



Illinois childhood trauma coalition

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February 9, 2015

Dear Cook County Commissioners:

On behalf of the Illinois Childhood Trauma Coalition, I am submitting this written testimony regarding Cook County Resolution #15-1216, urging the Illinois General Assembly to restore judicial discretion on the transfer of juveniles to adult court as proposed in HB 172. Made up of over 80 agencies and organizations, the Illinois Childhood Trauma Coalition promotes the prevention and treatment of childhood trauma.

HB 172 eliminates provisions that require automatic prosecution of minors as adults, eliminates mandatory and presumptive transfers to adult criminal prosecution and provides that all transfers to adult criminal prosecution are discretionary transfers. I support the bill and will focus my testimony on the issue of adolescent development.

I am a clinical psychologist and attorney. I am a member of the Executive Committee of the Illinois Childhood Trauma Coalition and I recently served on the Chief Judge's expert panel that interviewed candidates for the Superintendent of the Cook County Juvenile Detention Center. My comments are based on my experience as an assistant public defender in juvenile court; as a clinical psychologist who served as the Chief of Juvenile Forensics for the Illinois Department of Human Services, Office of Mental Health; and as a researcher who is studying the effects of child trauma on youth in our mental health, juvenile justice and child welfare systems. Previously, I served as a member of the American Psychological Association's Committee on Legal Issues, when it participated in the development of the amicus briefs in both Graham v Florida (2010) and Miller v Anderson (2012). The U. S. Supreme Court cited these APA briefs and relied on the research in ruling that it is unconstitutional to give juveniles mandatory sentences of life without parole. The research is also relevant to the current legislation.

House Bill 0172 (under 5-805 (3) (b)) still allows for the discretionary transfer of a minor to adult criminal court after the juvenile court judge considers factors such as the age of the minor; any previous abuse or neglect history of the minor; any mental health, physical, or educational history of the minor; and whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction. Basing a transfer decision on such factors is supported by the research on adolescents.

ADOLESCENCE AND BRAIN DEVELOPMENT

A key concept in brain development is plasticity. That is, the brain is constantly changing based on what it is exposed to. Everyone is born with billions of brain cells and tremendous potential. As a baby starts to grow, the early learning experiences will cause cells to link up and form basic networks. Early deprivation can result in delayed or failed development of some physical, emotional or cognitive functions.

Scientific evidence also shows that the process of brain development that occurs in early childhood continues through adolescence. Adolescence starts with puberty and physical changes (around ages 10 – 13). Children get bigger and stronger. Next, come the emotional changes, where a teenager's moods become more intense and quicker to change. A youth's highs are

higher and lows are lower and the youth may first encounter passionate feelings such as love and rage. Finally, the child's thinking changes. Over time the youth becomes less impulsive, more risk averse and better at planning. These last cognitive functions do not finish maturing until the youth is in his/her younger twenties. Thus, during the teenage years, the youth is getting bigger and stronger with more intense emotions but does not have the capacity to completely regulate these functions until he/she is older. It is like giving a teenager a new car with a great body and a lot of horsepower (physical), a gas pedal that goes from 0 – 60 in a few seconds (emotional), but an incomplete brake system (thinking).

Other psychological research has assessed how adolescent thinking will change as a youth matures. These changes can be seen in a teenager's self-control, short sightedness, and susceptibility to peer pressure. Regarding self-control, teenagers are sensation seekers and engage in more risk-taking behaviors than they did when they were children. Further, they are not good at assessing levels of risk. This can result in their engaging in dangerous activities. Regarding short sightedness, teenagers do not do a rational cost benefit analysis when making decisions. They are impulsive and place more emphasis on what they can get immediately while they place less emphasis on what they can lose or what the long-term consequence might be. Regarding susceptibility to peer pressure, teenagers are looking for affiliation and the social approval of their peers. Coupled with the other limitations, this can result in a teenager impulsively engaging in risky behaviors to impress his or her peers. All of this can change as the adolescent's brain matures. A young adult will process information differently than he/she did as a teenager. The youth will develop more self-control, make more rational decisions and be less influenced by peer pressure. This is all part of the normal developmental process but it takes time to complete.

CHILD TRAUMA

In addition to the issues of normal adolescent development, research also demonstrates that adverse childhood experiences can disrupt the normal developmental process. A child who has experienced multiple forms of abuse, neglect, and exposure to violence is more likely to develop social, emotional and cognitive problems. That child is more likely to have problems in school and more likely to die younger.

Trauma disrupts development through several mechanisms. First, through neglect, the child does not get appropriate exposure to healthy stimulation during the critical periods of brain development, discussed above. Thus, a traumatized child may not have learned age appropriate skills. Second, through abuse, a child can become overwhelmed with the adverse experiences resulting in lasting negative effects. A traumatized child can remain on constant alert, misinterpret signs of danger and overreact with fight or flight behaviors in neutral or ambiguous situations. This can lead to violence and other high risk behaviors.

Just as there is hope for adolescents through normal brain development, there is also hope for youth suffering adverse childhood experiences. Some children are resilient and, with the right protective factors, can survive adverse experiences without developing traumatic effects. Also, there is the possibility of recovery. As noted with brain development, a key concept is plasticity- the brain is constantly changing based on what it is exposed to. Therefore, given the right treatment and support, a traumatized youth can recover to have a healthy and productive life.

APPLYING THE RESEARCH

Given the current knowledge regarding adolescent brain development and child trauma, I believe it is good policy for a juvenile court judge to use discretion and, as required under House Bill 0172, transfer a youth to adult criminal court only after consideration of a youth's personal history and potential for rehabilitation. Some youth commit terrible acts but there is still hope for youth to change.

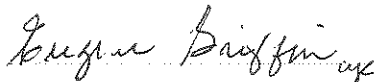
The U.S. Supreme Court relied on this brain research when it ruled in 2012 that it was unconstitutional to give a mandatory sentence of life without parole to juveniles (Miller v. Alabama). The court recognized that, while some youth have done terrible things (these were murder cases), the youth are less culpable and are more capable of change than adults. Miller instructed judges to look at individual factors and consider rehabilitation in sentencing juveniles.

Similarly, the Illinois Supreme Court in People v Patterson (2014) strongly urged the Illinois legislature to rely on such research in reconsidering automatic transfer. As Judge Kilbride, writing for the majority, explained:

While modern research has recognized the effect that the unique qualities and characteristics of youth may have on juveniles' judgment and actions (see, e.g., Roper, 543 U.S. at 569-70; *infra* ¶ 156), the automatic transfer provision does not. Indeed, the mandatory nature of that statute denies this reality. Accordingly, we strongly urge the General Assembly to review the automatic transfer provision based on the current scientific and sociological evidence indicating a need for the exercise of judicial discretion in determining the appropriate setting for the proceedings in these juvenile cases. (p.32)

The Illinois legislature should follow the reasoning of both the U.S. and Illinois Supreme Courts in reviewing the state's transfer provisions, allowing for the exercise of judicial discretion, and adopting House Bill 0172.

Thank you for your consideration,



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