



OHIO

CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

Juvenile Justice Subcommittee

December 17, 2015

Meeting Notes

- Attending: Paul Dobson, Chair
- Dustin Calhoun
- Rep. Hearcel Craig
- Judge DeLamatre
- Kathleen Hamm
- Kyle Petty
- John Ryan, OJC
- Kathy Wellington (Rep. Craig)
- Kari Bloom, OPD
- Sara Andrews, OCSC
- Jill Beeler
- Jim Cole
- Erin Davies
- Judge Robert Fragale
- Hon. Aaron Montz
- David Roper (Sen. Thomas)
- Judge Nick Selvaggio
- Judge Ken Spanagel
- Ashley Gilbert, OSC
- Jo Ellen Cline, OCSC

1. Chair Dobson called the meeting to order at 9:35 a.m.
2. Upon motion and second the meeting notes from the October 15, 2015 were unanimously approved.
3. The committee discussed an initial draft regarding restitution. Chair Dobson explained that the draft language was intended allow a court to obligate a parent for damage a child causes if the court finds that the parents actions or inactions were a meaningful contributor to the child’s behavior. He pointed out that 32 of 50 states allow for the parents to be obligated some of which have caps on that obligation and some of which have an ability to pay review. Questions were raised about whether the parental obligation would be the impetus for civil trials in juvenile court. There was concern expressed among some members that the draft will cause a loss of focus on the purpose of the juvenile court – to rehabilitate the juvenile offender. Questions were raised about how the draft restitution language would interplay with the current parent civil liability under Chapter 31 of the Ohio Revised Code and R.C. 2307.70. In addition, there was concern over the inclusion of “guardians” in the parent obligation both because the term is undefined and because the language may result in fewer people wanting to be appointed as guardians if they may be subject to civil liability.

The committee also discussed that obligating parents may increase costs because the parents would have to be appointed counsel and a guardian ad litem would likely need to be appointed because the child and parents would have a conflict. Questions were also raised about the interplay of restitution with the victim of crimes fund.

The committee decided to discuss the draft at its next meeting after researching the following:

- a. What is the interplay between restitution and Chapter 31 civil liability, R.C. 2307.70, and the Victim of Crimes Fund?



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- b. What has been the experience in the other states that obligate parents for restitution?
  - c. Sharing the draft with victims' advocates and the Attorney General's Office for thoughts.
4. The committee then began its discussion of mandatory sentences and mandatory bindovers. Co-Chair Davies reviewed a May 2015 memo she provided to the committee. The goal is to weigh individual factors and increase judicial discretion. Ms. Beeler discussed the confusion courts, prosecutors, and offenders have regarding the "reverse waiver". Two cases currently before the Supreme Court specifically address what happens if a juvenile is convicted of both mandatory and discretionary bindover offenses and a constitutional challenge to mandatory bindovers.
- It was suggested that all bindovers be made discretionary but that a juvenile could be bound over after the court looked at a number of factors including mental health. Another suggestion was to make mandatory bindovers presumptive. The committee also discussed making bindovers discretionary except for aggravated murder and murder (which would be mandatory). Ms. Davies will draft bindover language for the committee's consideration in January.
- The committee also briefly discussed mandatory specifications. In some preliminary discussion, DYS suggested that mandatory gun specifications are what drive DYS length of stay statistics. DYS also suggested that the General Assembly might be amenable to addressing mandatory specifications in the juvenile arena based upon the Assembly's carving out of juvenile offenders from increased gun specification bills. The committee will continue this discussion at the next meeting including: 1) should mandatory specifications become discretionary; or, 2) should the mandatory specifications be kept and just the number of years be altered.
5. In new business, Ms. Cline indicated that Director Andrews had been approached regarding possible legislation regarding school bomb threats. The committee would like to weigh in on any legislation on this topic should it be introduced. John Ryan, Ohio Judicial Conference, gave an overview of truancy legislation currently pending in the Ohio General Assembly. The committee will review the proposed legislation (previously distributed) and discuss in January.
6. There being no further business to come before the committee, the committee adjourned at 11:31 a.m.

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#### UPCOMING MEETINGS:

**January 21, 2016: JUVENILE JUSTICE COMMITTEE**

**February 18, 2016: JUVENILE JUSTICE COMMITTEE**

**March 17, 2016: OHIO CRIMINAL SENTENCING COMMISSION**