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Testimony in Support of Raising Age of Juvenile Court Jurisdiction to 18

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Introduction:

Mr. Chairman and members of the Criminal Justice Committee, good afternoon. My name is Elizabeth Clarke, and I am the founder and President of the Illinois Juvenile Justice Initiative, a nonprofit statewide policy and legislative advocacy organization funded in part by the John D. and Catherine T. MacArthur Foundation, and the founder and co-director of the Midwest Juvenile Defender Center, which includes both Illinois and Wisconsin in its region. In both roles, I have been increasingly involved in the national movement to raise the age of the few remaining states that set the age of juvenile court jurisdiction under the universally accepted cut-off of 18.

Illinois is one of the remaining states, along with Wisconsin, Ct, NY, NC, Georgia, Louisiana, Mass, Mich, Mo. NH, SC, and Texas that set the age of juvenile court jurisdiction under 18. The remaining majority of states – 37 – all set the age at 18. Over the past two years, Ct., Mo., IL, and NH have had extensive legislative debates over how to raise the age to 18 – the issue, as I understand it, in each of these states is not whether to raise the age, but how to implement the change effectively. Research and the decrease in serious juvenile crime have convinced most legislators, policy-makers, practitioners, and other stakeholders that 18 is the appropriate age for juvenile court jurisdiction.

Research Supports Setting Age of Jurisdiction at 18:

Much of the research underlying this national movement to uniformly set the age of juvenile court jurisdiction at 18 was conducted by the John D. and Catherine T. MacArthur Foundation's Research Network on Adolescent Development and Juvenile Justice, founded in 1997....www.mac-adoldev-juvjustice.org

The Network has conducted extensive research on youths' competency to stand trial and the implications for culpability from adolescent's developmental differences from adults. In general, the research demonstrates that **“adolescent offenders have diminished competence to participate in proceedings against them, and their limited capacity also makes them less culpable than older offenders”**.

This research suggests that:

- Youth are likely to be less knowledgeable than adults about the legal process,
- Youths' basic cognitive and reasoning abilities are less mature than those of adults – which has implications for both competency and culpability. According to Dr. Laurence Steinberg, the Director of the Research Network, research demonstrates that those youth 15 and younger are more likely to be impaired (as impaired as a mentally ill adult) for purposes of competence.....research demonstrates a significant difference between 15 year olds and adults....on average a significant proportion of 15 year olds are not competent to stand trial. Further, research demonstrates that the brains of adolescents are not the same as adults....that the region of the brain that controls impulsivity is not fully developed in adolescents.....which indicates that youth must be held less culpable than adults for offenses.....,and
- Young people are less likely than adults to trust their lawyers and to communicate with them effectively.

United States Supreme Court recognizes 18 as cut-off age:

This body of research recently convinced the United State Supreme Court to abolish the death penalty for youth under 18 in ***Roper v. Simmons***, 125 S.Ct. 1183 (2005).

The decision relies upon “three general differences between juveniles under 18 and adults,” that demonstrate that juvenile offenders cannot reliably be placed in the category of “worst offenders” who can be put to death for those crimes. Those differences:

The comparative immaturity and irresponsibility of juveniles “as any parent knows,” and as confirmed by scientific and sociological studies. Lack of maturity and an underdeveloped sense of responsibility, resulting in impetuous and ill-considered actions, is a hallmark of youth. Society addresses these shortcomings by preventing juveniles from voting, marrying, serving on juries, and other actions that require consideration of long-term consequences.

Juveniles “are more vulnerable or susceptible to negative influences and outside pressures, including peer pressures.” As legal minors, they lack the freedom that adults have to deal with, leave, or control a “criminogenic setting” (negative environment). Personality traits of juveniles are more transitory, less fixed, than those of an adult. “From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.”

The court also considered the sentencing purposes of retribution and deterrence, concluding that the case for retribution is not as strong with a minor as with an adult, and a juvenile’s comparative immaturity suggests that juveniles will be less susceptible to deterrence as adults.

Finally, the court rejected the dissent’s argument against “categorical rules,” in favor of case-by-case decisions, commenting: “differences between juvenile and adult offenders are too marked and too well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability.” **The line is drawn at age 18, “the point where society draws the line for many purposes between childhood and adulthood.”**

The line is drawn at 18:

Attached to this testimony is a one pager outlining some of the state age requirements for adult privileges and responsibilities. Universally, the age of 18 – or even higher at 21 – is the legislative cut-off for privileges including drinking and responsibilities such as entering into a contract and voting.

National & International Consensus Supports Setting Age of Jurisdiction at 18:

There is a clear national consensus that 18 is the appropriate cut-off for juvenile court jurisdiction – indeed, over 35 states set 18 as the cut-off.

There is also an international consensus that 18 is the appropriate cut-off. The United Nations Convention on the Rights of the Child is the international covenant on universally recognized human rights and protections for children – it has been signed by nearly every nation on earth with one notable exception – the United States.

The CRC defines childhood as birth to 18. Indeed, the Committee encouraged states to review the age of majority if set below 18, specifically stating that it “recommends that existing legislation be reviewed so as to increase the level of protection accorded to all children under 18 years of age.” The CRC specifically addresses the age of criminal responsibility and recommends both the establishment of a minimum age below which children shall be presumed not to have capacity to infringe the penal law, as well as ensuring that children age 15 to 18 be accorded the protection of the juvenile court and not treated as adults.

Movement to Raise Age in the few States with age limits under 18:

The Wisconsin Legislature is in good company in considering raising the age of juvenile court jurisdiction to 18. Indeed, the national trend is to revisit lower age provisions and raise them based on emerging research. At a minimum, states like IL and Conn are recognizing that it is more cost-effective in the long-run to provide juvenile treatment for youthful offenders. Research consistently demonstrates that youth treated in the juvenile court are less likely to recidivate (commit more crime) than youth tried in the adult court. Thus, in the long run it is more cost-effective to treat 17 year olds as juveniles than as adults.

Last year the Illinois Legislature passed, and the Governor just signed, legislation to bring juveniles age 15 & 16 charged with drug offenses back to the juvenile court. The research conclusively demonstrated that adult jurisdiction was unsuccessful, unnecessary and disproportionately impacted indigent youth of color. The bill passed both chambers with unanimous votes, and the bi-partisan change has attracted little public attention indicating how accepting the public has become of the trend to “right-size” the juvenile court by bringing youth offenders back under the protections of juvenile court jurisdiction.

Conclusion:

Thank you for your attention. I will be happy to answer any questions and congratulate you on your commitment to bring Wisconsin into compliance with research, best practices, national trends and international standards.

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