

LETTER TO THE EDITOR

January 31, 2020

Dear Editor:

As members of the Indiana Coalition for Youth Justice, the Marion County Commission on Youth (MCCOY) and the Indianapolis Urban League work to achieve more fair, equitable, and effective outcomes for children by embracing a developmental approach to the treatment of all children and emerging adults in the justice system. We believe it is time to reimagine the current system into one that utilizes a culturally-responsive, trauma-informed developmental approach that is based on the science of brain development. Research has shown that such an approach lowers recidivism rates, promotes public safety, and leads to improved outcomes for children.

Senate Bill 449, currently up for second reading in the Indiana Senate Chamber, would roll back much of the progress already made in Indiana's juvenile justice system over the last decade, and we must consider how this impacts all children, their futures, and their potential to live productive adult lives. Over 40 organizations and concerned individuals testified in person or in writing when SB 449 was heard in the Senate Corrections and Criminal Code Committee on Tuesday. The bill passed out of committee, on a 4-2 vote, with amendments. These amendments at the end, did not make a bad bill good. It still would allow very young children to be waived to the adult system, and it would open the door to hundreds more 16 and 17-year-old children being automatically transferred to the adult system for an expanded number of listed offenses under Indiana's direct file statute.

Thirteen-year-olds are best served in the juvenile court where rehabilitation takes priority as the purpose for incarceration. Many rehabilitative services offered within the juvenile system are not available once a child transfers to the adult system. In the juvenile facilities, rehabilitative, educational, life-skills oriented, and age-appropriate therapeutic treatment options can occur as courts supervise their care in secure confinement up to age 21. Further, including "attempted offenses" to apply to listed offenses under the Direct File Statute will greatly increase the number of 16 and 17 year-olds who are automatically transferred into adult court upon filing of charges by a prosecutor with no judge involved in that decision.

According to the Equal Justice Initiative (EJI), children are five times more likely to be sexually assaulted in adult facilities than in juvenile facilities and nine times more likely to die by suicide. Once a child is waived over to adult court, the child is often held in advance of trial in adult jails, exposed to adult offenders, or placed in isolation (solitary confinement) to protect them from assaults from older inmates. Transfer and Waiver to Adult Court disproportionately impacts children of color. Nationwide, 52% of cases in Adult Court involve African American children. Here in Indiana in 2017-18, 69% of all cases filed pursuant to the Direct File Statute involved African American children.

Children who are tried in adult court experience much higher recidivism rates than children handled in the juvenile justice system. Research shows they are 34% more likely to commit additional and more violent offenses than those children treated in the juvenile system. Moreover, a felony conviction is a hard thing to overcome. Collateral consequences follow them, placing barriers to education, employment, military enlistment, housing, and other essential aspects of life. Consequently, these children are more likely to reoffend once they are released.

In many cases, children lack the competency to stand trial. Many children who are 12 and 13-years-old do not understand due process and how to protect their rights through the judicial proceedings, even in the juvenile system. Moreover, children that age are seriously challenged to understand conditions that exist in order to make a decision if they are presented with a plea agreement while in adult court. At ages 12 to 14, cognitive capability is limited, and is even more compromised if there is serious trauma in the child's life.

We stand together in opposition to Senate Bill 449 and we encourage all Senators in the Indiana General Assembly to please vote no on this legislation.

Sincerely,



John Brandon
President & Executive Director
Marion County Commission on Youth



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