 11.]

NOTICE OF TERMINATION OF PARENTAL RIGHTS GROUNDS

Current Law

Under current law, whenever the juvenile court orders a juvenile to be placed outside his or her home or denies a parent visitation because the juvenile has been adjudged to be in need of protection or services under the Juvenile Justice Code, the court must orally inform the parent or parents who appear in court of any grounds for termination of parental rights that may be applicable and of the conditions necessary for the juvenile to be returned to the home or for the parent to be granted visitation. [s. 938.356 (1), Stats.]

The Bill Draft

The bill draft requires that such notice also be given to parents in proceedings in which a juvenile is adjudged delinquent if the dispositional order places the juvenile outside of his or her home or denies a parent visitation. [SECTION 12.]

If you have any questions on this subject, please feel free to call me at the Legislative Council Staff offices.

AS:jal:rv:jal





"For these are all our children . . .
we will all profit by, or pay for,
whatever they become." James Baldwin

RESEARCH • EDUCATION • ADVOCACY

TO: Members of the Senate Committee on Economic Development and
Corrections
FROM: Lisa Hilbert Maroney
DATE: January 23, 2002
RE: Senate Bill 384

AB 729
folder

On behalf of the Wisconsin Council on Children and Families I write today to respectfully oppose senate Bill 384. The Wisconsin Council on Children and Families is one of our state's only advocacy voices on behalf of children in the corrections system. We are presenters of the Better Badger Baby Bus tour, a public education campaign on brain development, including development of the teenage brain.

Today we are aware of one provision that causes us great concern. Section 8 allows youth as young as 15 years old who have been sentenced as an adult for a series of lesser serious offenses to be placed in an adult prison. According to the Legislative Reference Bureau analysis, this law change was sought in order to clean up conflicting provisions in state statutes. We question the wisdom of selecting the youngest age in an attempt to reach uniformity. Research has shown that youth housed in adult facilities have greater recidivism rates and are more likely to commit more violent crimes upon release, according to neuroscientist Sandra Witelson, "A teenagers brain is still a work in progress." Like an infant or child the brain is still developing the centers, which control impulsivity and emotional skills. These young offenders should be housed in an environment that enhances appropriate development. Adult prisons do not offer the appropriate services or treatment to best stimulate the youthful brain and mitigate any past damage. This is especially important considering that over 50% of youth in our state's criminal justice system suffer from mental illness or substance abuse.

Additionally, there are economic considerations to this policy shift. Currently, our adult facilities are running over capacity. We are even sending prisoners out of state. The Governor is recommending, delaying or canceling the building of new adult facilities. Allowing the transfer of more juveniles would cause further overcrowding. This is questionable when we are under capacity at some of our juvenile facilities.

Thank you for the opportunity to submit testimony and we look forward to working with you on this issue.



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES





WISCONSIN COUNCIL ON

**CHILDREN
and
FAMILIES**

"For these are all our children . . .
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RESEARCH • EDUCATION • ADVOCACY

AB 729
folder

**TO: Members of the Senate Committee on Economic
Development and Corrections**

FROM: Lisa Hilbert Maroney

DATE: January 28, 2002

RE: Senate Bill 384

The WCCF supports LRB amendment 1145/1 to Senate Bill 384. The amendment simply restores current law pertaining to minors being sent to adult prisons. The bill lowered the age to 15.

With adoption of this amendment, the WCCF no longer opposes this bill. If you have questions or desire additional information, please feel free to contact me at 284-0580 ext. 315.

Thank you.



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES

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1442 N. Farwell • Suite 508 • Milwaukee, WI 53202 • (414) 831-8880 • FAX (414) 298-9127

www.wccf.org





Scott Walker

Wauwatosa's Representative in the Wisconsin State Assembly

MEMO

TO: Assembly Committee on Corrections and the Courts

FROM: Rep. Scott Walker, Chair

DATE: Feb. 4, 2002

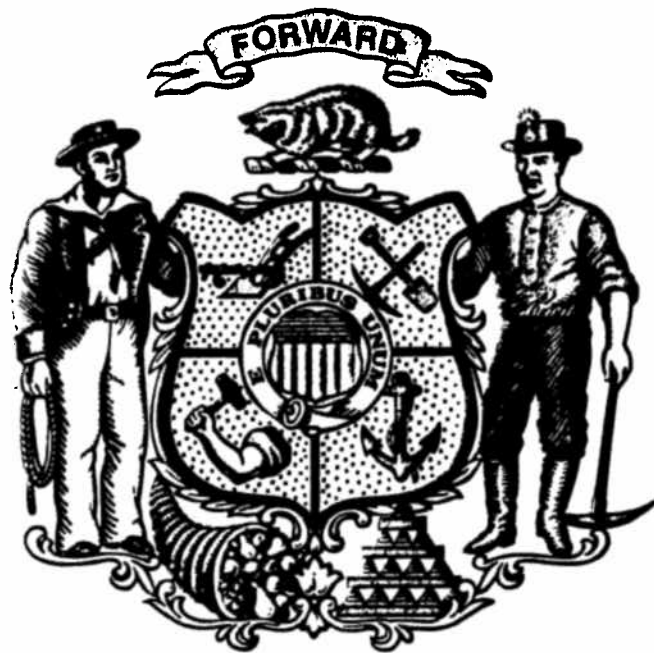
RE: Materials for Assembly Corrections and Courts hearing on Wednesday

Attached is an amendment to AB 729 (juvenile corrections bill), which is on our public hearing agenda for Wednesday, Feb. 6. Please note that the Department of Corrections, which requested the bill, has expressed support for the amendment, which was requested by the Wisconsin Council on Children and Families. The amendment retains current law in regard to the minimum age of minors who can be housed at state prisons. Please note that the department did not ask to lower the age from 17 to 15; rather this change was made by LRB in an attempt create uniformity within state statutes. AB 729 is the companion to SB 384, for which the enclosed memo from the Council was written.

I have also enclosed another copy of LRB 2926/1 for your review prior to Wednesday's meeting.

Please call Missy in my office at 6-9180 if you have any questions.

Thank you.





"For these are all our children . . .
we will all profit by, or pay for,
whatever they become." James Baldwin

RESEARCH • EDUCATION • ADVOCACY

February 6, 2002

TO: Members of the Assembly Committee on Corrections and the Courts
FROM: Lisa Hilbert Maroney
RE: Assembly Bill 729

On behalf of the Wisconsin Council on Children and Families I write today to request an amendment to Assembly Bill 729, restoring current law pertaining to minors being sent to adult prisons. As you know this amendment was adopted by the Senate Committee on Economic Development and Corrections.

The Wisconsin Council on Children and Families is one of our state's only advocacy voices on behalf of children in the corrections system. We are presenters of the better badger baby bus tour, a public education campaign on brain development, including development of the teenage brain.

Today we are aware of one provision that causes us great concern. Section 8 allows youth as young as 15 years old who have been sentenced as an adult for a series of lesser serious offenses to be placed in an adult prison. According to Legislative Reference Bureau analysis this law change was sought in order to clean up conflicting provisions in state statutes. We question the wisdom of selecting the youngest age in an attempt to reach uniformity. Research shows that housing juveniles. Research has shown that youth housed in adult facilities have greater recidivism rates and are more likely to commit more violent crimes upon release. According to neuroscientist Sandra Witelson, "A teenagers brain is still a work in progress." Like an infant or child the brain is still developing the centers which control impulsivity and emotional skills. These young offenders should be housed in an environment that enhances appropriate development. Adult prisons do not offer the appropriate services or treatment to best stimulate the youthful brain and mitigate any past damage. This is especially important considering that over 50% of youth in our state's criminal justice system suffer from mental illness or substance abuse.

Additionally, there are economic considerations to this policy shift. Currently, our adult facilities are running over capacity. We are even sending prisoners out of state. The Governor is recommending delaying or canceling the building of new adult facilities. Allowing the transfer of more juveniles would cause further overcrowding. This is questionable when we are under capacity at some of our juvenile facilities.



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES



Testimony of Silvia R. Jackson
Deputy Administrator, WI Division of Juvenile Corrections, DOC
Assembly Committee on Corrections and the Courts
February 6, 2002

Thank you for the opportunity to appear before you this morning. I am Silvia Jackson, the Deputy Administrator of the state Division of Juvenile Corrections (DJC). I am here to testify in favor of AB 729. The bill contains provisions the Department of Corrections asked to have drafted as a legislative proposal.

We consider most of the provisions to be essentially technical changes, and one to have positive implications for youth accountability and public safety.

1. Serious Juvenile Offender Confinement Limit

Speaking first to the most important part of the bill, from the Department's perspective, I urge your consideration of the proposal to permit extension of the three-year confinement limit for Serious Juvenile Offender youth (SJO). The vast majority, over 95%, of youth committed to DOC by the courts as Serious Juvenile Offenders, have been found delinquent for committing a Class B felony-type offense. As such, their SJO court order is for 5 years, of which only 3 years may be spent confined in a locked facility such as Ethan Allen or Lincoln Hills School. For most SJO youth, confinement of between 12 and 24 months is the norm, and they are returned successfully to the community to serve the rest of their order under DJC field supervision.

For a minority of youth, perhaps 15 to 20 in a year, the Division has had significant problems related to the 3-year incarceration limit.

One common problem is ongoing dangerousness and defiance of authority. We have a small number of SJO youth who are retained in a secure facility for almost the entire three years of incarceration due to their lack of participation in treatment, and multiple stays in security because of threatening or violent behavior and/or gang activity. Since we cannot extend these youths' incarceration beyond three years, we must release them to community supervision with little or no sanction time remaining, even though it is against our best judgment to do so. These youth know exactly how many days they have left at Ethan Allen or Southern Oaks, and frequently will tell us "There's nothing you can do to me after..." their last confinement date.

Another frequent problem is lack of progress in treatment. We have a small number of SJO youth whose developmental delays or lack of motivation result in little or no progress in treatment while incarcerated. However, since their stay cannot be extended, they must be released. We try to place such youth in appropriate treatment facilities, but they may be too old or perceived as so unresponsive to treatment that they're not accepted. In those cases, a costly package of services must be put together to keep the youth safely in the family home or an independent living situation. It's unfortunate that if these youth violates their supervision rules, we have no ability to sanction them in a DJC facility. It's also unfortunate that such youth have to be released from our facilities before they were able to mature some more and possibly benefit from treatment.

These are real challenges our Department faces in supervising certain youth whose three years of incarceration have run out. For this small but significant minority of SJO youth, the Department would like the ability to do two things:

- Administratively impose up to 30 days total of additional confinement time when needed as a response for significant violations, and
- Ask a judge to extend a youth's SJO confinement time for up to two years total, when warranted by rehabilitation and public safety considerations.

2. Placement of Juveniles in Adult Correctional Facilities and Programs

These provisions were drafted to implement the Wisconsin Supreme Court's 1998 decision in the "Hezzie R" case by removing from the statutes all references to the unconstitutional practice of transferring persons on juvenile orders under Ch. 938 to adult prisons or community correctional supervision. These changes do not result in any modification to current practice, since DJC has never transferred a youth to prison who was placed with us via a juvenile order under the new code.

Current law specifies multiple ages for either placement of a young offender in prison or transfer of a sentenced youth from a juvenile facility to prison. For example, Ch. 302 says that all prisoners under age 15 shall be placed in juvenile facilities, but may be transferred to prison at age 15. In contrast,

Ch. 973 tells DOC to place prisoners under age 16 into juvenile facilities unless circumstances require otherwise. And Ch. 938 provides for possible transfer of certain sentenced youth to prison at age 17. In AB 729, these ages were all set at 15, in the drafter's attempt to eliminate conflicts across various statutes. However, the Department did not initially propose the age changes. Working with the Senate Corrections Committee and the WI Council on Children and Families, we requested an amendment to strike the specific sections and simply retain current law. The amendment was drafted, and the Senate committee exec-ed it out favorably along with the bill on January 30. We hope you'll agree the amendment is a good idea to simplify the bill.

3. Termination of Juvenile Correctional Orders at Age 18

As we understand it, common interpretation of the law on duration of regular juvenile correctional orders is they must terminate no later than when the youth reaches age 18. However, not all courts consistently make this interpretation, and DJC deals with a couple of cases each year where judges send youth to a juvenile correctional facility under an order that extends beyond the youth's 18th birthday. We propose to re-write a very confusing section of Ch. 938 in order to clarify the special treatment of juvenile correctional orders. It should result in very little change in practice.

4. Notifying Parents of Possible TPR

This item concerns notifying parents that extended placement of their child outside their home may result in termination of parental rights. The

Department of Health and Family Services, as the state agency that enforces federal child welfare law, asked DOC to propose this change. They want it to be clear in Ch. 938 that placements under delinquency orders are subject to the notification provisions, as are CHIPS- and JIPS-related placements in current law (children and juveniles in need of protection and services). In Ch. 48, courts are required to inform parents of any applicable grounds for termination of parental rights whenever a child is placed out of the home. It is appropriate that the same information be given to parents of children who are removed from their homes in a delinquency proceeding under Ch. 938.

We consulted with the Wisconsin County Human Service Association and the Wisconsin Juvenile Court Intake Association which have no objection to the proposed changes.

Thank you for your attention. I would be happy to answer questions at this time.



2/6/02

Silvia Jackson / Shelly Hogen - AB 729

95% of juveniles admitted to dept.

guilty of Class B felony

3 yrs. confinement not enough

- youth who continue to be dangerous/
defiant of authority
- developmentally delayed youth who
cannot complete treatment prior to release

Juvenile adjudicated delinquent has never been
transferred to adult prison but need to clarify
in statutes



STATE OF WISCONSIN

To MG

Date _____ Time 11¹²

WHILE YOU WERE OUT

M LISA HILBERT MORCROSSY

of _____

Phone 284-0580 ext 315

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message RE: AB 729/SB 384

WCF

amendment to change
age uniformity
(keep current law)



Party Receiving Call

Date ?