

**HB2567, HFA1/Rep. Nekritz**

Rep. Gabel, Rep. Flowers, Rep. Guzzardi, Rep. Currie

**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 Bill Does:**

Amends the Juvenile Court Act of 1987 to expand 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.

**What This Bill Does Not do:**

- The bill 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.
- 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.

**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 Reform

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