

HB4538

## Restore Individualized “Sentencing” for Children

Nekritz/Currie/W.Davis/Welch/Ford/  
Turner/Sims/G.Harris/Gabel

### **INDIVIDUAL review before transferring a child’s case to adult criminal court.**

Illinois allows children under the age of 18 to be tried in adult criminal proceedings without a meaningful individual review prior to removing a child from juvenile court jurisdiction. This practice is unfair. Children are developmentally and biologically different from adults; therefore decisions about their rehabilitation must be carefully considered, looking at their individual background, mental health, and potential for rehabilitation. Illinois is now one of only 14 states with no ability for individual review, either in juvenile or adult court, of the decision to try a child in adult court.

#### **What This Bill Does:**

Amends the Juvenile Court Act of 1987 to **restore individual review** to determine whether a youth 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.

### **Young offenders tried in adult court are more likely to be re-arrested for violent and non-violent crime.**

- Transferred youth are approximately **34% more likely to be re-arrested** for violent or other crime.
- U.S. Task Force on Community Preventative Services recommends *against* policies which transfer juveniles to “adult justice systems for the purpose of reducing violence.” The “experience of transfer to the adult criminal justice system is associated with subsequent violence” and lacks evidence “transfer laws deter juveniles in the general population from violent crime.”

### **“Automatic” Transfer to Adult Court -Poor Outcomes for Over 30 years in IL**

- The Illinois Supreme Court’s Special Commission on the Administration of Justice reported that automatic juvenile transfer failed to have the intended deterrent effect, and had negative consequences including an overwhelming disproportionate impact on African-Americans. They concluded in 1995 that the IL. Legis. should consider legislative alternatives to provide opportunity for individual review and elimination of mandatory sentences for juveniles.

### **POOR OUTCOMES and RACIAL DISPARITIES CONTINUE IN ILLINOIS**

The Juvenile Justice Initiative reviewed 257 automatic transfer cases in Cook County from 2010 - 2012, revealing:

- **MAJORITY OF TRANSFERRED YOUTH PLEAD TO LESSER OFFENSES** - The majority (54 percent) of children “automatically” sent to adult court, ended up pleading to offenses that would *not* have triggered transfer and would have left the child in juvenile court.
- **99% CHILDREN OF COLOR**- In three years of “automatic” trial of children in adult court in Cook County, there was only one white child.

### **Illinois is Now One of only 14 States with No Individual Review**

*“[I]t doesn’t make sense for us to transfer, indiscriminately, young people to adult court.”*  
Then Senator Barack Obama, Jan. 29, 1998.

*Judges should be the ones to decide whether a child should be transferred to adult court, not a one-size-fits-all law.*

Chicago Tribune Editorial; Youth Justice, Separate and Unequal; 11/21/2000

**HB4538 Bill Supporters**

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| Juvenile Justice Initiative                             | Enlace Chicago   |
| Illinois State Bar Association                          | Mansfield Institute for Social Justice and Transformation  |
| Catholic Conference of Illinois                         | Sargent Shriver National Center on Poverty Law   |
| DLA Piper, Global Law Firm                              | James B. Moran Center for Youth Advocacy   |
| Illinois PTA  | Strengthening Chicago's Youth (SCY) convened by Ann & Robert H. Lurie Children's Hospital of Chicago |
| Illinois League of Women Voters                         | National Juvenile Defender Center  |
| Lutheran Advocacy-Illinois                              | National Juvenile Justice Network  |
| Community Behavioral Healthcare Association of Illinois | Sankofa Safe Child Initiative  |
| John Howard Association                                 | Safe Schools Alliance  |
| Illinois Collaboration on Youth                         | Youth Advocate Programs, Inc   |
| Child Care Association of Illinois                      | Cook County Public Defender’s Office   |
| Illinois Justice Project                                | Chicago Cabrini Green Legal Aid  |
| Community Renewal Society                               | First Defense Legal Aid  |
| Safer Foundation  | Project Nia  |
| Chicago Childcare Collective                            | TY10   |
| Community Behavioral Healthcare Association             | TASC   |
| Cook County Justice for Children                        | Precious Blood Ministry of Reconciliation  |
| ACLU of Illinois  |  |

**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  
Bluhm Legal Clinic, Northwestern Law  
Coalition for Juvenile Justice  
Council of Juvenile Correctional Administrators (CJCA)  
National Association for the Advancement of Colored People (NAACP)  
National Association of Criminal Defense Lawyers  
National Association of Counties (NACo)  
National Parent Teachers Association  
United States Conference of Catholic Bishops  
U.S. Atty General’s Task Force on Children Exposed to Violence