



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Assembly Bill 249

Assembly Committee on Judiciary | October 6, 2021 | Room 412 East

Thank you Chairman Tusler, Vice-Chair Kerkman, and members of the Assembly Committee on Judiciary for holding a hearing on Assembly Bill 249. 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 periods of life-threatening temperatures experienced in winter months 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.].

AB 249 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. AB 249 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 AB 249 serves as a viable alternative to an across-the-board increase in the default hearing deadline.



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on Assembly Bill 249

October 6, 2021

Thank you Chairman Tusler and members of the Assembly Committee on Judiciary for hearing Assembly Bill 249. This legislation is a re-introduction of 2019 AB 724, which passed the Assembly on a voice vote, but was not taken up in the Senate due to the cancellation of the March 2020 floor session. AB 249 incorporates a compromise amendment with the Department of Children and Families from last session. The companion to AB 249 (SB 264) passed the Senate on a voice vote last week.

Last session's iteration of AB 249 was introduced in response to an issue that was brought to our attention by a Washington County Circuit Court judge. The issue lies in the computation of the timeline in which detention hearings for juveniles must be held after they are taken into custody. Under Chapter 48 of the statutes, a detention hearing is required to be held within 48 hours, excluding Saturdays, Sundays and legal holidays. Under Chapter 938, a detention hearing is required to be held within 24 hours with the same exclusions.

The disparity between the detention hearing timelines raised concerns within Washington County's Circuit Court in January 2019, when the courthouse remained open during a period of life-threatening temperatures (in which a state of emergency was declared) so as to not risk losing jurisdiction over pending Chapter 938 matters. County employees and courthouse staff must also be prepared to report for Chapter 938 detention hearings on certain "non-legal" holidays, such as the Friday after Thanksgiving and Christmas Eve. A county risks losing jurisdiction over a pending case and undermining public safety if it fails to hold a detention hearing within the prescribed statutory timeline.

AB 249 provides a narrowly-tailored solution to the narrow problem identified by county officials. The bill simply excludes days in which the clerk of court's office is closed due to inclement weather or other unforeseen emergencies from the computation of the detention hearing timeline under Chapter 938. It is our belief that this compromise will help county courthouses avoid situations where they are forced to hold detention hearings at an increased expense, while at the same time avoiding prolonged stays at juvenile detention facilities for individuals brought into custody.



Office of the County Executive

Joshua Schoemann, County Executive

Herbert J. Tennes Government Center
432 E. Washington Street, Room 3029
P.O. Box 1986
West Bend, WI 53095-7986
(262) 306-2200

Assembly Committee on Judiciary

Testimony on Assembly Bill 249: Juvenile in Custody Hearing Timelines

Thank you Representative Tussler for holding a public hearing on Assembly Bill 249, relating to hearing timelines for juveniles in custody.

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, excluding weekends and state holidays. Washington County supports AB 249, allowing inclement weather or another unforeseen emergency to be considered when scheduling a juvenile hearing for TPC, to balance county resources while allowing all professionals and services involved in the juvenile hearing to adequately process and participate in serving juveniles during intake, court appearance and follow up.

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. In addition, Wisconsin law already mandates our social workers begin a step-down process. This means we must 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.

Washington County supports passage of Assembly Bill 249, allowing for adaptability when courthouses are closed due to unforeseen circumstances.

Thank you for consideration of my written testimony.