



STATE REPRESENTATIVE
Garey Bies
1ST ASSEMBLY DISTRICT

**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!

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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.



STATE BAR OF WISCONSIN

Leaders in the Law. Advocates for Justice.

Date: October 3, 2013

To: Honorable Members, Assembly Committee on Corrections

From: Attorney Patrick J. Fiedler, President
State Bar of Wisconsin

Re: Support for Assembly Bill 387 (Second Chance Bill – Juvenile Court Jurisdiction)

The State Bar of Wisconsin strongly supports Assembly Bill 387, which would return first-time, nonviolent 17-year-old offenders to juvenile court jurisdiction.

This legislation is an important opportunity for the legislature to reverse portions of current law – enacted in 1996 – which requires that any 17-year-old who is alleged to have committed a crime be treated as an adult. At this time, all 17-year-olds are considered adults for the purposes of criminal prosecution with no ability to be waived into juvenile court.

The 1996 changes occurred at a time when the trend was to be “tough on crime.” Since then, we’ve learned that it makes more sense to be “smart on crime” rather than “tough on crime.” The latter approach allows us to educate our young people, especially the ones who make a one-time mistake, instead of pouring our resources into incarcerating these individuals for an extended period of time.

Cost-benefit analysis supports that the long-term economic benefits of successfully redirecting a youthful offender from further criminal conduct has a net positive benefit of between \$2.5 million and \$5 million over their lifetime (this is a result of reduced justice system costs combined with increased economic productivity of the individual). Ultimately, we are making the wiser decision, which is to give these young people a second chance. All young people, whether part of the criminal justice system or not, are part of Wisconsin's future, and we need to invest in our future.

Being smart on crime is a nonpartisan issue. National organizations from both sides of the aisle are advocating for smarter approaches to skyrocketing criminal justice costs. Two such organizations are *Right on Crime*, a project of the Texas Public Policy Foundation, which is backed by Jeb Bush, Newt Gingrich and Grover Norquist and the *Models for Change Initiative* of the MacArthur Foundation created by John D. and Catherine T. MacArthur. Both groups advocate for a smarter, more rational evidenced-based strategy for dealing with public safety and criminal justice spending. They say that over-reliance on incarceration is not a cost-effective approach to public safety.

This especially rings true when you look at the number of 17-year-olds who are committing crimes. Only 2 percent of 17-year-olds commit a violent offense, which means that 98 percent of 17-year-olds are committing a nonviolent offense. During my time as a judge, I witnessed many young people come through my courtroom for relatively minor offenses, such as shoplifting. These young individuals should be held accountable for their actions, but in a manner that does not hurt their chances at a successful future. Research has shown that youth with adult criminal records are less likely to graduate from high school, will have greater difficulty finding employment, and may suffer from other collateral consequences such as restrictions on voting rights, access to higher education, joining the military, or living in public housing.

A study conducted by the Wisconsin Legislative Audit Bureau found that only about 50 percent of youth placed on adult probation successfully complete their time and that youth placed in an adult prison reoffend after release at

higher rates than either youth placed in a juvenile institution or older adults. The study also found that juveniles in the adult system reoffended at twice the rate as adults.

When I was a judge, I continued to feel frustrated by our system because I knew that most of the 17-year-olds who came through my courtroom would have gotten much better services and a much better chance at success had they been in the juvenile system – where I believe they belong.

In *Roper v. Simmons*, a 2005 U.S. Supreme Court decision and *Graham v. Florida*, a 2010 decision, the court warns against treating juveniles in the same manner as adults because of the significant scientific research about the developmental immaturity and diminished responsibility of juveniles. And recent polling shows that the general public is four times as likely to believe that youth are capable of changing over not changing. The public also believes that rehabilitation is the best and most effective means of treating a 17-year-old first-time offender.

Assembly Bill 387 is a step in the right direction because it keeps intact important elements of the law while making smart changes to improve the criminal justice system. Support for this legislation is prudent because:

- It focuses on first-time, nonviolent offenders
- It includes a list of 30 violent crimes that will remain as adult charges
- A 17-year-old with previous delinquency adjudication will be prosecuted in adult court
- Court standards and options for waiver into adult court will remain the same

It is important to note that the rights of victims are still recognized and protected. The Juvenile Code places equal importance on victims' rights, as does the adult system. Law enforcement, human service staff, prosecutors and judges are required to provide the same services that all victims are entitled to in the adult system. The juvenile system is more likely to provide services that require a youth to make restitution and/or community service; offers victims the opportunity to participate in victim-offender dialogue if they choose to do so; and requires youth to participate in treatment services that reduce the likelihood of reoffending.

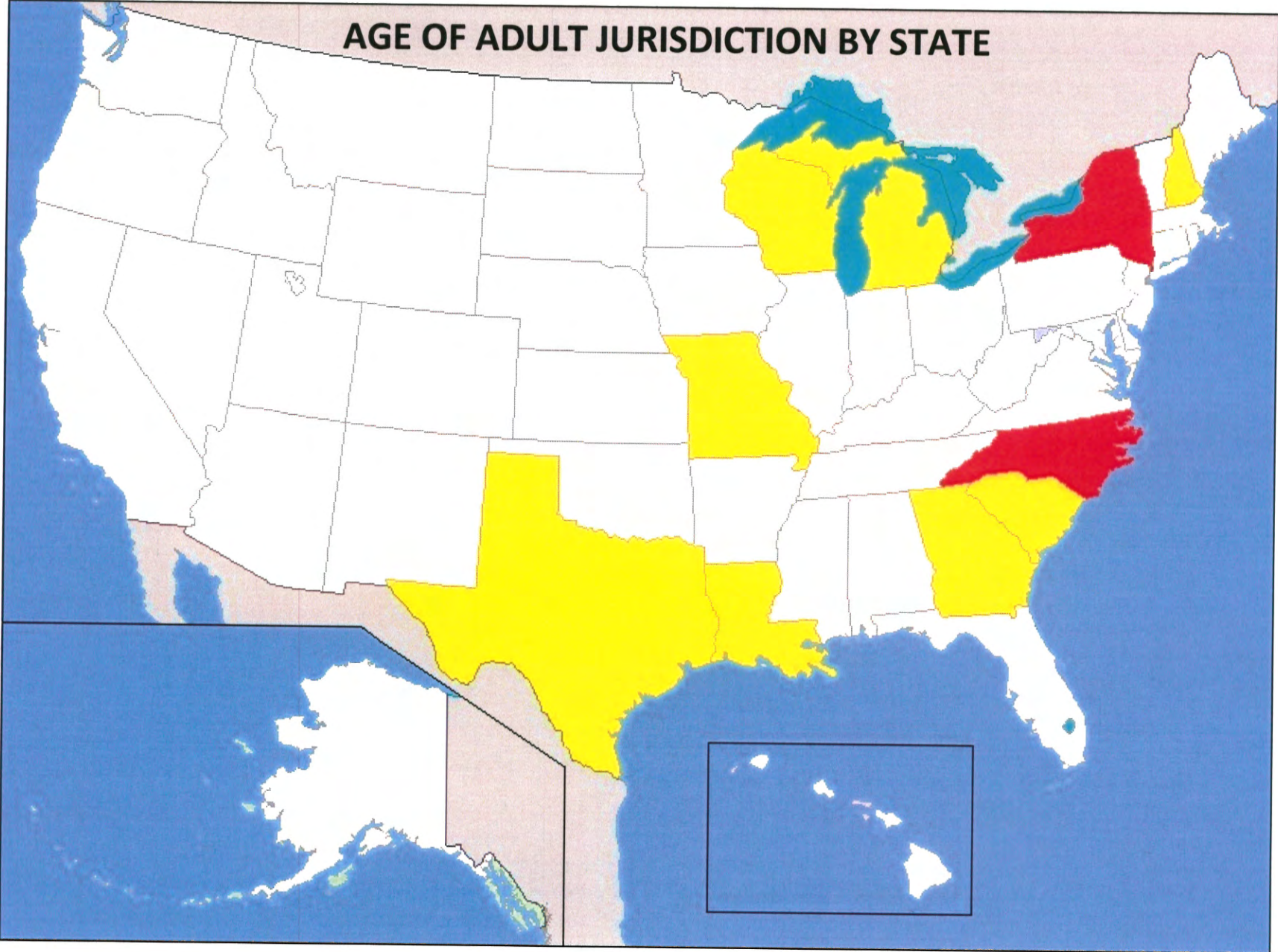
As a father and member of the legal community, I believe that this legislation will make our communities safer. This bill couples the results of contemporary research with real experience to offer the smartest, most efficient and effective solutions possible. Passing this legislation would mean that Wisconsin has pledged to be "smart on crime" and equip its young people with the tools they need to succeed. Currently, Wisconsin is one of ten states that treat all 17-year-olds as adults; this is one time Wisconsin should not be in the top ten.

It's time for Wisconsin to look forward and truly give nonviolent 17-year-olds a second chance.

The State Bar of Wisconsin asks for your support of this legislation.

Patrick J. Fiedler is the 58th President of the State Bar of Wisconsin. He served as a Dane County Circuit Judge from 1993 to 2011 and was Secretary of the Wisconsin Department of Corrections from 1991 to 1993. He also served as U.S. Attorney for the Western District and as a Waukesha County Assistant District Attorney. Fiedler is a partner at Axley Brynerson LLP.

AGE OF ADULT JURISDICTION BY STATE



= Adult court begins at 18



= Adult court begins at 17



= Adult court begins at 16

Testimony of Victoria (Vicky) L. Gunderson

Parent Advocate for Juvenile Justice Reform
Wisconsin State Assembly Committee on Corrections – Public Hearing
Assembly Bill 387
October 3, 2013

My name is Vicky Gunderson of Onalaska WI. I want to first thank you for the opportunity to speak with you today in regard to Assembly Bill 387. I support Raising the Age in the State of Wisconsin with Assembly Bill 387, however I must confess I personally feel this is a beginning and not the end to the discussion of a 17 yr old person being defined as an adult in the criminal justice system.

I sat here with some of you on April 1, 2010 and yet over 3 years later we are still talking about the definition of a 17 yr old. To me, as a parent, my 17 yr old was still a juvenile. My 17 yr old is still 17 because you see; he should be 25 yrs old as of June 9, 2013, however in our families minds Kirk, our son and brother to Jay, will remain 17 forever. As our son Kirk Harrison Gunderson, took his life while incarcerated as a 17 yr old in a county jail cell by securing a sheet over a smoke detector and hanging.

I can sit here today and go through statistics and more statistics. You already know what I didn't know (8) years ago, in 2005. That:

- All 17 yr olds in the state of Wisconsin are considered an adult in the criminal justice system.
 - An estimated 250,000 youth are prosecuted in the adult criminal justice system every year, and nearly 10,000 youth are locked in adult jails or prisons on any given day.
 - The consequences of an adult criminal conviction for youth are serious, negative, life-long, and severely impair youth chances at future success.
 - Youth prosecuted in adult criminal court are placed in adult jails pre-trial, before they are even convicted.
 - Youth in adult jails and prisons are subject to greater risks of violence and sexual assault than any other population.
 - Youth in adult jails and prisons are subject to greater risks of emotional and mental health problems, including greater risk of suicide.
-
- In 2010 when I sat here there were 12 states that considered 17 yr olds (and even considered 16 yr olds) as adults in the criminal justice system. Today as I sit here, we remain one of 10 states. Illinois and Massachusetts have realized a 17 yr old is not by Webster dictionary definition an adult is "a fully grown and developed person".
 - Illinois raised the age for misdemeanors in 2010, only to discover that it did NOT overwhelm the juvenile justice system and it CREATED procedural uncertainty and inconsistent outcomes. In July 2013, Illinois took it a step further and raised the age for ALL youth. Youth being defined as a 17 yr old person, another Webster dictionary definition "youth is the time of life when someone is young: the time when a young person has not yet become an adult".
 - Massachusetts Senate in July, 2013 unanimously voted in favor of legislation to raise the age of juvenile court jurisdiction, no longer automatically trying and sentencing 17 yr olds accused of

crimes as adults. Their bill still allows for Judges to impose adult sentences for 17 yr olds convicted of more serious crimes.

- Kirk was a target
 - Physical abuse – we visited and he had a black eye that he said he could not tell us about, because he would be labeled a snitch. Later we found out someone had ridiculed him for the “family support” he was receiving with cards and letters from Mom, family and friends, visits from family and friends, and he fought to defend his family.
 - Sexual abuse – he was approached and told “I am going to have you” and then the person exposed himself to Kirk. Kirk reacted by calling home and asking his Dad how to handle as he was scared.
 - Prescription Medications – Kirk was advised he should take Prozac, however before he was to receive this medication, his Dad and I was contacted to for our opinion, and then to purchase through our prescription program because he is still a child on our medical insurance policy. I purchased, and delivered to the jail for him.
 - Emotional – that goes without saying, Kirk ended his life.

The reason I sit before you today, is to share the wisdom of a 17 yr old that is not able to speak on his own behalf today. To share with you what a 17 yr old taught his parents and many others about what it is like to be incarcerated at 17 with the adult population. I am here as Kirk’s voice and want to share one of his experiences, Kirk journaled while incarcerated.

An entry:

Friday, November 4, 2005:

“This is an adult’s jail, yet at 17 I’m stuck here. I was messing around with another person around 19 years of age. We were both just being immature as many teenagers are. Shortly after midnight rolled around and we had to lock ourselves down in our cells for the night. My cellie then proceeded to ridicule me on how immature I was and that I needed to grow up. That didn’t affect me much until he called me a little bitch, and poked my forehead. I leaped up from my bed and told him not to do it again. Then he pushed me and we started fighting. I kept my hands ready and face well covered. He never got a solid hit. I actually only got in three decent punches, the third one slicing open his cheekbone about two inches. Blood poured all over the floor and walls. We stopped fighting then. I don’t believe I solved anything tonight. I try and avoid a fight at all cost. Really, what’s the point? I feel bad for hitting him, but what choice did I have? I’m locked in a cell no bigger than a walk-in closet with a guy half a decade older than me and he’s trying to kick my ass for being immature. It was no more than self defense. I even apologized after it was finished. I feel bad right now but honestly I didn’t know what else to do.”

PREA – the Prison Rape Elimination Act, as of September 2013 states that Governors must begin auditing detention and correctional facilities to ensure compliance with PREA or risk losing a percentage of federal funding allocated for justice programs in their state.

- If Wisconsin complies they will need to “protect” the youth in adult facilities, some jails and prisons keep youth in solitary isolation for upwards of 23 hours a day to provide this protection. That is not the answer, to isolate a person.

- Suicide rates – a youth is 19 times more likely to commit suicide in jail than their counterparts in the general population and 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility. Our son is now one of the statistics for adult jail suicides.

You need to understand that our son committed a violent crime, so AB387 would not have impacted him, however knowing what I know today, and have learned through this nightmare we live, I cannot sit back and not advocate for our youth. I am not asking nor implying that our youth should not be held accountable, but where is our accountability to our youth? To assist those that we can provide an opportunity to succeed, instead of telling them through our actions that they have made a mistake that they will have as a shadow for their rest of their lives.

Kirk had two wishes 1) for a physical hug from his family and 2) to sleep one night in his own bed. Neither of these happened for Kirk, but you can make a difference for other 17 yr olds so that they do not have to “wish” for the simple pleasures we take for granted.

I ask each of you today, no I am actually begging you to not allow another three years to pass without passing legislation to raise the age in the state of Wisconsin.

Sincerely,

Victoria (Vicky) L. Gunderson
616 Victoria Ln.
Onalaska WI 54650
608.385.7600

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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, borne 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.



October 3, 2013

Public Testimony of State Representative Evan Goyke

Re: Assembly Bill 387

Good morning Chairman Bies and members of the Corrections Committee. Thank you for the opportunity to testify in favor of Assembly Bill 387. I want to focus my testimony on two separate reasons that compel me to support this legislation and to testify here today.

First, Assembly Bill 387 will help my community, and as the elected Representative it's my job to see that this bill passes.

Second, Assembly Bill 387 is personally very important to me. I have represented a great number of 17 year old, nonviolent, first time offenders in adult court and believe, personally, that those young people did not – and do not – belong in the adult system.

Much of the 18th Assembly District is consumed by crime and punishment.

Many of the neighborhoods that I represent, like my own, are plagued with levels of crime that are two, three, four and even five times higher than Wisconsin's average.

At the same time, these same neighborhoods, like my own, send two, three, four and even five times their young people to jail and prison than Wisconsin's average.

With elevated concentrations of both victims and offenders, we are interested in one simple thing – less crime. Our task as legislators is to identify when our criminal justice system works and when it does not. What have we done that reduces crime and what could we do better to further reduce crime?

Assembly Bill 387 offers an opportunity to implement a policy that will reduce recidivism among youthful offenders. It will actually reduce crime. Available research, including studies by the Center for Disease Control, the PEW Institute, and several others suggest that young people incarcerated and prosecuted through the adult system repeat criminal conduct at a higher rate than those in the juvenile system. Additionally, those same studies show that if both individuals reoffend, the individual prosecuted through the adult system's new offense is more likely to escalate in severity than the individual that remained in the juvenile system.

This is simply the consequence of using age appropriate programming and preventing young, highly malleable minds from sitting around overcrowded jails with career criminals.

The second point I would like to make is that representing nonviolent, first time offender 17 year olds in adult court is one of the most challenging and most frustrating experiences in my career. This is an incredibly difficult population to represent in adult court, for several reasons:

First, the resources available and remedies for nonviolent offenders in adult court are often inappropriate and difficult to accommodate a 17 year old. This leads to a lower success rate for 17 year olds and efforts to divert this group from adult conviction are much less successful than similar programs designed specifically for juveniles.

Second, when those programs and those 17 year olds fail, the consequences are life-long. The reality of what an adult criminal conviction means for the life of a young person in Wisconsin is staggering. With just one conviction, multiple doors begin to close and I have witnessed the hope and ambition drain out of young people as they struggle to not be defined by their criminal record.

Finally, we should focus the heavy hammer of the criminal justice system on those most culpable. Most crimes require the element of Mens Rea, a guilty mind, the intent to do harm, to steal, to commit the crime. The greater the culpability, the greater the punishment. We've created an imbalance for 17 year old nonviolent first-time offenders. We know the mind of a 17 year old is not fully developed, their ability to form the culpability is lesser, yet the punishments are not. The United States Supreme Court has recognized this in a new line of cases that rests largely on the science of brain development to punish juvenile offenders more appropriately.


Assembly Bill 387 realigns the punishment to fit the crime and the accused. It is good public policy. Though it may cost money, it will help young people at their time of greatest crisis.

We must decide how to guide young people that have made a mistake. They stand at a fork in the road. We have sent them on one road for nearly 20 years, to the adult criminal system, and we know it hasn't worked. It is time that we allow this narrow group of 17 year olds the opportunity and services to take the different road and never return to the criminal system and grow to become happy, healthy, productive members of our communities.

Thank you again for the opportunity to testify and I welcome any questions.

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Corrections

FROM: Sarah Diedrick-Kasdorf, Senior Legislative Associate 

DATE: October 3, 2013

SUBJECT: Opposition to Assembly Bill 387

The Wisconsin Counties Association (WCA) opposes Assembly Bill 387, which raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code, if the person is not alleged to have committed certain violent offenses and has not previously been convicted of a crime or adjudicated delinquent. WCA opposes this bill because the costs associated with this bill are too great for counties to absorb within current resources.

County Services

To understand the county position on this legislation, it is important to understand the county role in the juvenile justice system.

Chapter 938 of the Wisconsin Statutes (Juvenile Justice Code) requires county boards to “authorize the county department or the court, or both, to provide intake services under s. 938.067 and the staff needed to provide dispositional services under s. 938.069...”

Sec. 938.067 Wis. Stats. lists the powers and duties of intake workers. These duties include:

- Providing intake services 24 hours a day, 7 days a week.
- Interviewing, if possible, any juvenile who is taken into physical custody and not released and, if appropriate, other available concerned parties.
- Determining whether the juvenile shall be held in physical custody.
- Determining where a juvenile shall be held, if not released.
- Providing any necessary crisis counseling.
- Receiving referral information, conducting intake inquiries, requesting that a petition be filed and entering into deferred prosecution agreements.
- Providing information and notices to and conferring with victims.

- Making referrals of cases to other agencies if their assistance is needed or desirable.
- Making interim recommendations to the court concerning juveniles awaiting final disposition.
- Taking juveniles into custody.
- Performing any other functions ordered by the court.

The statutes then go on to list the powers and duties of disposition staff:

- Supervise and assist a juvenile under a deferred prosecution agreement, a consent decree or an order of the court.
- Offer individual and family counseling.
- Make an affirmative effort, and investigate and develop resources, to obtain necessary or desired services for the juvenile and the juvenile's family.
- Prepare reports for the court recommending a plan of rehabilitation, treatment and care.
- Provide aftercare services for a juvenile released from a juvenile correctional facility or a secured residential care center for children and youth.
- Take juveniles into custody.
- Perform any other court-ordered functions.

Also under current law, counties are financially responsible for the costs of juvenile delinquency-related services, including out-of-home placements (foster care, residential care centers, juvenile corrections), as well as community-based services for juveniles and their families.

Funding for Juvenile Justice Services

The youth aids program was implemented statewide in 1981 and provides each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services. In 2010, counties reported spending over \$217.6 million on juvenile justice services. Of that amount, \$100.6 million was funded by youth aids and \$116.9 million came from other county funding sources, primarily property tax revenue. Since that time, state youth aids funding to counties was cut by 10 percent, or approximately \$10 million annually.

Costs of Serving 17-Year-Old Offenders

Some proponents of the bill have argued that counties can absorb the costs associated with serving 17-year-old offenders since both the number and rate of juvenile arrests have declined over the past 10 years. That may be true if: (1) the costs of providing services remained stagnant over the past 10 years; (2) youth aids funding to counties

increased on an annual basis to reflect the increased service costs. Instead, youth aids was cut by 10 percent in the 2011-13 state biennial budget and, as an example of increasing service costs, the rates charged to counties for placements in the state's juvenile correctional institutions will have increased by over 64% from FY 04 to FY 15.

In addition, some counties have cut their juvenile justice staffs due to a decreased number of juveniles in the system and decreased state aid, while other counties have diverted funding to other human services programs, such as child welfare, as counties have not seen increases in community aids funding since the mid-90s.

Counties have also heard from proponents that service costs for 17-year-old offenders in the adult system are low and therefore, the cost to counties will not be significant. Additionally, we have also been told that since the bill addresses only first-time, non-violent offenders, service costs will be low as well. We cannot assume, however, that all 17-year-old first time offenders are committing low-level crimes. It is also misleading to compare services provided in the adult system to services provided in the juvenile system. As discussed earlier, state statutes list a significant number of duties for county intake and dispositional staffs. Under state law, counties are not only required to provide services to juveniles in the system, but are also required to obtain services for a juvenile's family as well. All of this comes with a cost.

Cost of Bill / Estimates

One of the primary reasons cited for bringing 17-year-olds back to the juvenile justice system is to provide them with treatment and services they do not receive in the adult system, and that takes resources that Wisconsin's counties simply do not have available to them. Although a fiscal estimate on this bill is difficult to come by, counties understand the methodology utilized by the Wisconsin Council on Children and Families (WCCF) and agree \$10 million is a good starting point for discussions on costs. Unless and until supporters of this legislation are willing to have a serious discussion with counties about the fiscal implications of the bill and subsequently allocate the funding needed to support the desired services for 17-year-old offenders, counties will continue to oppose this legislation. If the true purpose of the legislation is to provide treatment and services to 17-year-old offenders, then it only makes sense to provide the funding needed to offer such treatment and services. Failure to do so puts all juvenile offenders at risk.

Thank you for considering our comments.



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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 APPROXIMATELY 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?

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A SECOND CHANCE FOR WISCONSIN YOUNGSTERS

SEPTEMBER 4, 2013 BY [MARC LEVIN](#)

The age at which a citizen should be treated as an adult is one that comes up in many contexts, from drinking alcohol to voting. A 17 year-old, of course, can neither legally consume alcohol or vote.

In most states, the default rule is that 17 year-olds are processed in the juvenile justice system, which typically focuses more on rehabilitation, works closely with schools and child welfare agencies, has lower probation caseloads, and of course places youths in facilities where they do not share cells with hardened adult career criminals. Also, juvenile records except in the most serious cases are usually sealed when a youth becomes an adult unless they have continued to engage in criminal activity.

Wisconsin is one state where all 17 year-olds charged with a crime automatically enter the adult criminal justice system, even if it stealing a candy bar or smoking pot. However, a bipartisan group of lawmakers is unveiling legislation that would change that. Under this proposal, 17 year-olds charged with a first-time, nonviolent offense would be processed through the juvenile justice system while other 17 year-olds would continue to be charged as adults.

The primary reason to keep more youngsters in the juvenile system is that it is more effective in reducing recidivism, leading to greater public safety. A [Florida study](#) considered 475 pairs of juveniles in Florida, matched for age, gender, race, offense history, offense severity, and other factors, with one of each pair transferred to criminal courts while the other was retained in juvenile courts. In 29 percent of pairs, only the transferred juvenile re-offended, while for less than 15 percent of pairs did only the retained juvenile re-offend. After age 18, 50 percent of those transferred to criminal courts re-offended while 35 percent of those adjudicated by a juvenile court re-offended. And in those cases where both members of a matched pair re-offended, the transferred juvenile was more likely to have committed a more serious felony. [Studies in other states](#) have found similar results.

There are also other important factors. Those 17 year-olds who commit a first-time, nonviolent offense will be better able find employment and housing later in life if they are not saddled with a permanent adult criminal record. Perhaps the most overlooked factor in the discussion, however, is the integrity of the family. Few parents would not want to know if their 17 year-old son or daughter is arrested and placed in jail. Yet, when these teens are processed in the adult system, they can be arrested, jailed, and released without notice to a parent or guardian. This is [especially problematic given that 17 year-olds are covered by the Wisconsin compulsory school attendance law](#), meaning they are hopefully in school being supported by their parents.

Given these considerations, this is an important issue for Wisconsin policymakers to address. The proposal in Wisconsin to redirect nonviolent, first-time 17 year-old offenders into the juvenile justice system is sponsored by Rep. Garey Bies (R-Sister Bay), Rep. Fred Kessler (D-Milwaukee), Senator Jerry Petrowski (R-Marathon), and Rep. Sandy Pasch (D-Shorewood). The bill is expected to be heard in early October.

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**Report 08-3
February 2008**

A Review

17-Year-Old Offenders in the Adult Criminal Justice System

Department of Corrections

2007-2008 Joint Legislative Audit Committee Members

Senate Members:

Jim Sullivan, Co-chairperson
Julie Lassa
Mark Miller
Alan Lasee
Robert Cowles

Assembly Members:

Suzanne Jeskewitz, Co-chairperson
Samantha Kerkman
Kitty Rhoades
David Cullen
Joe Parisi

Table 37

Recidivism Rates After Incarceration
2002 and 2003 Releases

Age Group ¹	2002			2003		
	Releases in 2002	Subsequent Incarceration	Percentage of 2002 Releases	Releases in 2003	Subsequent Incarceration	Percentage of 2003 Releases
Juvenile Offenders (2 Years)	757	138	18.2%	672	93	13.8%
Juvenile Offenders (4 Years)	757	201	26.6	672	n/a	n/a
17-Year-Old Offenders (3 Years) ²	106	51	48.1	83	32	38.6
Adult Offenders (3 Years) ²	695	148	21.3	812	130	16.0

¹ Based on age at time of initial offense. For juvenile offenders, all initial releases are from juvenile institutions and subsequent incarcerations may be in juvenile institutions or prison. For 17-year-old and adult offenders, all releases and subsequent incarcerations are prison.

² Offenders with no prior prison or probation placements.

Recidivism of Offenders on Probation

36.9 percent of 17-year-old offenders placed on probation in 2002 were convicted of new offenses within 3 years.

For offenders on probation, DOC defines recidivism as a new offense that is committed within three years of placement on probation and results in an additional correctional placement, including probation or prison. As shown in Table 38, 36.9 percent of 17-year-old offenders placed on probation in 2002, and 34.9 percent of 17-year-old offenders placed on probation in 2003, were convicted of new offenses that resulted in additional correctional placements within three years. DOC does not distinguish between new probation placements and new prison sentences for offenders initially placed on probation.

A Review:

17-Year-Old Offenders in the Adult Criminal Justice System

Department of Corrections

February 2008

Report Highlights ■

Since 1996, 17-year-olds have been subject to adult criminal court jurisdiction.

17-year-olds were most often charged with property crimes, such as theft and burglary.

More than three-quarters of 17-year-olds sentenced in felony cases were placed on probation.

17-year-olds were more likely to re-offend than juveniles or older adults.

Proposals to return 17-year-olds to juvenile court jurisdiction would have significant programmatic and fiscal effects.

Under the provisions of 1995 Wisconsin Act 27, 17-year-olds alleged to have violated criminal law are subject to prosecution as adults, and juveniles under the age of 17 can be tried as adults when they are alleged to have committed certain serious crimes. Before the law's enactment, 17-year-olds were subject to juvenile court jurisdiction. From 2002 through 2006, 32,638 criminal cases were filed against individuals who were 17 at the time of their alleged offense. During this period, 585 individuals admitted to prison and 10,632 placed on probation were 17 when they committed crimes.

Concerns have been raised that the effects of adult jurisdiction over 17-year-olds are not well understood. Therefore, at the request of the Joint Legislative Audit Committee, we analyzed:

- arrests of 17-year-olds, including the offenses for which they were arrested and how arrest rates vary by age;
- the number and types of adult criminal court cases involving defendants who were 17 at the time of their alleged offense and the types and lengths of sentences they received;
- prison admissions and probation placements of 17-year-old offenders, as well as the services and programming available to them through the Department of Corrections (DOC) and in selected county jails;
- rates of recidivism and probation revocation among 17-year-old offenders; and
- possible cost implications for the State and counties of any change in jurisdiction for 17-year-olds.

Key Facts and Findings

An average of 29,626 arrests of 17-year-olds were made in each year from 2001 through 2005.

In 2006, 6,557 cases against 17-year-olds were filed in criminal court.

17-year-olds accounted for less than 5.0 percent of jail bookings.

From 2002 through 2006, 585 17-year-old offenders were admitted to prison and 10,632 were placed on probation.

Fewer than one-half of 17-year-old offenders successfully completed probation.

County expenditures for juvenile corrections could increase \$53.5 million if 17-year-olds return to juvenile court jurisdiction.

Arrests

From 2001 through 2005, an average of 29,626 17-year-olds were arrested each year. During this period, 17-year-olds were 1.5 percent of Wisconsin's total population but accounted for 6.7 percent of arrests.

Arrest rates for 17-year-olds were similar to those for 16-, 18-, and 19-year-olds. They were significantly higher than those for persons 21 and older.

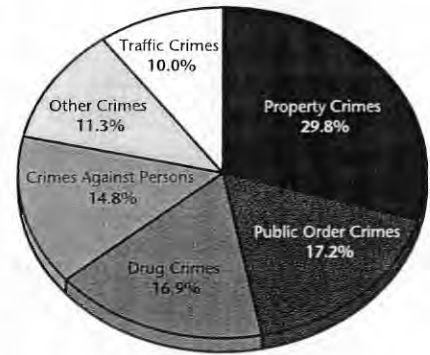
The crimes for which 17-year-olds were arrested varied. Status offenses in which the individual's age is a factor, such as curfew violations or underage drinking, accounted for more than one-quarter of arrests. Crimes against persons, primarily assaults, accounted for 5.0 percent.

Court Proceedings

District attorneys have several options for handling cases after an arrest has been made. They may decline prosecution, refer the case to a deferred prosecution or diversion program, or prosecute the case by filing charges in circuit court.

We reviewed data from 2002 through 2006 for criminal cases filed in circuit court against individuals who were 17 at the time of their alleged offense. During this period, 17-year-olds were most commonly charged with property crimes,

Criminal Case Filings Against 17-Year-Olds 2002 through 2006



such as theft and burglary, which accounted for 29.8 percent of cases filed.

In approximately two-thirds of the cases filed against 17-year-olds in 2006, the most serious charge was a misdemeanor. Approximately one-third of cases included felony charges.

We also reviewed Wisconsin Sentencing Commission data on sentencing in cases that were filed as felonies. Seventeen-year-old offenders were generally more likely to be placed on probation and less likely to receive prison sentences than older offenders.

The average term of probation for 17-year-old offenders was 2.8 years, and the average prison sentence was 3.6 years. The percentage of 17-year-old offenders sent to prison

varied by county, by gender, and by race/ethnicity. For example, 21.3 percent of African-American offenders and 19.4 percent of Hispanic/Latino offenders who were convicted in felony cases were sentenced to prison, compared to 4.2 percent of white offenders.

County Jails

There are no statewide data on the number of 17-year-olds held in jail, but 17-year-olds accounted for a relatively small percentage of all bookings in five counties we visited.

17-year-olds were most often booked into jail for public order offenses, such as disorderly conduct. Property crimes such as theft and criminal damage to property were the second-most-frequent reason for booking.

Most 17-year-olds were jailed for less than one week, but a small number were jailed for one year or more. Educational services were typically provided in the five counties we visited, but rehabilitation programs available to 17-year-olds were minimal.

Adult Correctional System

From 2002 through 2006, 11,217 individuals who were 17 at the time of their offense first entered the adult correctional system. As noted, 10,632 were placed on probation and 585 were admitted to prison.

Milwaukee County was the convicting county for 379 of the prison admissions, or 64.8 percent.

Most 17-year-old offenders entering the adult correctional system were convicted of crimes against persons, which are typically violent crimes. Robbery was the most common crime committed by those admitted to prison, while assault and battery were most common among those placed on probation.

Limited information is available on the educational programming and other services available to 17-year-old offenders in the adult correctional system. Of the 585 17-year-old offenders admitted to prison from 2002 through 2006, 429 participated in education programs.

In a detailed file review for a sample of 37 17-year-old offenders who were admitted to prison in 2002, we found that 17 earned high school equivalency diplomas while incarcerated.

Among the 37 inmates in our sample, 20 were identified as having moderate or serious alcohol and other drug abuse (AODA) problems. There are waiting lists for AODA and other treatment programs.

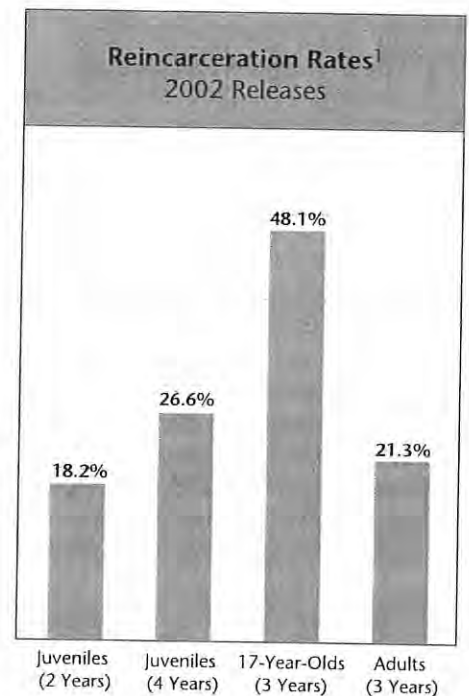
Recidivism

The extent to which 17-year-old offenders successfully complete their sentences and avoid future

criminal activity can be measured in several ways.

We reviewed revocations of probation, which measure the extent to which terms of probation have been violated. We found that fewer than one-half of the 17-year-old offenders who were placed on probation from 2002 through 2006 completed probation successfully.

We also reviewed recidivism, or subsequent criminal behavior after incarceration. 17-year-old offenders released from prison had a higher reincarceration rate than either juveniles or older adults.



¹Rates for juveniles measured at 2-year and 4-year intervals; rates for adults measured at 3-year interval.

For Future Consideration

The Legislature may soon debate changes to the placement of 17-year-olds in the adult criminal justice system. Wisconsin is currently 1 of 13 states that automatically place 17-year-olds in the adult criminal justice system.

If the age of criminal court jurisdiction is returned to 18, which it was before the enactment of 1995 Wisconsin Act 27, 17-year-olds would return to the juvenile justice system, which is primarily operated by counties. The fiscal effect for the counties is likely to be significant.

We estimate returning 17-year-olds to the juvenile system could cost \$53.5 million to \$82.4 million annually. However, increased costs to county-level juvenile corrections could be offset to some extent by cost savings in the adult correctional system.

In deliberating potential changes, several options are available for the Legislature to consider:

- retaining criminal court jurisdiction over 17-year-olds;
- changing the age of criminal court jurisdiction to 18, and thereby returning 17-year-olds to the jurisdiction of the juvenile courts;
- making incremental change, such as retaining criminal court jurisdiction for 17-year-old felony offenders or expanding programs that allow juvenile offenders to remain under supervision for a longer time period; or
- delaying implementation of any change, to allow DOC, the courts, and the counties time to prepare for its programmatic and fiscal effects.

Additional Information

For a copy of report 08-3, which includes a response from the Department of Corrections, call (608) 266-2818 or visit our Web site:



www.legis.wisconsin.gov/lab

Address questions regarding this report to:

Kate Wade
(608) 266-2818

The Legislative Audit Bureau is a nonpartisan legislative service agency that assists the Wisconsin Legislature in maintaining effective oversight of state operations. We audit the accounts and records of state agencies to ensure that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law, and we review and evaluate the performance of state and local agencies and programs. The results of our audits, evaluations, and reviews are submitted to the Joint Legislative Audit Committee.

Legislative Audit Bureau

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Janice Mueller
State Auditor



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.

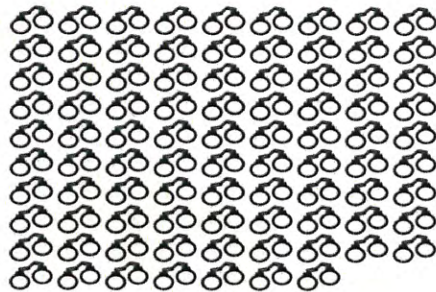
JUVENILE ARRESTS

→ in Wisconsin ←

In Wisconsin, it's rare for a juvenile to be arrested for a violent crime. Juveniles are far more likely to be arrested for violations of liquor laws, disorderly conduct, and vandalism than they are for violent offenses.



of juvenile arrests are for non-violent crimes



of juvenile arrests are for violent crimes



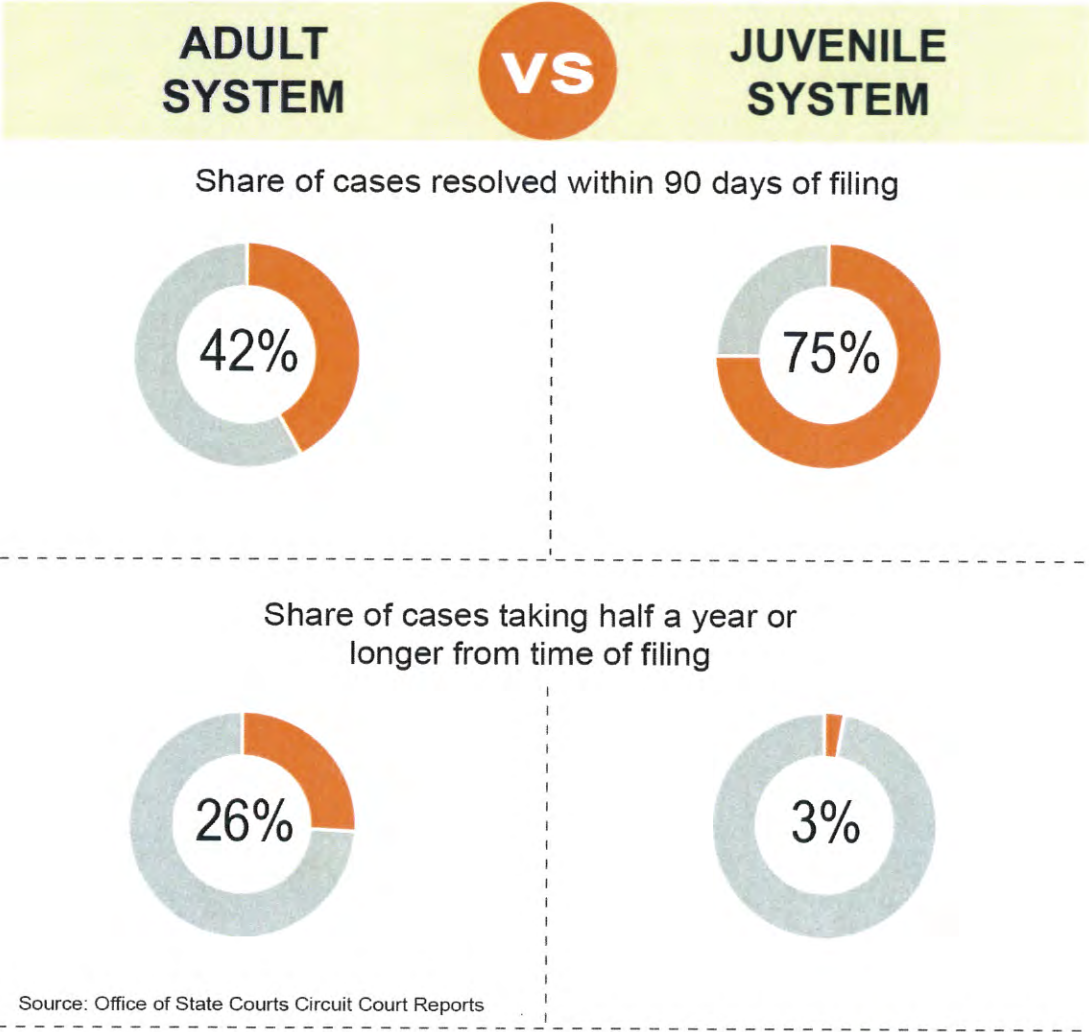
Source: 2012 Uniform Crime Reports. Violent offenses include murder, forcible rape, aggravated assault, and robbery.

Non-violent first-time **17 YEAR OLD OFFENDERS**

belong in the
**JUVENILE
JUSTICE**
system


Teenage offenders need their cases resolved in a speedy manner, so that they can see the connection between their actions and consequences.

But a timely resolution is not something the adult criminal system can offer.



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Linda A. Hall
Executive Director

TO: The Honorable Members of the Assembly Committee on Corrections
FROM: Linda A. Hall, Executive Director 
DATE: October 3, 2013
RE: Support for Assembly Bill 387

The Wisconsin Association of Family & Children's Agencies (WAFCA) supports Assembly Bill 387 to return certain 17-year-old offenders to the juvenile justice system.

WAFCA represents over forty private for-profit and nonprofit agencies that provide mental health, education and social services to people in need. Our members' services include family, group and individual counseling, chemical dependency treatment, crisis intervention, domestic violence programs, residential care, child welfare services and outpatient mental health therapy, among others.

For adjudicated juveniles, our member agencies provide a variety of services including: treatment foster care, residential and group home care, alternative education, wraparound, mental health and AODA treatment, family counseling, day treatment services, mentoring, vocational training, community monitoring, and intensive in-home therapy. Our members serve youth from pre-disposition through aftercare services. Providers use evidence-based and evidence-informed practices such as trauma informed cognitive behavioral therapy, motivational interviewing and restorative justice to promote sustained change in delinquent youth and their family systems.

Data show that the majority of youth offenders are non-violent offenders. Data also show that African-American youth are disproportionately represented in adult jails and prisons. Research on neurodevelopment is increasingly confirming what we have long known – that 17-year-old brains lack the capacities of fully-formed, adult brains. Youth that land in the juvenile justice

system often arrive with substantial trauma histories and untreated mental health diagnoses. Investing in rehabilitative, age-appropriate services for juveniles has been proven to generate long-term taxpayer savings.

In fact, there is little question whether or not AB 387 is the right policy for Wisconsin. Nevertheless, for nearly a decade the question of funding for the juvenile justice system has been a barrier to moving Wisconsin's policy into the 21st Century.

As the primary service delivery agents for youth services for counties, WAFCA shares the concerns of our county partners regarding the state responsibility for adequately funding this important policy change. Local county taxpayer dollars fund almost half of the annual expenditures on youth adjudicated through the juvenile system. For many counties the local overmatch is twice or three times their state Youth Aids appropriation.

Wisconsin made the right choice in adopting Youth Aids to shift the service delivery focus from institutions to the community. Youth Aids made Wisconsin a leader in structuring funding to encourage community-based care and reduce high-cost institutional expenditures. This community-oriented funding has been critical to the closure of two juvenile correctional institutions.

While community-based services are less costly than institutional care, it is still not financially feasible for counties to absorb 17-year-olds into these systems without continued partnership from the state. As with all prevention-oriented services, in order to realize long term savings, an upfront investment is required.

Thank you for the opportunity to speak to this important proposal. This is the right time for Wisconsin to move forward with a common sense approach to serving juvenile offenders. We urge the Committee to advance this policy with sufficient funding to sustain a juvenile justice system that holds youthful offenders accountable, while serving them in a system designed to address their mental health, educational and developmental needs.

Mary T. Harpster
4485 S. Hillview Ct.
New Berlin, WI 53146

October 1, 2013

Rep. Garey Bies, Chair
Room 216 North
State Capitol
P.O. Box 8952
Madison, WI 53708

RE: Assembly Bill 387

Dear Representative Bies,

I am writing this letter to you as a parent who "lost" her child to the adult jail system. At a time when my 17 year old child needed positive influences in his life, he received the message from the justice system that he was a threat to society and was put into the adult criminal system.

I wish I could be there on Thursday, October 3rd to read my letter to you in person unfortunately; I am out of town on business.

Please take a moment to read and share my son Ben's story with your associates. I am a real parent, who has been to "hell and back" with my son. I know the horrors of the adult criminal system. I know that it doesn't work and results in repeat offenders. I strongly support your efforts on behalf of this bill and will be there "in spirit" to support you.

Regards,

Mary T. Harpster

Note: please copy to the other Assembly members as per the attached.

Ben's story

My son was a typical high school student. He played football from sixth to tenth grade. He was on the wrestling team for two years. He is gifted and talented, taking his first ACT test as a freshman, with an overall score of 19. All in all, he was an average teenage boy who had the propensity to make stupid choices, just like other teenagers, especially when surrounded by other teenage boys.

Then at sixteen, Ben lost his Dad in a tragic plane crash. Shortly after this, Ben began having trouble at school and his behavior changed. We found a psychotherapist to work with him to try to help him deal with his grief and guilt; however, by then Ben was on a path of self-destruction.

Ben's first arrest was in 2007, less than five months after his Dad died and about a month after his 17th birthday. He and a 16 year-old classmate smoked marijuana, went snowboarding and foolishly decided to see what they could steal from unlocked cars.

Ben was charged with seven, Class A misdemeanor's for theft and was found guilty on three of the counts. His friend was put on probation and has no adult record. Both of these young men committed the same crime, however, because one was 16 and one was 17, they were treated completely differently. Ben ended up being sentenced to 90 days in an adult Huber facility during the summer of his junior year in high school. His 16 year old friend was given probation and no adult record. Unfortunately, there was never any consideration that Ben should be placed in juvenile facility where he could get his emotional, mental and drug use needs addressed, because he was 17 and therefore an "adult". Frankly, the topic of a juvenile facility was never even discussed by the district attorney, or the judge who sentenced him.

While in Huber, Ben got into trouble and was sentenced to 2 weeks in "the hole". Ben was working for us at the time and was allowed to call to let me know he wouldn't be at work. He was in a state of panic and fear when he called, unsure of what it meant or what they were about to do to him.

On the outside, is it not known that the jails have their own internal justice system, so regardless of what a judge may assign an inmate, the jail can do what they choose to after an internal hearing. This hearing typically consists of a guard or two and the charged inmate. The "hole" means solitary confinement, so no phone calls or visits, only a hard concrete cell with a mattress at night and one hour spent out of the cell per day. I spoke to a deputy after this happened to try to determine what Ben had done to deserve this. He wouldn't give me any details other than that I would not be allowed to see or talk to Ben until his two weeks were up. I was point blank told that it didn't matter that I was legally responsible for him, or that he was a teenager, he was in the jail and therefore I, as his parent had no rights. As a parent, still legally responsible for my 17 year old, I was not allowed to call and find out how he was doing or get any updates. I asked them to have someone from their Mental Health staff visit Ben to make sure he was of right mind and not suicidal, etc. They told me they would have someone see him, but they never did. Fortunately, Ben had a wonderful probation officer, who at my request visited him a few times to make sure he was okay and would call to reassure me. Even she was shocked at what had happened to him. She never thought he should have gotten anything more than probation in the first place, given his age and charges, so solitary confinement was ludicrous.

As a mature adult, I am not sure I could have managed two weeks of complete solitude while dealing with the grief of losing my Dad and the hardships of being in jail, yet a teenager was expected to suffer this.

While in Huber that summer Ben became a different person. He was introduced to Heroin and other hard drugs. He spent three months around hardened adult criminals. He was afraid most of the time, fearing what might happen to him, if he was asked to do something for another inmate and didn't. His attitude became "nobody cares about me, so why should I care". He came out of jail no longer a child and even more self destructive than he was before. What was communicated to him by the justice system was that he was a lost cause and he believed that there was no hope for him, or a normal life.

While in Huber, Ben wasn't offered mental health counseling, or counseling of any sort. For that matter he wasn't even given the anti-depressant medication that he had been prescribed by his doctor. The jail had the medication, but it was up to them whether they administered it. Unfortunately, if Ben was sleeping or, at work during the time when medication was being dispensed, then he didn't get his med's.

After that summer, Ben got into additional trouble with the law and in 2008 was charged with felony theft and put in jail once again. This led to him spending the second half of his senior year in high school in jail. There is no doubt that in my mind that recidivism increases in young men who have been previously incarcerated and Ben is a clear example. Fortunately, Ben did successfully finish his high school education in jail and because of the kind principal at his high school was a man of great character who believed that everyone deserves a "second chance" and granted him a diploma, instead of a GED

We, as a family, worked hard to research alternative facilities that might help Ben. Eventually, his attorney convinced the judge to allow Ben to participate in Teen Challenge in lieu of jail. This would not have happened had we left the decision in the hands of the traditional justice system, which seems to have given up on devising alternative solutions, or offering juveniles a place where they can get the services they need. The only solution the system seems to use is to throw them into jail and forget about them, which is costing all of us tens of thousands of dollars per inmate, per year, with no end in sight. As a society we are not rehabilitating these young men, helping them to obtain viable skills or giving them hope for a future, they are only being punished and then released to go out and commit more crimes, as Ben has demonstrated.

I am not at all suggesting that Ben didn't commit crimes, nor, am I suggesting he shouldn't have been punished. However, I am suggesting that his age, mental condition and maturity should have been taken into consideration while sentencing him. It is clear that there was no thought to anything other than throwing him into the adult system so that he could be considered "no longer a threat to society".

Perhaps there is an illusion that by putting these young men in to the adult criminal justice system, that they will "learn their lesson the hard way" and be scared straight and stay out of trouble. Unfortunately, this illusion is only temporary. Realistically, what we get are bored young men without any purpose, structure or discipline who are getting the best criminal and drug use training available.

In closing, our system isn't working. We can't keep doing things the same way and expecting different results. If we bury our heads in the sand and believe "all is well", we will just continue to have youth being trained by the other criminals, being exposed to rape and violence that they shouldn't be and being denied the services that might actually help them. Much like the wisdom of Ben's High School Principal, I truly wish that Ben had been given a "second chance" by the legal system.

Please disseminate a copy to members of the committee, names and addresses as follows:

Assembly Committee on Corrections

Rep. Garey Bies, Chair
Room 216 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Rep. Michael Schraa
Room 22 West
State Capitol
P.O. Box 8953
Madison, WI 53708

Rep. Edward Brooks
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Rep. Scott Krug
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Rep. Joel Kleefisch
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Rep. Steven Doyle
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Rep. Sandy Pasch
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Rep. Jocasta Zamarripa
Room 320 West
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P.O. Box 8953
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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.



Brown County
HUMAN SERVICES DEPARTMENT

SCOTT SHACKELFORD, M.S.E.
UNIT SUPERVISOR/MANAGER
JUVENILE COURT SERVICES UNIT

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Testimony
National Council on Crime and Delinquency
Before the Wisconsin Legislature Committee on Corrections

October 3, 2013

1. About the National Council on Crime and Delinquency

- a. Dr. Jesse Russell, Director of Research—Madison, jrussell@nccdglobal.org, (800) 306-6223
- b. I am going to talk about research relating to transferring juveniles into the the adult criminal justice system.
- c. The National Council on Crime and Delinquency is based here in Madison, Wisconsin, and Oakland, California. We are a nonprofit organization that has been conducting social science research for more than a hundred years. We work in the juvenile justice and criminal justice systems as well as child welfare and adult protection.
- d. NCCD works with the federal Bureau of Justice Assistance to administer the National Resource Center to Eliminate Prison Rape. The national Prison Rape Elimination Act standards prohibit placing youth under age 18 with adults. This standard applies to all state and local adult prisons and jails, juvenile facilities, community corrections, lockups, tribal organizations, and inmates and their families in their efforts to eliminate sexual abuse in confinement.
 - i. The standard reads as follows: **§ 115.14 Youthful inmates.** (a) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. (b) In areas outside of housing units, agencies shall either: (1) maintain sight and sound separation between youthful inmates and adult inmates, or (2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact. 11(c) Agencies shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

2. Objective Research Shows That 17-Year-Olds Don't Belong in the Adult Justice System

- a. Evidence shows that transferring juveniles to the adult system does not work to reduce repeat crime.

NCCD promotes just and equitable social systems for individuals, families, and communities through research, public policy, and practice.

- b. Recent neuroscientific research overwhelmingly supports the idea of keeping young people in the juvenile system. Their immature brains provide an opportunity for us to intervene to prevent future recidivism. This research, which did not exist twenty years ago, is influencing the way the Supreme Court and many state legislatures think about juvenile justice.

3. Numerous Studies Have Shown That Putting Juveniles Into the Criminal Justice System Does Not Reduce Crime

- a. An overwhelming body of research, tested in multiple places and by recognized government entities like the CDC, has shown that juvenile transfer policies uniformly produce negative outcomes.ⁱ
- b. Studies have indicated that transferred adolescents are more likely to recidivate, recidivate at a greater rate, and be re-arrested for more serious offenses, on average, than those retained in the juvenile justice system.ⁱⁱⁱ
- c. Children prosecuted as adults are 34% more likely to commit new crimes than are youth who remain in the juvenile justice system.^{iv}
- d. Higher recidivism rates are due to a number of factors:
 - Stigma and negative labeling effects;
 - A sense of resentment and injustice about being tried as an adult;
 - Learning more criminal behaviors from incarceration with adults;
 - Decreased access to rehabilitation and family support in the adult system; and
 - Decreased employment and community integration opportunities.
- e. Peer relationships in adult facilities can serve as a type of “schooling” that is useful for later criminality, and adult relationships are likely to be negative.^v

4. Empirical Evidence Shows That the Adult System Does Not Help Young People and Often Harms Them

- a. Juveniles comprised less than 1 percent of jail inmates in 2005, yet they accounted for 21 percent of all victims of substantiated incidents of inmate-perpetrated sexual violence in jails that year.^{vi}
- b. Youth are 36 times more likely to commit suicide in an adult jail than in a juvenile facility.^{vii}
- c. In addition, many adult facilities fail to provide juveniles with basic services like prison survival skills, family counseling, career training, and educational programming.^{viii}
- d. Many children in the juvenile justice system have also been exposed to trauma or violence, which can be greatly exacerbated by the climate of being an adult facility.
 - i. Exposure to violence can have wide-ranging effects, including anxiety and depression, impaired physical and cognitive development, lack of social skills, difficulty controlling

emotions and communicating, hyperactivity, aggression, and other behavior problems.^{ix} According to a recent study that used a national sample of youth for comparison, youth in detention were three times as likely as those in the national sample to have been exposed to multiple types of violence and traumatic events.^x

- e. Adult facilities sometimes isolate young people to protect them from adult prisoners. Yet these restrictions have the unintended effect of promoting the use of solitary confinement for youth, an especially damaging practice for young people. A 2002 investigation by the US Department of Justice found that juveniles experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation.

5. Brain Research Shows That 17-Year-Olds' Brains Are Immature and Most Youth Will Grow Out of Crime as Adolescence Comes to an End

- a. A 17-year-old is cognitively and emotionally still a child.
 - i. Without a fully developed prefrontal cortex, adolescents depend on more primitive parts of the brain to manage their emotions, making them more vulnerable to stress and prone to react without thinking.^{xi}
 - ii. Adolescent brains aren't fully developed until their mid-twenties.^{xii}
 - iii. Recent Supreme Court rulings (*Miller v. Alabama*, *Roper v. Simmons*, *Graham v. Florida*) have affirmed this research as a basis for making judicial decisions.^{xiii,xiv} Justice Elena Kagan wrote in *Miller v. Alabama*, "the State's most severe penalties on juvenile offenders cannot proceed as though they were not children."
- b. Thankfully, the adolescent brain is very amenable to positive interventions, like trauma treatment or cognitive-behavioral therapy. The prefrontal cortex is the portion of the brain most receptive to rewiring through positive conditioning.^{xv}
- c. Most likely, youth will abandon illegal behavior at the end of adolescence.^{xvi}

In conclusion, holding young people accountable through a rehabilitation-focused juvenile justice system takes advantage of the fact that their brains are not fully developed, which helps us reduce future recidivism, saves money in the long run, and enhances public safety.

Additional Resources and Recommendations From Other Bodies

- a. The Attorney General's National Defending Childhood Task Force recommended last year, in an extensively researched report, that juveniles should be prosecuted in the juvenile system instead of transferring their cases to adult courts.^{xvii}

"When properly screened, assessed, provided with trauma-informed care, and evidence-based trauma-specific treatment, children who have been exposed to violence and are in trouble with the law have the capacity to grow, mature, and become productive citizens."

- b. In 2012, 32 members of Congress cited these reasons and others in a letter to Attorney General Holder urging him to strengthen federal regulations and essentially prohibit states and localities from incarcerating any person younger than 18 in an adult prison or jail as a condition of federal funding.

ⁱ Prison Rape Elimination Act. PUBLIC LAW 108-79-SEPT. 4, 2003 (Full Text of Law). Retrieved from <http://www.prearesourcecenter.org/sites/default/files/library/prea.pdf>

ⁱⁱ Mulvey, E., & Schubert, C. (2012). *Transfer of juveniles to adult court: Effects of a broad policy in one court*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, US Department of Justice. Retrieved from <http://www.ojjdp.gov/pubs/232932.pdf>

ⁱⁱⁱ Mulvey, E., & Schubert, C. (2012). *Transfer of juveniles to adult court: Effects of a broad policy in one court*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, US Department of Justice. Retrieved from <http://www.ojjdp.gov/pubs/232932.pdf>

^{iv} McGowan, A., et al. (2007). *Effects on violence of laws and policies facilitating the transfer of juveniles from the juvenile justice system to the adult justice system: A systematic review*. Washington, DC: Centers for Disease Control and Prevention. Retrieved from <http://www.thecommunityguide.org/violence/mcgowanarticle4.pdf>

^v Mulvey, E., & Schubert, C. (2012). *Transfer of juveniles to adult court: Effects of a broad policy in one court*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, US Department of Justice. Retrieved from <http://www.ojjdp.gov/pubs/232932.pdf>

^{vi} National Prison Rape Elimination Commission. (2009, June). *National Prison Rape Elimination Commission report*. Retrieved from <https://www.ncjrs.gov/pdffiles1/226680.pdf>

^{vii} McGowan, A., et al. (2007). *Effects on violence of laws and policies facilitating the transfer of juveniles from the juvenile justice system to the adult justice system: A systematic review*. Washington, DC: Centers for Disease Control and Prevention. Retrieved from <http://www.thecommunityguide.org/violence/mcgowanarticle4.pdf>

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WISCONSIN CATHOLIC CONFERENCE

TESTIMONY ON ASSEMBLY BILL 387: “SECOND CHANCE BILL”

Presented to the Assembly Corrections Committee
By Barbara Sella, Associate Director
October 3, 2013

The Wisconsin Catholic Conference (WCC) strongly supports Assembly Bill 387, which would return first-time, nonviolent 17-year-old offenders to the juvenile justice system.

The bill is consistent with the principles outlined in 1999 by Wisconsin’s Catholic bishops in their statement, *Public Safety, the Common Good, and the Church: A Statement on Crime and Punishment in Wisconsin* – respect for the human person, common good, option for the poor and marginalized, restoration, and solidarity.

Furthermore, in their 2000 statement, *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, the U.S. bishops were explicit in their opposition to treating young offenders as adults:

The actions of the most violent youth leave us shocked and frightened and therefore they should be removed from society until they are no longer dangerous. But society must never respond to children who have committed crimes as though they are somehow equal to adults – fully formed in conscience and fully aware of their actions. Placing children in adult jails is a sign of failure, not a solution. In many instances, such terrible behavior points to our own negligence in raising children with a respect for life, providing a nurturing and loving environment, or addressing serious mental or emotional illnesses.

Adult institutions are simply not appropriate places for nonviolent juveniles. The risk of abuse at the hands of adult inmates is too high, as is the risk of re-offending.

Juvenile offenders must be held accountable, but in a way that serves to rehabilitate them in an age-appropriate manner and to eventually re-integrate into the community.

We therefore strongly urge you to support this bill.

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.

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

TESTIMONY IN FAVOR OF ASSEMBLY BILL 387 "SECOND CHANCE"
LEGISLATION PROVIDED BY MARC HERSTAND, EXECUTIVE DIRECTOR,
NATIONAL ASSOCIATION OF SOCIAL WORKERS, WISCONSIN CHAPTER ON
OCTOBER 3, 2013 AT THE ASSEMBLY COMMITTEE ON CORRECTIONS.

On behalf of the National Association of Social Workers, Wisconsin Chapter, I am pleased to speak in favor of Assembly Bill 387, also known as "Second Chance" legislation.

Jane Addams, the "mother" of the social work profession and the founder of the famous Settlement House called Hull House, knew instinctively in 1899 what we know from research today-that children are different than adults and should be treated as such when they commit non-violent crimes. In 1899 as a result of lobbying by Jane Addams and her Hull House colleagues the first juvenile court was established in the country. Within ten years similar laws were passed in 22 other states.

Jane Addams and the other Settlement House workers at Hull House knew at the turn of the century that children could be rehabilitated and made into productive citizens. They saw the damage that was done to children put into adult prisons and court.

Today over 100 years later we have research that shows that the portion of the child's brain that relates to judgment is not fully formed until the mid-20's. We also know, from a study conducted in Florida that 17 year olds who are referred to juvenile court are less likely to re-offend than 17 year olds referred to adult court.

The reasons for the different outcomes for 17 year olds referred to juvenile court versus adult court are clear. The juvenile system provides individual assessment and services and is specifically set up to reduce recidivism among youth. The adult prison system is not set up to understand adolescent development or provide the services needed by adolescents. Putting a youth in an adult prison also exposes the youth to adult offenders, to rape and other violence and trauma that decrease the chances that these youth will ever be able to successfully reintegrate in society. An adult "record" also provides a major barrier to employment and housing, which are key components to successfully reintegrating in society.

I urge you to support Assembly Boll 387



MEMBERS

African Methodist
Episcopal Church
American Baptist Churches
Christian Church
(Disciples of Christ)
Christian Methodist
Episcopal Church
Church of God in Christ
Church of the Brethren
Episcopal Church
Evangelical Lutheran
Church in America
Greek Orthodox Church
Mennonite Church USA
Moravian Church
Orthodox Church in America
Presbyterian Church (USA)
Reformed Church in America
United Church of Christ
United Methodist Church

OBSERVERS

Roman Catholic:
Archdiocese of Milwaukee
Diocese of Green Bay
Diocese of LaCrosse

ASSOCIATE MEMBERS

Benedictine Women
of Madison
Church Women United
Interfaith Conference of
Greater Milwaukee
Leadership Conference of
Women Religious Region 9
Madison-area Urban Ministry

Rev. Scott D. Anderson,
Executive Director

Wisconsin Council of Churches

750 Windsor Street, Suite 301 Sun Prairie, WI 53590-2149
Ph 608.837.3108 Fax 608.837.3038 E-mail wcoc@wichurches.org

DATE: October 3, 2013
TO: Assembly Committee on Corrections
FROM: Peter Bakken, Coordinator for Public Policy
Wisconsin Council of Churches
RE: AB 387 Returning 17-year-old nonviolent, first-time offenders
to juvenile court jurisdiction

The Wisconsin Council of Churches, which represents 16 Protestant and Orthodox denominations, almost 2,000 congregations and over one million church members in this state, strongly supports AB 387, which would return 17-year old nonviolent, first-time offenders to the jurisdiction of the juvenile court.

There are many solid, practical reasons why this bill is good policy, as its bipartisan co-sponsors have recognized and as the other groups testifying in its support have argued. We share their views that this bill serves our communities' needs for public safety and the wise use of public resources, and that it reflects our best understanding of the developmental needs of young persons who are on the threshold of adulthood but not yet fully adults.

But as the Wisconsin Council of Churches, we take particular interest in this legislation because, for us, healing and restoration are core values. In fact, you could say they are our very reason for being. Jesus' ministry was one of healing minds as well as bodies, and his parables of the lost sheep and the prodigal son are stories of rescue and reconciliation.

This bill would return the majority of 17-year-old offenders to the juvenile court system, where they can be both held accountable and be provided with age-appropriate services and programs. It promotes the healing and restoration of young people – who are especially vulnerable, and for whom we have a special responsibility to guide, care for and protect.

Our concern for this issue is informed by the experiences of Christian ministers who work with juvenile offenders. One, the Rev. Julia Weaver (who is not able to be here today) wrote me the following when I told her I would be testifying at this hearing:

*We pray and work together for the unity and renewal
of the church and the healing and reconciliation of the world*

I work primarily with the women at the Dane County Jail. It is my belief that the majority of women I see for spiritual care are victims. ... Sexual assaults in the military, date rape, domestic violence, childhood incest are examples of the life circumstances which are outside of their control; circumstances that continue to emotionally control them. When they come in so young it is quite often the case that they are victims of human trafficking.

She noted the importance of older girls or young women ages 16-17 in such circumstances being able to receive appropriate services in the juvenile system.

As a society, we recognize our responsibility for the young, whose lives are entrusted to us. We want them to realize their potential to grow to become contributing members of our communities – even if they have made mistakes through immaturity and bad judgment. When they've gone astray, we hope that they will get their lives back on track – but we also know that they need help and support to do so.

Seventeen-year-old non-violent, first time offenders can find more effective and appropriate help and support in the juvenile corrections system than in the adult system. They can get on with their lives without the burdens and obstacles that come with a criminal record.

We therefore respectfully urge you to support passage of AB 387. Thank you for your time and attention.



MICAH CUSH RIC SOPHIA JOSHUA ESTHER JONAH AMOS NAOMI RUTH MOSES
Milwaukee Kenosha Racine Waukesha Green Bay Fox Valley Eau Claire La Crosse Wausau Manitowoc Madison

The Gamaliel Foundation in Wisconsin

Phone: 414-831-2071 Email: wisdomwi@sbcglobal.net
Address: 3195 S. Superior St. Suite 310, Milwaukee, WI 53207

October, 2013

STATEMENT OF WISDOM IN SUPPORT OF CHANGING THE AGE OF PROSECUTION OF JUVENILES AS ADULTS

WISDOM is the Wisconsin affiliate of the Gamaliel Foundation, an interfaith organization comprised of more than one hundred and fifty congregations, of nineteen different faith traditions, and thousands of individuals.

We strongly support in principle legislation to change the age at which offenders are treated as adults in our criminal justice system from 17 years of age to 18 years old. We believe such a change, if properly designed, supported and implemented, would be a cost effective and humane way to improve public safety in our communities. *We believe that both Assembly Bill 387 and Senate Bill 308 are positive first steps toward accomplishing this important reform.*

Several reasons inform our position.

Children are Different and Should be Treated Differently Than Adults

The most important resource of any community – local, state or national – is its children. They are the heart of our families and the future of our communities. How we treat our children will profoundly affect our future and defines us as a community.

Children are different than adults. A growing body of evidence on adolescent brain development tells us that the teen years are a time of extraordinary vulnerabilities and opportunities for our children. While this can include a willingness to engage in high risk, non-empathetic and destructive behaviors without appreciation of immediate or long term consequences, it is also a time where positive opportunities can help young people mature, better regulate their emotions, and develop long-term goals, values, and priorities that can guide them through adulthood.

This being so, treating young persons as adult criminals is misguided for at least three reasons.

- First, mixing young offenders with older hardened offenders at a time when they are particularly vulnerable to peer influence can increase the risk they will embrace antisocial values and behaviors after their release. Similarly, sending young people to state institutions can weaken or destroy the offenders' positive ties to family and community. There is reason to believe the "tough on crime" mantra that led to treating all 17 year olds as adults has made our communities less rather than more safe.
- Second, the changes that occur with all young people during adolescence makes clear that the facts upon which sentencing decisions are based – predictions about future risk and retribution – will inevitably change. For this reason, a system that is flexible and responsive to changing circumstances best fits the juvenile offender. The rigidity and length of adult Truth in Sentencing punishments is rarely, if ever, appropriate for children.
- Third, we must take advantage of the potential for positive change that lies within all of our children. What we do with young people who offend will profoundly affect their future place in our communities. It is as much in our interest as theirs that we create a system that does not squander these opportunities.



**LEAGUE OF WOMEN VOTERS® OF WISCONSIN
EDUCATION NETWORK**

612 W. Main Street, #200
Madison, WI 53703-4714

Phone: (608) 256-0827
<http://www.lwwwi.org>

October 3, 2013

To: Assembly Committee on Corrections

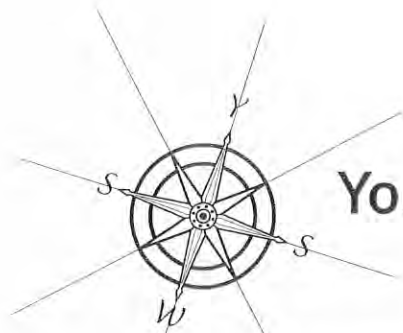
Re: Support for Assembly Bill 387

The League of Women Voters of Wisconsin strongly supports AB 387, the Second Chance bill, which would return first-time, nonviolent 17-year old offenders to juvenile court jurisdiction. In the mid -1990's there were increased moves and pressures to put juveniles under age 18 into the adult criminal justice system as part of a "tough on crime" strategy that put primary reliance on incarceration.

The League has always believed that the protection of society is not only based on incapacitation but also requires deterrence and, most importantly, reform. This opportunity for reform is especially necessary for juveniles.

The majority of arrests of 17-year olds in Wisconsin are for non-violent or minor offenses. Yet they are now being dealt with in adult criminal court. This proposed legislation would allow those young offenders to stay in the juvenile system which can provide more appropriate services and opportunities for restitution, rehabilitation and behavioral change which allows a "second chance." When the chances of reoffending are lessened, not only the juvenile but also the family and the community all benefit.

Thank you for this public hearing which gives us the opportunity to support AB 387 and its important improvement to Wisconsin juvenile justice.



Youth Services of Southern Wisconsin, Inc.

Guiding Youth Toward a Better Future

September 26, 2013

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 in strong support of AB387/SB308 which proposes to raise the age of adult court jurisdiction to eighteen (18) for first-time, non-violent youthful offenders.

Youth Services of Southern Wisconsin (Youth Services) is a major provider of services to court-involved youth in Dane County and southern Wisconsin. We provide several services for youth including restitution/community service programming, youth employment, intensive supervision for adjudicated youth, youth peer courts, and services for homeless and runaway youth. The agency serves approximately 1,500 youth and their families each year.

We frequently work with 17 year olds in our youth employment programs who face the challenge of having an arrest or conviction record for a minor offense as they seek their first job. This places unnecessary barriers to employment on these youth and increases the difficulties they face in getting their life on the right track.

We also work with 17 year old girls who have been victims of sex-trafficking but end up being charged with prostitution as adults which both "blames the victim" and eliminates their ability to get needed services in the juvenile system.

Youth Services is proud of our 35 years of success in holding juvenile offenders accountable for their offenses through restitution, community service, and intensive supervision programming. Over 90% of youth referred for these services successfully complete their court-ordered obligations. Since 1978, youth involved in these services have performed an average of 6,971 hours of community service each year and have paid an average of \$43,514 per year in restitution to victims of their offenses.

Like most people, we believe that youth are capable of changing, and we have seen positive changes in thousands of youth we have worked with over the years. We know that youth make mistakes, and we agree that they need to be held accountable for their mistakes. However, it makes no sense to continue to saddle 17 year old first-time, non-violent offenders with a life-long criminal record.

We applaud your common-sense approach to this issue and hope that your colleagues in the Legislature will support AB387/SB308. Please feel free to share this letter with others as you see fit.

Sincerely,



Casey S. Behrend
Executive Director



Wisconsin Juvenile Court Intake Association, Inc.

www.wjcia.org

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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

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



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.



DANE COUNTY

Joe Parisi
County Executive

October 3, 2013

Rep. Gary Bies
Chairman, Assembly Committee on Corrections
State Capitol, Room 216 North
Madison, WI 53708

Dear Chairman Bies:

Thank you and your colleagues for introducing AB 387 and SB 308 which would return 17 year old nonviolent offenders to the juvenile court and corrections systems. I support this initiative and request the committee forward the bills to the Rules Committee for scheduling.

In 1996 the Legislature changed the age of adult jurisdiction from 18 to 17 years old. According to a Wisconsin Council on Children and Families 2011 study, 250,000 seventeen year olds have been arrested since the 1996 law went into effect and about 75,000 spent time in the adult system. Many of these offenders would have been better served in the juvenile corrections system.

Your bills will allow these young men and women to receive needed services, graduate from high school, go on to higher education, get a job and become productive members of their communities. The stigma of a public, adult criminal record can jeopardize a young offender's ability to turn his or her life around.

I support the return of 17 year olds to the juvenile system because it better provides for the needs of these young people who are at a crossroads. By providing age appropriate services and protection from a damaging criminal record we can help ensure that our troubled 17 year olds have a better chance of success.

These bills present a chance for policy makers to offer a "smart on crime" approach to a serious social problem. We can continue to stigmatize and incarcerate young offenders - often times people of color - without offering help or we can provide hope and opportunity, both of which are lacking in the adult system.

With your support we can help these young people move successfully into adulthood and the work force and not adult prisons.

Sincerely,

A handwritten signature in black ink that reads "Joe Parisi". The signature is written in a cursive style with a large initial "J" and "P".

Joe Parisi
Dane County Executive

Cc: The Assembly Committee on Corrections
Dane County Legislative Delegation

Giving teens a second chance

By Patrick J. Fiedler
Sept. 19, 2013

I've been involved in the criminal justice system for over 30 years. Prior to serving as an attorney in private practice, I served as both a state and a federal prosecutor, as secretary of the Wisconsin Department of Corrections and as a circuit judge for 18 years. I presided in both adult criminal court and juvenile court.

From that vantage point, and from the perspective of someone who is also a father and a grandfather, I support the Second Chance Bill.

This important initiative would return first-time, nonviolent 17-year-old offenders to juvenile court jurisdiction, reversing portions of a law that was passed in 1996.

I was a judge in adult criminal court in the mid-1990s when 17-year-olds first became adults in the eyes of the criminal system. I saw teens coming in for lesser offenses, such as shoplifting. They were in an adult system that did not know how to handle them.

I felt frustrated because I knew these young people would have gotten better, more personalized services and better chances at success had they been in the juvenile system. In my opinion, their automatic placement in adult court did not make our communities any safer.

In the years since, research has only confirmed those early negative impressions. A study conducted by the Wisconsin Legislative Audit Bureau found that only about 50% of youths placed on adult probation successfully complete their probation. Youths placed in an adult prison also reoffend after release at higher rates than young people placed in a juvenile institution.

The Second Chance Bill is an opportunity for Wisconsin to be truly smart on crime. I believe it's also an opportunity for Wisconsin to treat 17-year-olds appropriately, fairly and effectively.

It's important to focus on four key areas:

- The Second Chance Bill focuses on first-time and nonviolent 17-year-olds.
- It includes a list of violent offenses that will remain as adult charges.
- It ensures that a 17-year-old with a previous delinquency adjudication will be prosecuted in adult court.
- It ensures that prosecutors and judges retain discretion in the most serious of cases by keeping current options for waiving a youth accused of a serious offense into adult court.

Whenever the state looks at changing our criminal statutes, it's critical to consider the effect it will have on crime victims. Based upon my time as a judge in juvenile court, I feel very strongly that the juvenile

system will be more effective in helping young people pay their debt to victims.

The juvenile system is very effective in providing opportunities for restitution, community service and dialogue between offenders and their victims. The juvenile system is also more likely to have success in connecting young people with the treatment they need to reduce the risk that they'll reoffend in the future.

The Second Chance Bill provides youths who have made a mistake a second chance at a brighter future, one that allows them to graduate from high school, attain higher education, find employment and positively contribute to society without an adult criminal record holding them back.

Currently, Wisconsin is one of only 11 states that treat all 17-year-olds as adults. As a father and member of the legal community, I believe it's time for Wisconsin to look forward and return nonviolent 17-year-olds to juvenile court and truly give them a second chance.

Patrick J. Fiedler is the 58th president of the State Bar of Wisconsin. He served as a Dane County circuit judge from 1993 to 2011 and was secretary of the Wisconsin Department of Corrections from 1991 to 1993. He also served as U.S. attorney for the Western District and as Waukesha County assistant district attorney. Fiedler is a partner at Axley Brynelson LLP.

Find this article at:

<http://www.jsonline.com/news/opinion/giving-teens-a-second-chance-b99102090z1-224485461.html>

Check the box to include the list of links referenced in the article.



September 12, 2013

Stop charging nonviolent 17-year-olds as adults: Our View

Proposal to keep nonviolent minors in juvenile system is worthwhile

A 17-year-old is not an adult. They don't have the legal rights of adults; they're not treated as adults by public agencies or private companies; and there is good science showing that their brains are not fully developed, especially when it comes to impulse control and thinking about long-term consequences.

If you have had a 17-year-old, or if you've been one, this is pretty obvious stuff.

So why does Wisconsin treat 17-year-olds exactly like adults in the legal system?

The answer is a law Wisconsin passed in 1995 that changed the legal age at which a person is considered an adult from 18 to 17.

Now a bipartisan group of legislators including state Sen. Jerry Petrowski, R-Stettin, wants to change the law to allow 17-year-olds who are first-time offenders and whose offenses are nonviolent <http://www.wausaudailyherald.com/viewart/20130906/FON0101/309060318/Juvenile-offenders-proposal-has-support-critics> to be placed under the jurisdiction of the juvenile system, not adult court.

The limited change makes sense, and it's important to understand that it *is* a limited change: 17-year-olds who commit violent crimes or who have been charged before would not be eligible for the exception. That's enough to convince us that there is not a public safety cost to making this change.

And there very well could be real economic benefits. It's being called the "second chance" bill because it also would mean that these minors would not be burdened with the black mark of their arrest when applying for a job, a college or postsecondary school or a student loan. If charging fewer 17-year-olds can end up allowing more young people to get the training they need to enter the workforce, that would be a remarkable step forward in the way Wisconsin deals with crime.

The proposal is opposed by GOP state Attorney General J.B. Van Hollen on the grounds that judges already can choose to charge 17-year-olds as juveniles. But judges do not have the power to refer these offenders to the juvenile justice programs, which are more intensive and more likely to foster actual rehabilitation.

Think of it this way: A 17-year-old first-time, nonviolent offender who gets a fine or probation has little reason to rethink his or her decisions. It's simply a punishment. Juvenile justice programs, on the other hand, often focus on demonstrating consequences and helping young offenders get the mental tools to make different, better decisions in the future.

It's easy for politicians to fall back on "tough-on-crime" rhetoric, but sponsors of this bill say they prefer to be "smart on crime." In a state that now spends more on corrections than it does on the University of Wisconsin System, we need more of that.

We applaud Petrowski for being willing to lead on this issue, and we hope to see the "second chance" bill get a fair hearing in the fall legislative session, and the support of a broad coalition of lawmakers.

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Effort aims to give teens a 'Second Chance'

By Andrew Dowd Leader-Telegram staff | Posted: Saturday, September 28, 2013 12:00 am

Wisconsin attorneys are pushing to undo a law - enacted in the mid-1990s in reaction to a wave of juvenile crime - that puts 17-year-olds in the adult criminal justice system.

The State Bar of Wisconsin is one of the lead groups lobbying for the "Second Chance Bill," a proposal that would put first-time, nonviolent 17-year-old offenders through juvenile court rather than adult court, where offenders can be sentenced to jail or prison.

"They end up experiencing something 17-year-olds shouldn't be experiencing," George Brown, executive director of the State Bar, said Thursday during a visit to Eau Claire.

Younger inmates can be abused by larger convicts or learn more advanced criminal techniques in jail, Brown said. Putting them into the adult justice system decreases their opportunities for jobs, good housing and joining the military, Brown said, but raises the likelihood they'll reoffend.

The state Assembly's Committee on Corrections will be the first to review the bill in a public hearing set for Thursday in Madison.

While previous efforts didn't get much traction, Brown said he's confident the current bill has the right scope and support to do well in the Legislature.

Lead authors of the bill in their respective houses - Rep. Gary Bies of Sister Bay and Sen. Jerry Petrowski of Marathon - are Republicans, which hold majorities in the Assembly and Senate. The bill has a total of 54 co-sponsors.

Rob Fadness, director of Eau Claire County's Children's Court Services, praised the bill as undoing the state's 1996 decision that turned 17-year-olds into adult offenders.

"I was not in favor of that law when it was first proposed," he said. "The juvenile system itself is set up and designed with the understanding that juveniles are not the same physically, mentally or emotionally as adults and therefore should not be treated the same as adults."

Fadness recalls that the change was made after juvenile crime peaked in the mid-'90s. But even by the time it was enacted, Fadness said the trend was receding.

"We had gone down two years prior to actual implementation of that law," Fadness said.

Juvenile referrals in Eau Claire County peaked in 1994 with 2,889 cases, he said. By 1996 it had dropped to 2,471 cases, and it has kept falling - last year's caseload was 986.

A State Bar fact sheet on the bill also stated that juvenile crime has dropped after peaking in 1994.

Illinois and Connecticut recently approved laws similar to the "Second Chance Bill," leaving Wisconsin in the minority of states that treat all 17-year-old offenders as adults.

"We're now only one of 11 states that still has this," Brown said.

The Second Chance Bill still would send 17-year-olds charged with violent crimes, weapons offenses and some sex crimes directly to adult court. And juvenile courts would retain the option of sending nonviolent offenders to adult courts.

While Fadness and other supporters of the bill note the gains young offenders would get through treatment and staying clear of older criminals, the costs of the proposal are unknown. "That's the \$10,000 question," he said.

In addition to moving more offenders into the juvenile justice system, Fadness noted that many offenders are monitored and given treatment through the county's Department of Human Services.

Fiscal estimates by three state agencies couldn't determine how much the bill would cost state or local governments.

A Department of Corrections fiscal estimate published Monday on the bill states that the bill would shift people and costs from the adult justice system into juvenile courts. While a price for that couldn't be accurately estimated, the department noted that juvenile detention, monitoring and treatment costs more than similar programs for adults.

Wisconsin's Government Accountability Board reported that a state branch of the League of Women Voters and the Wisconsin Council on Children & Families lobbied in support of the bill, in addition to the State Bar. However, the Wisconsin Counties Association has registered in opposition of it.

"The reason for our opposition is budgetary," said Sarah Diedrick, senior legislative associate with the Wisconsin Counties Association.

The bill fails to address the added costs for counties.

A precise estimate has been hard to make, Diedrick said, but a \$10 million minimum cost is expected for counties. And in the last state budget, counties got their youth aids appropriation cut by that amount.

"They want to add more kids to the system at a time when we're still dealing with a \$10 million loss in state funding," Diedrick said.

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