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👉 **10/03/2013 Public Hearing**

(FORM UPDATED: 08/11/2010)

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

2013-14

(session year)

Assembly

(Assembly, Senate, or Joint)

**Committee on ...
Corrections
(AC-Co)**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (December/2014)



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.

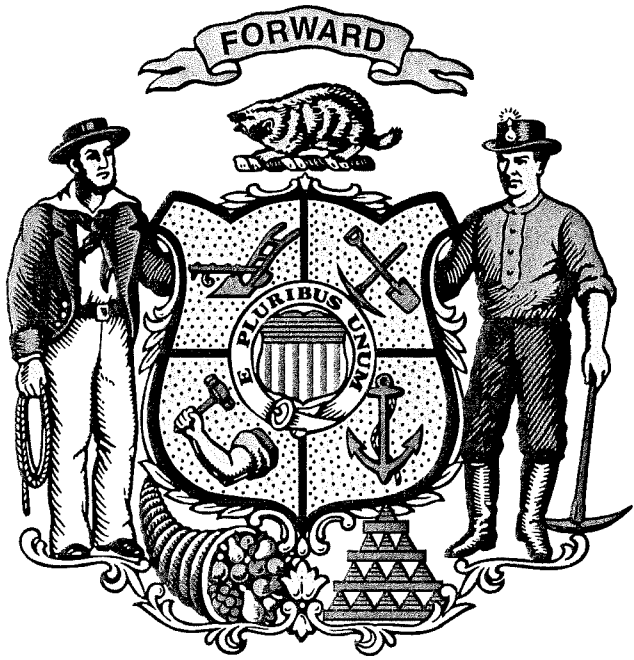
With your support we can help these young people move successfully into adulthood and the work force and not adult prisons.

Sincerely,

A handwritten signature in cursive script that reads "Joe Parisi".

Joe Parisi
Dane County Executive

Cc: The Assembly Committee on Corrections
Dane County Legislative Delegation





STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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October 3, 2013

TO: Members, Assembly Corrections Committee

FROM: Attorney General J.B. Van Hollen

RE: Assembly Bill 387, relating to juvenile court jurisdiction

Dear Chairman Bies and Committee Members:

The Department of Justice opposes adoption of Assembly Bill 387, commonly known as the "Second Chance Bill" for 17 year-old offenders, and respectfully urges the committee to reject the proposal.

Proponents of the bill provide no empirical or anecdotal evidence that the bill will have a positive effect on public safety. While this alone recommends that the committee proceed with great caution, this proposal erodes the fundamental accountability of and deterrent effect on criminal actors as established by current law. Should this not be sufficient reason to reject the proposal, please consider the following:

PROSECUTORIAL DISCRETION

Under current law, prosecutors have wide latitude and discretion on charging and disposition of criminal complaints including those of 17 year-olds. This authority conveys sufficient and appropriate discretion to charge, compromise, and direct optional disposition of the actor based on provable facts in a criminal complaint and other appropriate factors. This authority, exercised at the local level by accountable officials, allows for proper balancing, precision, and accountability.

Among the options available to prosecutors and all offenders is to not prosecute the offender; a reduction in charging to include a civil forfeiture; the opportunity for an offender to participate in a deferred prosecution program; and the recently expanded availability of treatment and diversion options to include drug courts and treatment which have proven to be both effective at increasing public safety while providing taxpayers longitudinal cost savings.

COURTS SPECIAL DISPOSITION

Current law further contemplates, under 973.015, a special disposition for those offenders who committed their crime prior to reaching age 25. This special disposition allows the court to order at the time of sentencing that the defendant's "*record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition.*" Wisconsin courts routinely invoke this disposition.

CRIME VICTIMS

While the bill encourages the legislature provide a "second chance" for 17 year-olds engaging in criminal behavior, no such second chance can be established by the legislature for the victims of these criminal acts. Wisconsin's Constitution enumerates rights for crime victims. Enactment of Assembly Bill 387 will adversely impact these rights. Every consideration should be given to the impact on the victims as changes in current criminal law are considered.

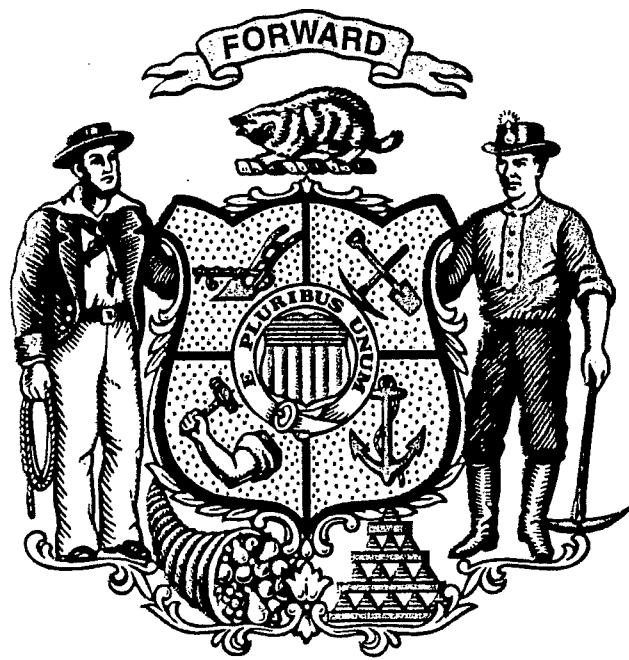
NARROW SCOPE?

While the bill appears to be narrow in its impact by requiring only 17 year-olds who are first time offenders and those not charged with violent crimes be removed to juvenile dispositions, these terms are not sufficiently defined nor is their application uniform or predictable. Before the law is changed based on any comfort given policy makers by these two considerations, each should be exhaustively defined and their application thoroughly understood.

COST

The department anticipates a limited fiscal impact on its operations. Costs to other agencies and units of government are likely to be substantial with no anticipated benefit to public safety or an offender's successful reintegration following the incident of crime. These costs must be weighed with other criminal justice demands proven more effective or of a higher policy priority.

Clearly, second chances already exist in current law. The need, not the desire, for more has not been proven.



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.

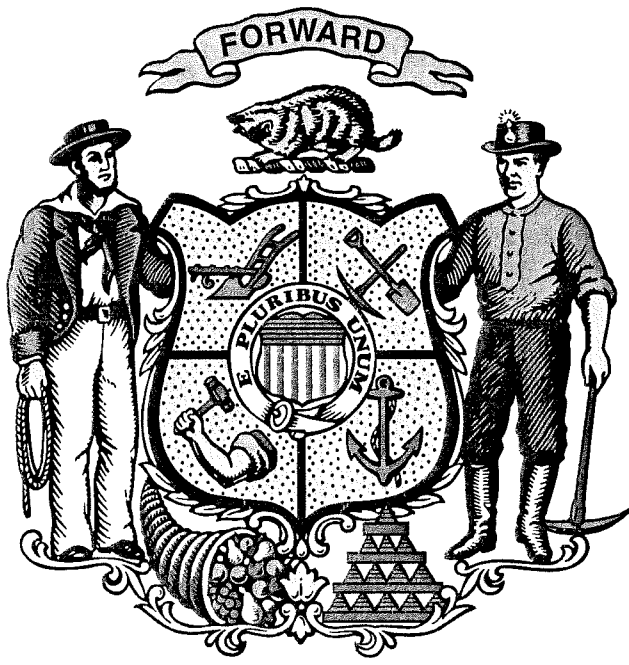
Jane Addams, the "mother" of the social work profession and the founder of the famous Settlement House called Hull House, knew instinctively in 1899 what we know from research today-that children are different than adults and should be treated as such when they commit non-violent crimes. In 1899 as a 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 Bill 387.





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.

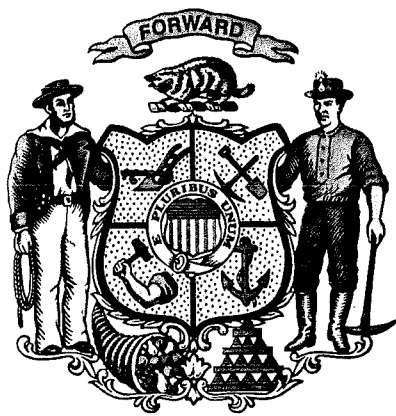
Furthermore, in their 2000 statement, *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, the U.S. bishops were explicit in their opposition to treating young offenders as adults:

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 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 "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 were 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 an one of his experiences, Kirk journaed 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.

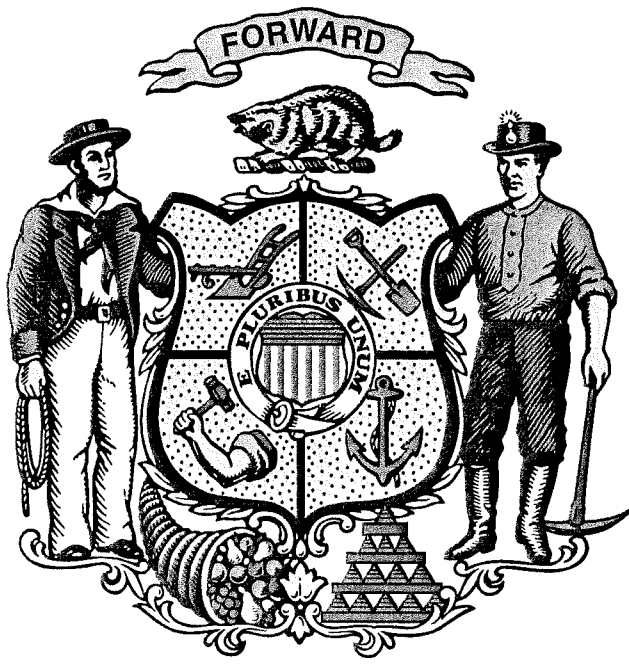
You need to understand that our son committed a violent crime, so AB387 would not have impacted him, however knowing what I know today, and have learned through this nightmare we live, I cannot sit back and not advocate for our youth. I am not asking nor implying that our youth should not be held accountable, 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





**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

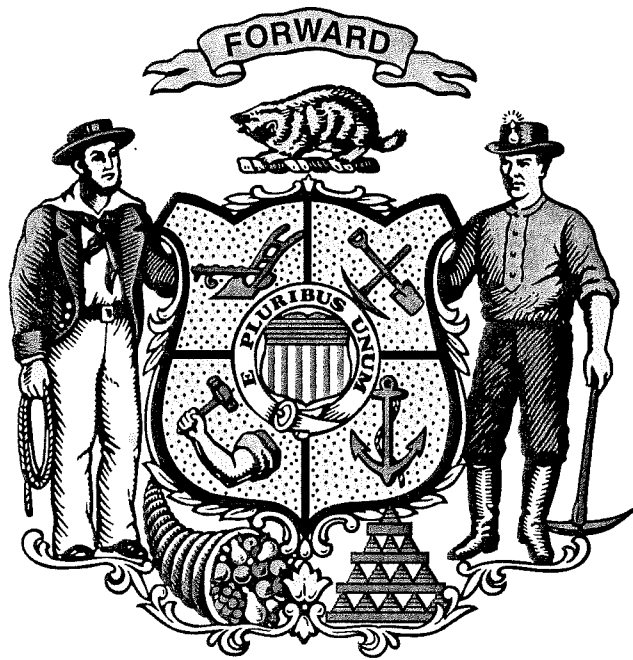
Re: Support for Assembly Bill 387

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.





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

** Follow up*

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

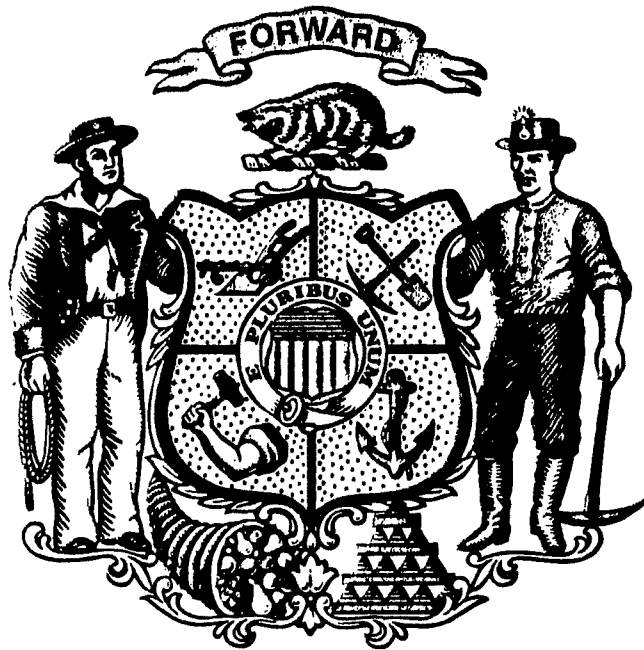
I work primarily with the women at the Dane County Jail. It is my belief that the majority of women I see for spiritual care are victims. ... Sexual assaults in the military, date rape, domestic violence, childhood incest are examples of the life circumstances which are outside of their control; circumstances 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.



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.ⁱⁱ
- 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>

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NCCD | National Council on
Crime & Delinquency

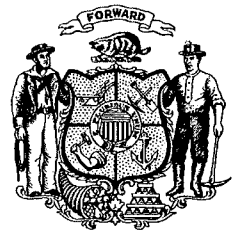
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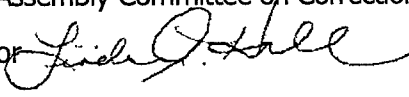


WISCONSIN STATE LEGISLATURE



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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.

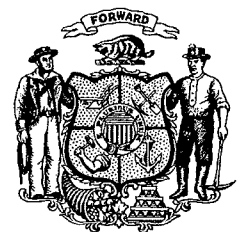
In fact, there is little question whether or not AB 387 is the right policy for Wisconsin. Nevertheless, for nearly a decade the question of funding for the juvenile justice system has been a barrier to moving Wisconsin's policy into the 21st Century.

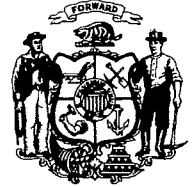
As the primary service delivery agents for youth services for counties, WAFCA shares the concerns of our county partners regarding the state responsibility for adequately funding this important policy change. Local county taxpayer dollars fund almost half of the annual expenditures on youth adjudicated 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.





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.

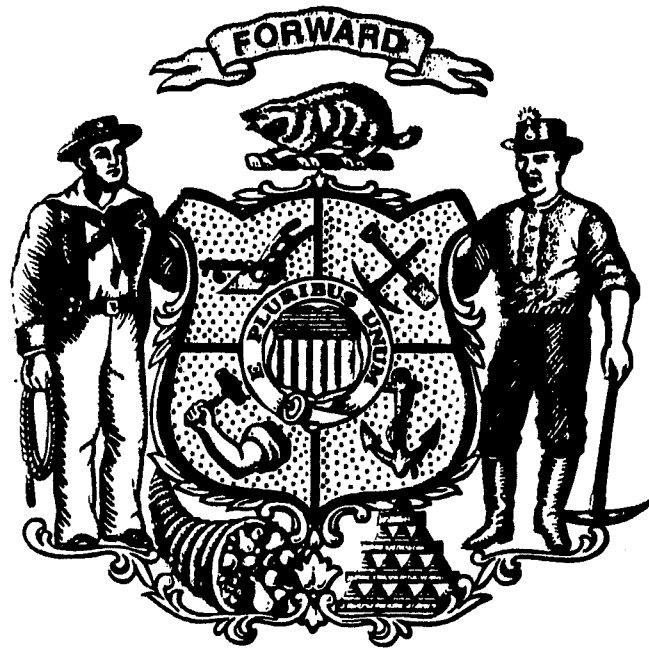
Second, when those programs and those 17 year olds fail, the consequences are life-long. The reality of what an adult criminal conviction means for the life of a young person in Wisconsin is staggering. With just one conviction, multiple doors begin to close and I have witnessed the hope and ambition 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.





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

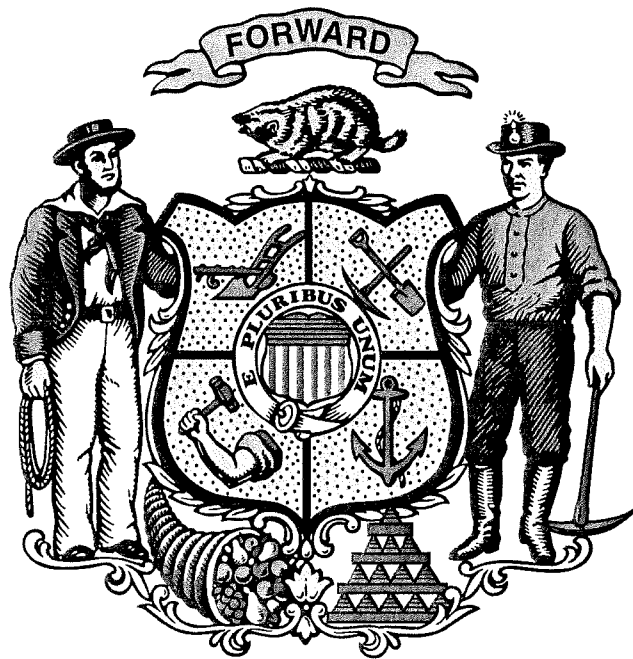
It is important to note that the rights of victims are still recognized and protected. The Juvenile Code places equal importance on victims' rights, as does the adult system. Law enforcement, human service staff, prosecutors and judges are required to provide the same services that all victims are entitled 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 Brynson LLP.



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
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Onalaska WI 54650
608.385.7600