



SCHOOL of LAW

Civitas ChildLaw Center

Phillip H. Corboy Law Center
25 E. Pearson Street, 11th Floor • Chicago, IL 60611
P • 312.915.6481 F • 312.915-6485
E • childlaw-center@LUC.edu W • LUC.edu/childlaw

To: J. Chris Bernard, Esq.,
Cook County Justice Advisory Council

From: Diane Geraghty
Loyola University Chicago Civitas ChildLaw Center

Re: Proposed Resolution re: HB 172

Date: February 5, 2015

Loyola University Chicago's Civitas ChildLaw Center strongly supports the Cook County Board of Commissioner's Proposed Resolution Urging the Illinois General Assembly to Pass HB 172 to Restore Judicial Discretion in the Transfer of Juveniles to Adult Court. Restoring judicial discretion over the transfer decision is consistent with Illinois' longstanding role as a leader in national efforts to establish a fair, effective and developmentally sound juvenile justice system, one focused on the promotion of public safety and improved outcomes for youth and communities.

From 1899 when the world's first juvenile court was established in Cook County until 1982, Illinois law created a safety valve that enabled juvenile court judges to determine that a small number of youth should be tried and sentenced in the adult criminal system rather than remaining in juvenile court. Under that system, prosecutors requested transfer and juvenile court judges then determined the appropriateness of transfer on a case-by-case basis in a hearing that elicited testimony on a variety of relevant factors, including the nature of the alleged crime, the youth's background, and his or her amenability for rehabilitation. That system worked well until the nation entered a period of time in which the media and others stirred fears about a rising tide of violence among the nation's youth. Although the fear of a generation of "superpredators" never came to pass, most states, including Illinois, reacted by making larger and larger numbers of youth subject to automatic trial and sentencing in adult court.

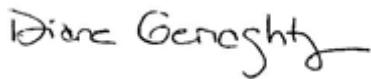
As numerous national and state studies have demonstrated, youth fare worse on almost every measure when they are tried in adult court. Youth who are subject to criminal court jurisdiction have higher recidivism rates than those who remain in juvenile court. In Cook County, over one-half of the cases automatically transferred to adult court in the years 2010 – 2012 resulted in convictions for offenses that would not have been subject to automatic transfer. Nonetheless, these youth have a permanent adult criminal record that limits their future employment and educational opportunities. Even if acquitted, under existing law transferred youth may never again benefit from juvenile court jurisdiction. Incarcerated youth are especially vulnerable to abuse in adult prisons due to their age and lack of experience. Finally, the burdens of transfer fall heavily and disproportionately on youth of color.

Restoring judicial discretion in the transfer decision aligns with research on adolescent development, which demonstrates that youth are different from adults in very important ways. In short, they often engage in delinquent conduct due to developmental factors, such as poor impulse control, poorly

developed decision-making skills, peer influences and attraction to risky behavior. These developmental factors may mean that a youth is less culpable for misconduct than a mature adult. On the other hand, developmental research also indicates that young people are capable of tremendous positive growth and change, especially with needed support and services. Even youth who commit serious criminal offenses present significant opportunities for rehabilitation and positive outcomes which benefit communities and taxpayers.

HB 172 would not eliminate juvenile transfer in Illinois. Prosecutors would still have discretion to file a transfer motion and a juvenile court judge would still have the authority to order a youth transferred to criminal court. The difference is that transfer decisions would be the product of informed decision-making based on a factual record produced at a hearing rather than at the point at which a charging decision is made on the basis of limited information.

For these reasons, we respectfully urge the Cook County Board to adopt a resolution in favor of legislation restoring judicial discretion in determining whether young people face trial and sentencing as adults.

A handwritten signature in dark ink, reading "Diane Geraghty". The signature is fluid and cursive, with a long horizontal stroke at the end.

Diane Geraghty
Professor of Law and
Director, Civitas ChildLaw Center
Loyola University Chicago School of Law