



### Juvenile Justice Subcommittee

March 3, 2016

#### Meeting Notes

Attending:	Paul Dobson, Chair	Erin Davies, Vice-Chair
	Jill Beeler	Jim Cole
	Rep. Hearcel Craig	Judge DeLamatre
	Kate Foulke (DYS)	Ashon McKenzie
	Hon. Aaron Montz	Rep. Dorothy Pelanda
	Kyle Petty	Director Harvey Reed
	John Ryan, OJC	Sara Andrews, OCSC
	Jo Ellen Cline, OCSC	Cyara Hotopp, OCSC

1. Chair Dobson called the meeting to order at 9:36 a.m.
2. Upon motion and second the meeting notes from the February 18, 2016 were amended to include Judge Fragale's name in the attendee list and were unanimously approved as amended.
3. The committee began its discussion of the draft restitution language. First, the committee approved, by unanimous consent, to eliminate duplicated language in division (A). The committee next turned its attention to division (F) which had been discussed in February but never received a vote. The committee approved a minor change to the language and approved the division unanimously. The committee then discussed proposed division (G) which created a priority list for crediting payments made. Currently the order in which fees, costs, and restitution are paid is not specified in the statute. Concerns were raised regarding the financial impact of such a prioritization. Upon motion and second to remove division (G) from the draft was passed (5-1). The committee then discussed proposed division (H) in the draft which represents a combination of other state's practice of allowing for parental liability. Although other statutes in the Revised Code allow for a civil action against parents for their child's delinquent act, a concern was expressed that requiring a victim to go through the civil process victimizes them again and, often, the amount of restitution does not make the expense of a civil action worth the trouble. Concerns with including parental liability was that it puts the child and the parent in an adversarial posture. A suggestion was made to look at possible amendments to the civil statutes in the future. Upon motion and second to remove division (H) from the draft, the motion carried 8-2. Another motion and second was made to include a



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provision to be drafted that would allow a restitution order to be reduced to a civil judgment at age 21 or at the termination of the court's jurisdiction over the case. The motion carried 7 – 4.

4. The committee briefly discussed the Criminal Justice Recodification Committee's work on SORN and Ms. Beeler asked if the committee would like to weigh in on any suggested revisions to the juvenile SORN statutes. The committee, by consent, agreed to allow the Recodification Committee to proceed with its discussions without making any recommendations.
5. The committee then began discussing mandatory bindovers. First, the committee took up the issue of interlocutory appeals. The proposal from the Ohio Public Defender's office would stay proceedings for 14 days to allow for an appeal of the decision to bind the juvenile over to adult court. Chair Dobson said he was not opposed in concept; however, he would want it made clear that the interlocutory appeal would be the only appeal available of the bindover decision. The committee discussed the judges' concerns regarding delay and an increase in the number of appeals. The committee decided to table the discussion until both the Court of Appeals Judges Association and the Ohio Prosecuting Attorneys Association could be consulted.
6. The next discussion point for mandatory bindovers was on the factors to be considered by a judge in the bindover decision. The committee took up the suggested changes made by the Ohio Public Defender's Office. The proposal included, in division (B)(3) a presumption that the child is amenable to rehabilitation in the juvenile system. Chair Dobson indicated that the presumption upsets the balancing test that takes place and when combined with the fact that the draft already makes all bindovers discretionary would not be supported by prosecutors. Upon motion and second to not accept the proposed change to the current law, the motion carried 9-2. The next proposed change combined former divisions (D)(1) and (2) which was accepted by the committee. In addition, deletion of language in current (D)(3) regarding "or other organized criminal activity" was agreed to by unanimous consent. A discussion then took place regarding language in division (D) regarding "any other relevant factor". The concern with leaving the language in was that very few factors should lead to moving a juvenile up to adult court and allowing the catch-all allows for factors to be considered that may not have any basis in research or evidence. Others on the committee argued that judges should have discretion and removing the catch-all phrase puts the statute close to a "magic words" argument in the Court of Appeals. Leaving the language in allows the judge to appropriately tailor the decision to the facts of the case. Upon motion and second to keep the existing language, the motion carried 10-1. On division (D)(5)



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regarding removal of the word “adjudication”, after discussion, a motion and second to remove the word failed 4-5. Finally, proposed changes to divisions (D)(7) and (8) were accepted as amended by the committee. The committee will revisit the proposed changes and proposed language put forward by Vice-Chair Davies at its next meeting.

7. The committee adjourned at 12:15 p.m.

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### Upcoming Meetings:

**Full Commission: March 17, 2016**

**Juvenile Justice Committee: April 21, 2016**