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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Corrections and the Courts...

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**

Assembly

Record of Committee Proceedings

Committee on Corrections and the Courts

Assembly Bill 110

Relating to: the right to a trial by jury for a juvenile for whom the petitioner has reserved the right to recommend placement in the Serious Juvenile Offender Program or in a secured correctional facility beyond the age of majority.

By Representatives Kessler and A. Williams.

February 24, 2005 Referred to Committee on Corrections and the Courts.

May 18, 2005 **PUBLIC HEARING HELD**

Present: (9) Representatives Bies, Gundrum, Underheim, Owens,
Suder, LeMahieu, Pope-Roberts, Wasserman and
Parisi.

Absent: (1) Representative Seidel.

Appearances For

- Representative Fred Kessler — 12th Assembly District

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Wisconsin Council on Children and Families

Registrations Against

- None.

May 4, 2006 Failed to pass pursuant to Senate Joint Resolution 1.

Andrew Nowlan
Committee Clerk



To: Assembly Committee on Corrections and the Courts
From: Wendy Paget
Re: AB 110
Date: May 18, 2005

The Wisconsin Council on Children and Families, a non-profit, non-partisan organization working to ensure the wellbeing of children in their homes and communities, is pleased to lend support to AB 110. The juvenile justice system works best when children are provided with the treatment and rehabilitation they need to become productive citizens. Jury trials for children who commit crimes that make them eligible for extended juvenile sentences would make the juvenile system fairer for those youth who are vulnerable to extended incarceration.

The United States Supreme Court long ago found that jury trials provide essential protections to defendants. The Court underscored the importance of jury trials by observing that juries are better equipped than judges to assess credibility. 350 US 11 (1975) Ex. rel Toth. v. Quarrels. The Court also found that the group dynamic of juries helps counterbalance prejudices. Ballew v. Georgia 435 US 223 (1978). Given the long-term consequences of serious juvenile offender cases, juveniles should have the same level of minimal protections that adults have.

Sentences of ten years or more are possible in some types of serious juvenile offender cases. Additionally, sanctions in these cases can reach well into adulthood. Attorney Janet Ainsworth, in an article in *The Future of Children* describes the importance of jury trials for juveniles in ensuring that errors of law can be appealed:

“[W]hen a judge sits without a jury, she need not expressly articulate her understanding of the law; therefore, the appellate court has no way of determining whether the juvenile court judge misunderstood or misapplied the law to the juvenile’s detriment. Thus, depriving juveniles of jury trials puts them at a double disadvantage compared with adult defendants: they are more likely to be convicted at trial and are less likely to be able to demonstrate an error of law on appeal.” The Court’s Effectiveness in Protecting the Rights of Juveniles in Delinquency Cases, *The Future of Children*, Vol. 6:3, pp. 68.

While errors of law by judges are rare, they do happen. Jury trials can act as a safeguard, ensuring that the juveniles with the most potential time of incarceration have adequate protections. The Wisconsin Council on Children and Families urges this committee to vote in favor of AB 110.



AB 110 - Kessler

Right to trial by jury

There is a constitutional right to a jury trial.

Courts can commit a juvenile to incarceration in a facility other than a prison beyond the age of 17 without a jury trial.

This is the only group of adults not entitled to a jury trial.