

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Criminal Justice and Public Safety

FROM: Ray Przybelski, Vice President, Wisconsin County Human Service Association
Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs, Wisconsin Counties Association

DATE: January 11, 2018

SUBJECT: Support for Assembly Bill 660 – the age at which a person is subject to juvenile court jurisdiction and making appropriations

The Wisconsin Counties Association (WCA) and the Wisconsin County Human Service Association (WCHSA) support Assembly Bill 660, which raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the criminal code if the alleged violation is a nonviolent offense and the person has not been previously convicted of a crime or adjudicated delinquent.

The issue of reversing the decision made in the mid-1990s to treat 17-year-olds as adults in the criminal justice system has been before the Wisconsin State Legislature for many years. Counties have never disagreed with the proposed change in public policy. Counties have, however, opposed all previous versions of this legislation to date as they have failed to recognize the fiscal impact on counties. Assembly Bill 660 is the first piece of legislation introduced in recent history to recognize the financial impact of this public policy change on counties by including a mechanism to reimburse counties for the costs of serving 17-year-old first-time, nonviolent offenders in the juvenile justice system.

Public Policy

The 1990s in Wisconsin can be characterized as a “get tough on crime” era. Criminal penalties were enhanced, new crimes were created, and truth in sentencing was enacted into law. The Juvenile Code was rewritten as well and the philosophy in dealing with juvenile offenders changed from placing a juvenile in the least restrictive environment to one that provides accountability and enhances public safety. One specific change in the juvenile code that occurred at that time was changing the age of adult jurisdiction to 17 from 18.

Current research indicates that juveniles are best served and the interests of the community are best protected from juvenile criminal behavior when the presumptive age for circuit court jurisdiction is age 18. Research shows that providing developmentally appropriate treatment is the best way to reduce future crimes. Incarcerating youth with adults increases the likelihood they will re-offend more quickly and more seriously. Quantitative research studies have found that juveniles handled in juvenile courts that have similar offense records and offenses as comparable juveniles handled in criminal courts in other states, in fact reoffend less often, less speedily, and less severely.

Unfortunately, most 17-year-olds served in the adult court system do not receive the services they or their families need as the adult system is not designed to serve young offenders.

Funding

Assembly Bill 660 appropriates \$5,000,000 in FY19 to the Department of Children and Families (DCF) to reimburse counties for the cost of providing juvenile delinquency-related services to 17-year-olds and requires DCF to work with counties to develop a plan to distribute the funds. The plan must be submitted to the Joint Committee on Finance (JCF) for passive review. If the cost to counties exceeds \$5,000,000, Assembly Bill 660 requires DCF to request up to \$5,000,000 in additional funding from the JCF in FY19. The bill also requires DCF, in collaboration with counties, by no later than October 30, 2019, to submit a report to the JCF on the cost of providing juvenile delinquency-related services to 17-year-olds during the first year of implementation.

To understand why funding for this public policy position is so important to counties, it is important to understand the county role in the juvenile justice system.

Chapter 938 of the Wisconsin Statutes (Juvenile Justice Code) requires county boards to “authorize the county department or the court, or both, to provide intake services under s. 938.067 and the staff needed to provide dispositional services under s. 938.069...”

Sec. 938.067 Wis. Stats. lists the powers and duties of intake workers. These duties include:

- Providing intake services 24 hours a day, 7 days a week.
- Interviewing, if possible, any juvenile who is taken into physical custody and not released and, if appropriate, other available concerned parties.
- Determining whether the juvenile shall be held in physical custody.
- Determining where a juvenile shall be held, if not released.
- Providing any necessary crisis counseling.
- Receiving referral information, conducting intake inquiries, requesting that a petition be filed and entering into deferred prosecution agreements.
- Providing information and notices to and conferring with victims.
- Making referrals of cases to other agencies if their assistance is needed or desirable.

- Making interim recommendations to the court concerning juveniles awaiting final disposition.
- Taking juveniles into custody.
- Performing any other functions ordered by the court.

The statutes then go on to list the powers and duties of disposition staff:

- Supervise and assist a juvenile under a deferred prosecution agreement, a consent decree or an order of the court.
- Offer individual and family counseling.
- Make an affirmative effort, and investigate and develop resources, to obtain necessary or desired services for the juvenile and the juvenile's family.
- Prepare reports for the court recommending a plan of rehabilitation, treatment and care.
- Provide aftercare services for a juvenile released from a juvenile correctional facility or a secured residential care center for children and youth.
- Take juveniles into custody.
- Perform any other court-ordered functions.

Also under current law, counties are financially responsible for the costs of juvenile delinquency-related services, including out-of-home placements (foster care, residential care centers, juvenile corrections), as well as community-based services for juveniles and their families.

The youth aids program was implemented statewide in 1981 and provides each county with an annual allocation of state and federal funds from which a county may pay for juvenile delinquency-related services. In 2010, counties reported spending over \$217.6 million on juvenile justice services. Of that amount, \$100.6 million was funded by youth aids and \$116.9 million came from other county funding sources, primarily property tax revenue. Since that time, state youth aids funding to counties was cut by 10 percent, or approximately \$10 million annually. Counties currently receive approximately \$90 million in youth aids funding.

The actual cost to counties for serving the population targeted in the bill is difficult, if not impossible, to estimate. While counties can approximate the cost of providing services to juvenile offenders, the number of juveniles affected by this bill is unknown. That is why the legislation creates a separate funding mechanism for serving 17-year-old offenders. Counties have been accused in the past of padding their estimates of the cost of serving 17-year-old offenders. To avoid counties receiving more than is needed, this bill reimburses counties for their actual costs of serving 17-year-old offenders. While some believe it is easier to just throw funding in the youth aids allocation and call it a day, counties oppose that approach for two reasons. First, counties are only interested in receiving funding for the actual costs of serving this new population in the juvenile justice system. Second, counties want to ensure that the counties incurring the costs receive the funding. If the funding is run through the youth aids formula, the revenue will not get to the counties incurring expenses.

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While counties are uncertain as to whether or not the \$10 million allocated in the legislation will sufficiently cover county costs, counties across the state are grateful for the recognition in the legislation that counties will, indeed, incur additional expenses and are comfortable with \$10 million as an initial figure. With the required study and reimbursement mechanism, the state and counties will have a very good idea moving forward of the costs of serving first-time, nonviolent 17-year-old offenders which then gives us a basis for adjustments to the appropriation moving forward.

WCA and WCHSA are happy to lend its support to Assembly Bill 660.

Thank you for considering our comments.