



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Assembly Bill 724

Assembly Committee on Judiciary | January 16, 2020 | Room 300 Northeast

Thank you Chairman Ott and members of the Assembly Committee on Judiciary for holding a hearing on Assembly Bill 724. 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.

Due to a discrepancy between parallel statutes that compute the deadline for detention hearings under Chapter 48 and Chapter 938, county courthouses must be prepared to remain open under circumstances where they would otherwise be closed. Under Chapter 48, the detention hearing must be held with *48 hours* of the time in which the decision to hold a child was made, with the exception of Saturdays, Sundays, and legal holidays.¹ Under 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 was made, with the exception of Saturdays, Sundays, and legal holidays.²

Washington County's courthouse remained open during the two-day stretch of "life-threatening temperatures" experienced last January so as to not risk losing jurisdiction over pending Chapter 938 matters.³ 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.⁴

As a bit of background, the origin of the discrepancy dates back to a law change that was recommended by the 1995 Special Committee on Children in Need of Protection or Services, which increased the detention hearing deadline under Chapter 48 from 24 to 48 hours.⁵ Since the scope of the special committee was limited to CHIPS matters, the parallel statute under Chapter 938 was not commensurately increased.

AB 724 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.

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 AB 724 serves as a viable alternative to an across-the-board increase in the default hearing deadline. While we considered applying the same mechanism to the computation of detention hearing deadlines in other areas of the statutes, the crux of the matter lies in Chapter 938.

¹ s. 48.21(1)(a), Wis. Stats.

² s. 938.21(1)(a), Wis. Stats.

³ 2019 Executive Order 5, relating to Declaring a State of Emergency in Response to Severe Winter Weather.

⁴ s. 995.20, Wis. Stats.

⁵ 1995 Wisconsin Act 275, Section 31

Andrew T. Gonring
Circuit Court Judge, Branch 4

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January 15, 2020

Members of the Assembly Committee on Judiciary
Wisconsin State Capitol
2 E Main St
Madison WI 53703

Re: 2019 Assembly Bill 724

Dear Committee Members:

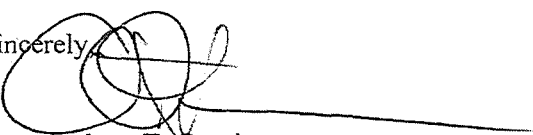
I am writing to personally thank you for considering 2019 Assembly Bill 724 which was initiated at my request. This bill, if passed, will not only result in a savings to State and local County government, but also help insure the safety of their employees while unifying Wisconsin law.

Under existing law, a Court is required to hold a hearing on any juvenile taken into custody under Section 938.21 of the Wisconsin Statutes within 24 hours of the day on which the decision to hold the juvenile was made. The statutes controlling the timing of that hearing do not take into account those days in which the local courthouse is closed due to either a non-State local holiday or a situation, as we saw several times last winter, where the courthouse is closed for weather conditions in an attempt to protect the safety of County employees.

As a result, it is necessary to be prepared to conduct a hearing within 24 hours of the juvenile being taken into custody even under those circumstances. That requirement involves having the courthouse open, Sheriff's Department personnel present, as well as the coordination of employees of the Clerk of Courts office, the State Public Defender's office, the District Attorney's Office and Court personnel, all of whom are required to be present. Not only do those requirements result in increased costs to the governmental units involved, but, in the case of inclement weather for example, pose a significant safety risk to those who need to make it to the courthouse for such a hearing despite the fact that County government leaders have determined to close the courthouse for safety reasons on that day. The corresponding Wisconsin statute under Chapter 48 allows for a similar hearing to be conducted within 48 hours. That timing, *de facto*, avoids situations where the courthouse is closed for a non-State local holiday or closed for a day due to inclement weather.

2019 Assembly Bill 724, in my opinion, is logical, unifies state law, and results in savings while protecting local employees. I urge the Wisconsin Legislature to pass this Bill.

Sincerely,



Hon. Andrew T. Gonring
Circuit Court Judge, Br 4



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Governor Tony Evers
Secretary Emilie Amundson

Secretary's Office

TO: Chair Ott and Members of the Assembly Committee on Judiciary
FROM: Ragen Shapiro, Section Manager, Bureau of Youth Services
DATE: January 16, 2020
SUBJECT: 2019 Assembly Bill 724

Chair Ott and Members of the Assembly Committee on Judiciary:

My name is Ragen Shapiro and I am the Section Manager in the Bureau of Youth Services for the Division of Safety and Permanence at the Department of Children and Families (DCF). Before joining DCF, I served as a Program and Education Coordinator at the Department of Corrections. Prior to my time at DOC, I was an Assistant District Attorney for 12 years in Dane County. The Department is testifying for information only on 2019 Assembly Bill (AB) 724.

DCF appreciates legislative interest in issues affecting vulnerable and at-risk youth. DCF is concerned that Assembly Bill 724 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 AB 724 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. AB 724 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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Testimony on Assembly Bill 724

Public Affairs Coordinator Ethan Hollenberger

Thank you Chairman Ott for hearing this bill today.

Last winter, Washington County was one of many counties who closed our doors due to weather. Some counties closed multiple days due to the cold. Each year, Washington County closes our doors the day after Thanksgiving. Most counties are also closed on Christmas Eve. None of these situations are state recognized holidays; therefore, requirements for hearings are still in effect.

When a juvenile is taken into custody under the Juvenile Justice Code, the county must hold a hearing within 24 hours. The exceptions are Saturday, Sundays and state legal holidays.

Holding a hearing requires the coordination of many different departments including judges, court reporters, human services personnel, sheriff's office, district attorney, state public defender, and others. All of these folks must be called in to coordinate a quick hearing on a day the Clerk of Circuit Court is closed.

This bill provides a narrow exception to exclude any day the Office of the Clerk of Circuit Court is closed. As I mentioned, it is not just the clerk's office that is closed and must call in staff.

Through our mission statement, Washington County seeks to provide each of our citizens an "authentic quality of life" and "access to basic needs." This bill provides us the ability to ensure adequate resources are available for the hearing while protecting the civil rights of the juvenile.

This is a simple bill that will allow us to better serve our citizens and staff.

Jefferson County HUMAN SERVICES Department

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TO: Chairman Ott and Members of the Assembly Committee on Judiciary
FROM: Brent Ruehlow, Deputy Director, Jefferson County Human Services
DATE: January 15, 2020
SUBJECT: 2020 Assembly Bill 724

Chairman Ott and Members of the Assembly Committee on Judiciary:

My name is Brent Ruehlow and I am the Deputy Director for Jefferson County Human Department. I will be providing written testimony in opposition to 2020 Assembly Bill 724.

I am writing in response to the proposed legislation changes in AB 724 to amend 801.15 (1) (b) and 938.21 (1) (a) of the statutes; relating to calculating the timeline for holding a hearing to determine whether to continue to hold a juvenile who is taken into custody under the Juvenile Justice Code. While the proposed changes to the timeline calculation on the surface seem minimal, the impact could have long lasting traumatic effects on our juveniles. Currently, the timeline for appearing in court following a placement in secure detention under Wisconsin Chapter 48 is 48 hours and is 24 hours under Chapter 938. While both Chapters' 48 and 938 allow for placement in secure custody, these placements are more likely going to occur under Chapter 938; thus, necessitating an expedited timeline for a TPC Hearing in order to address a juvenile's placement in secure detention. The proposed changes to allow for Clerk of Courts Offices to be closed and not counted in the calculation will force hearings to be delayed and result in youth remaining in a secure setting for longer periods of time than reasonable. The unintended consequences could grow exponentially as a result of this proposed legislation, which could include staffing issues, inclement weather, and extended days off following a recognized holiday at a Clerk of Courts Office, all of which do not support our model of practice in Wisconsin. Our youth deserve swift due process and the chance for adversary counsel to represent their best interest in a timely manner, as well as the opportunity for local Human Services and Social Services Agencies to develop plans so that youth can safely return to their community. While secure detention is utilized for immediate safety concerns, by and large, these youth are returned home at the TPC Hearing due to feasible and sustainable community based plans being formulated that allow for these youth to return home or to another non-secure setting. As a Child Welfare and Juvenile Justice system, both locally and nationally, we now know a great deal about trauma and the negative impact any placement outside the home can have on a youth, let alone a placement in a secure setting. Adopting this proposed legislation would be a regression in restorative justice principles, as well as growth in our trauma informed practice.