

HB3718 SA1/Sen. Sponsors: Raoul-Collins-Connelly, Rezin, Nybo, Munoz, Mulroe, Harris III, Bush, Van Pelt

Expand requirement of review by a juvenile judge before transferring a child's case to adult court.

Illinois allows children under the age of 18 to be tried in adult criminal court without a review by a juvenile court judge prior to their removal from juvenile court jurisdiction. This practice is unfair and ineffective. Science shows that children are developmentally and neurologically different from adults, and decisions about their treatment must be carefully considered, taking into account their individual background, mental health, and potential for rehabilitation. This decision is best made by a judge familiar with particular resources available in juvenile court.

What This Amendment Does:

- Expands the requirement of review by a juvenile judge to determine whether a child is tried in juvenile or adult court through an individualized court hearing that takes into account the child's age, degree of participation in offense, and individual circumstances
- Requires data reporting of transfer cases

What This Amendment Does Not do:

- Does not prevent youth from being tried in adult criminal proceedings. Any child age 13 or older charged with any offense can be tried in adult court based on a review considering a range of factors including seriousness of offense and background of the child - discretionary transfer
- Does not eliminate automatic transfer for 16 and 17 year olds charged with a first degree murder, aggravated criminal sexual assault and aggravated battery with a firearm.
- Does not eliminate presumptive transfer for 15 - 17 year olds with a prior adjudication for a forcible felony and a new charge of a forcible felony "in furtherance of criminal activity by an organized gang"

Why This Bill is Needed:

Adult prosecution does not promote public safety.

- Children transferred to adult court are approximately 34% more likely to be re-arrested.
- 54% of children automatically transferred in Cook County from 2010 - 2012 pled guilty to lesser offenses that would not have triggered automatic adult prosecution - yet still reflect an adult conviction on their records.
- In *People v. Patterson*, the Illinois Supreme Court reviewed the constitutionality of the automatic transfer statute and unanimously expressed concern about the absence of any judicial discretion in Illinois' automatic transfer provisions, urging "the General Assembly to review the automatic transfer provision based on the current scientific and sociological evidence including a need for the exercise of judicial discretion in determining the appropriate setting for the proceedings in these juvenile cases."

Children are different from adults.

- The U.S. Supreme Court reaffirmed (*Miller v. Alabama*) that sentencing should include consideration of a child's age and adolescent tendencies such as immaturity, impetuosity and failure to appreciate risks and consequences.
- Children have a great capacity to change and be rehabilitated within the special services of the juvenile court.

Adult prosecution disproportionately impacts youth of color in Chicago.

- Youth of color are denied a meaningful, individual hearing in juvenile court.
 - 99% of children automatically transferred to adult court and detained in Cook County from 2010-2012 were youth of color.
 - 82% of children automatically prosecuted as adults in Cook County were from Chicago.

Prosecution in adult court exposes youth to mandatory sentences and harsh prison conditions.

- Children face the same lengthy sentences as adults.
 - Armed robbery with a firearm carries a mandatory minimum of 21 years in Illinois.
- Youth in adult prisons are more likely to commit suicide and be victims of physical and sexual assault.

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"[I]t doesn't make sense for us to transfer, indiscriminately, young people to adult court."

Then State Senator Barack Obama, Jan. 29, 1998

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**Bill Supporters
(As of 4/22/2015)**

American Academy of Pediatrics – IL Chapter
Ann & Robert H. Lurie Children's Hospital of Chicago
Better Government Association
Catholic Conference of Illinois
Cook County
Enlace Chicago
Illinois League of Women Voters
Illinois Parent Teacher Association

Illinois Psychological Association
Illinois State Bar Association
Latino Policy Forum
Lutheran Advocacy-Illinois
Union League Club of Chicago
Universidad Popular
Voices for Illinois Children
YMCA of Metropolitan Chicago

Other Supporters

Juvenile Justice Initiative
ACLU of Illinois
Adler University Institute on Public Safety and Social
Justice
Alternatives, Inc.
Boys & Girls Club of Chicago
Cabrini Green Legal Aid
Chicago Area Project
Chicago Lawyers' Committee for Civil Rights Under
Law, Inc.
Child Care Association of Illinois
Circles & Ciphers
Cook County Justice for Children
Cook County Juvenile Temporary Detention Center
Advisory Board
Cook County Public Defender's Office
DLA Piper, Global Law Firm
First Legal Defense Aid
Illinois African American Family Commission
Illinois Balanced and Restorative Justice Project
Illinois Childhood Trauma Coalition
Illinois Children's Mental Health Partnership
Illinois Collaboration on Youth
Illinois Justice Project
Jail Brakers

James B. Moran Center for Youth Advocacy
John Howard Association
Lawndale Christian Legal Center
Little Village Violence Prevention Collaborative
Loyola University Chicago Civitas ChildLaw Center
Mansfield Institute of Social Justice and
Transformation
National Association of Social Workers, IL Chapter
National Juvenile Defender Center
National Juvenile Justice Network
Positive Pathways of Chicago
Project Nia
Safer Foundation
Sankofa Safe Child Initiative
Sargent Shriver National Center on Poverty Law
Sharlyn Grace, Attorney at Law
Social Justice Council of Second Unitarian Church
of Chicago
Strengthening Chicago's Youth
TASC
TY Ten
Youth Advocate Programs, Inc.
Youth Guidance
Youth Outreach Services

Policy Statements Supporting Transfer Law

American Academy of Child and Adolescent
Psychiatry
American Academy of Pediatrics
American Bar Association
American Humane
American Psychiatric Association
The Association of Black Psychologists
The Children and Family Justice Center
Coalition for Juvenile Justice
Council of Juvenile Correctional Administrators (CJCA)
Illinois Coalition for the Fair Sentencing of Children

National Association for the Advancement of Colored
People (NAACP)
National Association of Criminal Defense Lawyers
National Association of Counties (NACo)
National Juvenile Justice Network
National Parent Teacher Association
United States Conference of Catholic Bishops
U.S. Attorney General's Task Force on Children Exposed
to Violence
U.S. Task Force on Community Preventative Services