

January 14, 2020

The Honorable Jerry Nadler
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Re: Markup Request for H.R. 5053, The Justice for Juveniles Act

Dear Chairman Nadler,

As organizations dedicated to child and youth well-being and advocates for young people, families, community safety and justice, we are writing to thank you so much for signing on as a co-sponsor of H.R. 5053, the Justice for Juveniles Act. As you know, since its passage in 1996, the Prison Litigation Reform Act (PLRA) has served as a serious obstacle to vulnerable young people getting legal help when they face abuse in juvenile and correctional institutions. The Justice for Juveniles Act would exempt youth from the onerous requirements of the PLRA and ensure youth can access justice when they suffer harm. This legislation has strong bipartisan support, and we respectfully urge you to schedule a Committee mark-up of the bill.

Under the PLRA, before an incarcerated individual can file a lawsuit in court, he or she must take the complaint through all levels of a prison's or jail's grievance system.¹ If a person fails to comply with these requirements, including missing a filing deadline that can be as short as a few days, he or she may no longer be able to bring a lawsuit. An incarcerated individual may also only recover compensation in cases where there has been a physical injury, so those who have been subjected to sexual assault or other mental abuse may be denied a remedy.² The PLRA also restricts the power of federal courts to make and enforce orders that remedy unlawful prison or jail conditions.³ The PLRA was designed to address the problem of prisoners inundating the federal courts with lawsuits. That was never a reality for young people, whose cases rarely reach the court system. Even before the PLRA, incarcerated children filed very few lawsuits.⁴

The requirements of the PLRA, while onerous on adults, are nearly impossible for incarcerated youth to meet. Incarcerated youth are at a heightened risk for abuse, particularly when they are in adult facilities; less likely to file lawsuits; and generally lack the knowledge to understand the complex process required under the PLRA to seek relief. For example, in Indiana, a teenager at a juvenile facility filed a lawsuit alleging he had been repeatedly raped and beaten by his fellow inmates, who were allegedly encouraged by the guards.⁵ The lawsuit was ultimately dismissed

¹ 42 U.S.C. § 1997e(a).

² 42 U.S.C. § 1997e(e).

³ 18 U.S.C. § 3626.

⁴ HUMAN RIGHTS WATCH, NO EQUAL JUSTICE: THE PRISON LITIGATION REFORM ACT IN THE UNITED STATES 29- 34 (2009), available at <https://www.hrw.org/sites/default/files/reports/us0609webwcover.pdf>.

⁵ Rachel Poser, *Why It's Nearly Impossible for Prisoners to Sue Prisons*, THE NEW YORKER (May 30, 2016), <https://www.newyorker.com/news/news-desk/why-its-nearly-impossible-for-prisoners-to-sue-prisons>.

because the young man had not filed a grievance, per the PLRA requirements.⁶ It was also dismissed despite the fact that his mother had contacted prison officials and the governor's office in attempt to stop the abuse against her son.⁷

The Justice for Juveniles Act would protect young people from abuse in institutions by exempting them from the PLRA. Reforming the PLRA to exempt youth from its requirements is particularly timely in light of recent reports of abuse of youth in juvenile and adult facilities. A groundbreaking report by the Philadelphia Inquirer earlier this year revealed that for decades, staff at the country's oldest reform school had been abusing students, some as young as 11.⁸ Another investigation last year by the Miami Herald found that staff were bribing kids in their detention centers to fight one another, that staff would also beat the youth, and that the bad behavior was often covered up by fellow officers and supervisors.⁹ According to records, Florida's Department of Juvenile Justice has investigated more than 1,400 cases of allegedly failing to report wrongdoing over the past decade.¹⁰ In your home state, Manhattan federal prosecutors opened an investigation in 2018 over allegations employees sexually abused teens in the Horizon Juvenile Center.¹¹ Unfortunately, these stories are not outliers.¹² This legislation will help ensure young people are properly protected from abuse in institutions.

After the historic reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP A) last Congress, it is critical we continue the momentum to pass meaningful, bipartisan reform measures for justice-involved youth. Scheduling the bill for a mark-up will ensure we continue to move in the right direction.

Thank you for your consideration.

Sincerely,

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African American Ministers in Action
Association of Criminal Defense Lawyers of New Jersey
Bazelon Center for Mental Health Law
Black Sex Worker Collective
Campaign for the Fair Sentencing of Youth
Campaign for Youth Justice
Center for Children's Law and Policy

⁶ *Id.*

⁷ *Id.*

⁸ Lisa Gartner, *Beaten, Then Silenced*, THE PHILADELPHIA INQUIRER (Feb. 20, 2019),

<https://www.philly.com/crime/a/glen-mills-schools-pa-abuse-juvenile-investigation-20190220.html>.

⁹ Carol Marbin Miller, *Fight Club: A Miami Herald Investigation Into Florida's Juvenile Justice System*, THE MIAMI HERALD (Oct. 9, 2017), <https://www.miamiherald.com/news/special-reports/florida-prisons/article177510156.html>.

¹⁰ *Id.*

¹¹ Kaja Whitehouse, *Juvenile Detention Center Probed Over Abuse Allegations*, NY POST (May 28, 2018), <https://nypost.com/2018/05/28/juvenile-detention-center-probed-over-abuse-allegations/>.

¹² RICHARD A. MENDEL, ANNIE E. CASEY FOUNDATION, *NO PLACE FOR KIDS: THE CASE FOR REDUCING JUVENILE INCARCERATION* (2011), available at <https://www.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf>.

Center for Disability Rights
Child Advocacy Program, Harvard Law School
Child Welfare League of America
Children's Rights
Coalition for Juvenile Justice
Colorado Criminal Defense Bar
Colorado-CURE, Inc.
CURE
Florida Juvenile Resentencing and Review Project
Florida Legal Services, Inc.
Futures Without Violence
Georgetown University, Prisons and Justice Initiative
GLBTQ Legal Advocates & Defenders
Grassroots Alliance for Justice
Homeless Advocacy Project
Hope Matters
Human Rights Coalition Fed-Up!
Human Rights for Kids
Johnson & Klein, PLLC
Justice For Families
Justice Policy Institute
Juvenile and Special Education Law Clinic at University of the District of Columbia School of Law
Juvenile Defenders Association of Pennsylvania
Juvenile Law Center
Juvenile Sentencing Project, Legal Clinic, Quinnipiac University School of Law
Legal Counsel for Youth and Children
Loevy & Loevy
Louisiana Center for Children's Rights
Midwest Juvenile Defender Center
Missouri CURE
NAACP
NAMI
National Center for Law and Economic Justice
National Congress of American Indians
National Council for Juvenile and Family Court Judges
National Crittenton
National CURE
National Disability Rights Network
National Juvenile Defender Center
National Juvenile Justice Network
National Legal Aid & Defender Association
National Network for Youth
National Partnership for Juvenile Services
New Jersey Office of the Public Defender
Northeast Region, National Juvenile Defender Center

Open City Advocates
Oregon Justice Resource Center
Pacific Juvenile Defender Center
Pennsylvania Institutional Law Project
Prison Law Office
Public Justice Center
R Street Institute
Rhode Island KIDS COUNT
Rights4Girls
Southern Juvenile Defender Center
SPLC Action Fund
The Delaware Office of Defense Services
The Forum for Youth Investment
The Law Office of Deborah M. Golden
The MGH Center for Law, Brain and Behavior
Twin Cities Nonviolent
Union for Reform Judaism
Washington Lawyers' Committee for Civil Rights and Urban Affairs
Women's Law Project
Youth Justice Milwaukee
Youth Law Center
Youth Sentencing & Reentry Project