



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Senate Bill 652

Senate Committee on Judiciary and Public Safety | January 29, 2020 | Room 425 Southwest

Thank you Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety for holding a hearing on Senate Bill 652. This legislation seeks to provide a narrowly tailored solution to a narrow problem that was brought to my attention by a circuit court judge in Washington County.

The root of the problem lies in a discrepancy between parallel statutes that compute the deadline for holding detention hearings. Due to this discrepancy, county courthouses must be prepared to remain open under circumstances where they would otherwise be closed. For example, the Children's Code (Chapter 48) requires a detention hearing to be held within *48 hours* of the time in which the decision to hold a child is made, with the exception of Saturdays, Sundays, and legal holidays [s. 48.21(1)(a), Stats.]. Under the Juvenile Justice Code (Chapter 938), the detention hearing must be held within *24 hours* after the end of the day in which the decision to hold the juvenile is made, with the exception of Saturdays, Sundays, and legal holidays [s. 938.21(1)(a), Stats.].

Washington County's courthouse remained open during the period of life-threatening temperatures experienced last January so as to not risk losing jurisdiction over pending Chapter 938 matters. County employees and courthouse staff also must be prepared to report for Chapter 938 detention hearings on certain "non-legal" holidays, such as the Friday after Thanksgiving and Christmas Eve [s. 995.20, Stats.].

SB 652 seeks to place county governments in a better position to save limited resources and protect the safety of their employees and the public by excluding a day in which the clerk of courts office is closed from the computation of the 24-hour detention hearing deadline under Chapter 938.

It should be noted that county human service departments aim to place youth in the least restrictive placement setting whenever possible. From the moment a youth is taken into custody, the staff assigned to the case is held accountable for getting the youth to a lower level of care as soon as possible, regardless of when the detention hearing is held. SB 652 is not seeking to significantly increase the frequency or duration of placements in secure detention or shelter settings. Moreover, the bill does nothing to alter the responsibility of county HSDs to strike the appropriate balance based on the seriousness of the offense in question.

In light of the narrow scope of the problem we are seeking to address, and in understanding that juvenile detention facilities are not an ideal setting for our youth, we believe the mechanism created under SB 652 serves as a viable alternative to an across-the-board increase in the default hearing deadline.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on Senate Bill 652

January 29, 2020

Thank you Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety for giving us a hearing on Senate Bill 652. This legislation seeks to solve a problem that a judge in Washington County found and raised to my attention.

There is a discrepancy between how a court needs to compute deadlines in different juvenile proceedings. This difference, at best, can cause confusion or unnecessary expense. At worst, the difference could be missed and a county could let a deadline slip, with significant legal consequences.

Chapter 48 requires a detention hearing to be held within 48 hours, excluding Saturdays, Sundays, and legal holidays. Under Chapter 938, the detention hearing must be held within 24 hours with the same exclusions. After talking with stakeholders, it appeared the simplest solution, of making all holds 48 hours, would draw some opposition from advocates. We therefore went with the solution in SB 652, which is to remove from the deadline calculations any day the courthouse is otherwise closed.

Washington County's courthouse remained open during the period of life-threatening temperatures experienced last January so as to not risk losing jurisdiction over pending Chapter 938 matters. County employees and courthouse staff also must be prepared to report for Chapter 938 detention hearings on certain "non-legal" holidays, such as the Friday after Thanksgiving and Christmas Eve.

In light of the narrow scope of the problem we are seeking to address, and in understanding that juvenile detention facilities are not an ideal setting for our youth, we believe the mechanism created under SB 652 serves as a viable alternative to an across-the-board increase in the default hearing deadline. It will make unnecessary some of the expensive precautions counties must now take to meet the incredibly tight 24 hour hearing deadline in the law. Thank you.



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Governor Tony Evers
Secretary Emilie Amundson

Secretary's Office

TO: Chair Wanggaard and Members of the Senate Committee on Judiciary and Public Safety
FROM: Devon Lee, Youth Justice Policy Coordinator, Bureau of Youth Services
DATE: January 29, 2020
SUBJECT: 2019 Senate Bill 652

Chair Wanggaard and Members of the Senate Committee on Judiciary and Public Safety:

My name is Devon Lee and I am a Youth Justice Policy Coordinator in the Division of Safety and Permanence at the Department of Children and Families (DCF). Before joining DCF, I worked at the Office of the State Public Defender first as a staff attorney handling juvenile cases and later as the agency's Legal Counsel. The Department is testifying for information only on 2019 Senate Bill (SB) 652.

DCF appreciates legislative interest in issues affecting vulnerable and at-risk youth. DCF is concerned that Senate Bill 652 will negatively impact vulnerable and at-risk youth by causing them to spend additional time in detention. Youth who are taken into custody 1 or 2 days before a clerk of courts office is closed due to a holiday and/or inclement weather could be held in detention longer under the proposed statutory change in SB 652 than under current law.

Currently, for juvenile justice proceedings under Chapter 938, when a juvenile is taken into secure custody and held by a county human service worker, the circuit court must hold a detention hearing within 24 hours after the end of the day on which the decision to hold the juvenile was made, excluding Saturdays, Sundays and legal holidays. SB 652 would extend the 24-hour time limit for holding a hearing by excluding days when the clerk of courts office is closed for other reasons, such as a day adjacent to a legal holiday or inclement weather.

There is justification for a lack of parity between Chapters 48 and 938 regarding the computation of timelines for when a hearing must be held for a youth held in secure custody.

Chapters 48 and 938 currently set different time limits for holding a hearing for a child/juvenile in custody – 48 hours for the former and 24 for the latter. The prevalence of custodial placement in detention for delinquency cases warrants a dissimilar approach. Wisconsin Statute section 48.208

allows a child in need of protection or services to be held in a secure placement such as a detention facility only if the child consents in writing or if there is probable cause to believe that the child, having been placed in nonsecure custody, has run away or committed a delinquent act and no other suitable alternative placement exists. In practice across Wisconsin, children are rarely held in a detention facility under this Chapter. For a youth to be held in a juvenile detention facility under Wisconsin Statute section 938.208, there must be probable cause to believe that the youth has committed a delinquent act and presents either a substantial risk of physical harm to another or a substantial risk of running away. In practice, youth are held in detention under this subsection of Chapter 938 much more frequently than under Chapter 48.

Research has found that youth who are held in detention for even one night have appreciably worse outcomes than youth who are never held in detention. Juvenile incarceration in and of itself can affect high school completion and future criminal activity through two potential channels: changing the skills or actions of the individual juvenile - a behavioral channel - or changing the ways in which institutions regard and treat the individual - a deviant labeling channel. With respect to the former, incarceration in a detention facility can negatively affect a child's mental health, leading to behavioral issues in school and at home. Youth in detention facilities receive fewer education services, are more likely to report difficulty sleeping because of light which remain on through the night at some facilities, and often have a history prior to detention of trauma and victimization so that confinement under any conditions retriggers and exacerbates the previous trauma. For these youth extending the length of stay in detention by even one day can have a damaging and compounding effect.

To conclude, the burden to county clerk of courts offices and personnel to hold the occasional detention hearing on the Friday after Thanksgiving or after a significant snowfall should not trump the system's obligations to address vulnerable and at-risk youth in a timely and productive manner. By excepting Saturdays, Sundays and legal holidays, the statute as currently written, already provides sufficient consideration to county staffing and scheduling issues.

DCF appreciates the opportunity to testify for information on this bill. We are dedicated to continuing to work with legislators in ways that support all of Wisconsin's youth, including those who are most vulnerable and at risk. I would be pleased to answer any questions from the committee. Thank you.



Office of the County Administrator

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Assembly Bill 724/Senate Bill 652: Juvenile in Custody Hearing Timelines

Public Affairs Coordinator Ethan Hollenberger

This bill seeks to clarify when the clock starts for a juvenile held under the juvenile justice code. Under current law, a juvenile must have a hearing for a temporary physical custody (TPC) within 24-hours of being held, with weekends and state holidays pausing the clock. This bill seeks to add days the courthouse is closed to weekends and state holidays.

To be very clear, this is a technical fix bill. This is not a tough on crime bill. This is a bill seeking to balance county resources. This bill seeks to give counties more flexibility with our professionals.

A Juvenile is Arrested

As most counties do, Washington County engages both law enforcement and Human Services Department social workers find the *least restrictive* placement for the juvenile. Washington County has both a secured and shelter facility. Additionally, we may utilize foster families or kin to place the child.

Social workers are making the call for the best placement for the community and the child.

Trauma Informed Practices are Essential

The Department of Children and Families testimony seems to imply trauma informed practices are not utilized when placing children in secured facilities. We know many juveniles in secured facilities have significant trauma.

Counties around the state are using the best trauma informed practices. The county and the state are partners. This bill allows county professionals to do what is best for the child. In Washington County's secured facility, we have six juveniles. Four are in TPC. One is a Washington County resident and is being held in secure for a violation of non-secure.

Step Down is Already Required and Used in Practice

Wisconsin law already mandates our social workers begin a step down process. This means we have to move juveniles to lower restrictions as quickly as possible. No Wisconsin county should be locking away juveniles for extended periods of time unless the law or social workers believe it is in the best interest of the juvenile.

Lack of Parity Between Chapters 48 and 938 is Maintained

This bill is compromise. An initial draft moved all juvenile justice hearings to 48-hours. We felt a narrow reform was best for children, communities, and county resources.

In the end, this bill allows counties more adaptability when courthouses are closed. Should DCF want to discuss other alternatives to secured, that would be merited in a different bill.