



CRIMINAL SENTENCING COMMISSION

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

Juvenile Justice Subcommittee

April 21, 2016

Meeting Notes

Attending:	Erin Davies, Vice-Chair	Jill Beeler
	Ron Burkitt	Jim Cole
	Rep. Hearcel Craig	Judge Robert DeLamatre
	Judge Robert Fragale	Kathleen Hamm
	Teresa Lampl	Ashon McKenzie
	Rep. Dorothy Pelanda	Kyle Petty
	Director Harvey Reed	Senator Cecil Thomas
	Judge Nick Selvaggio	Kathy Wellington
	David Roper	Judge Ken Spanagel
	Sara Andrews, OCSC	Jo Ellen Cline, OCSC

1. Vice-Chair Davies called the meeting to order at 10:00 a.m.
2. Upon motion and second the meeting notes from the March 3, 2016 were approved as submitted.
3. Ms. Cline corrected a misprint on the next full Commission meeting date. The correct date is June 23, 2016. Ms. Cline updated the committee on work of the Juvenile Justice committee of the Supreme Court Advisory Committee on Children and Families. Finally Ms. Cline noted that sponsor testimony on S.B. 272 (Juvenile LWOP) had been given by Senators Eklund and Thomas and was well received by the Senate State and Government Oversight Committee.
4. Ms. Beeler updated the committee on the oral argument held in *State v. Aalim* on April 20, 2016.
5. The committee turned its attention to mandatory bindovers. The discussion began with a provision in the proposed draft that allows a juvenile to pursue an interlocutory appeal of the bindover decision. Judges expressed concern that the provision would cause a significant delay in the proceedings subjecting a juvenile to extended time in detention while awaiting the Court of Appeals decision. Ms. Beeler acknowledged that the drafters were cognizant of the same concern and suggested that the interlocutory appeal be subject to placement on the accelerated docket at the Court of Appeals. Discussion regarding the effectiveness of that remedy ensued. Upon a motion to approve the interlocutory appeal language and a second, the motion carried 7 – 6.



6. The committee next discussed the factors a judge should consider in mitigation of the decision to transfer a juvenile to adult court. The committee unanimously agreed to the proposed revisions to (E)(1) which simply combined two previously separate factors. The committee next discussed the addition of language to (E)(3) which would have the court consider if the child had an adult codefendant. Concerns were raised that the situation is already covered by the existing language. Discussion continued about adding an age limit because a 19 or 20 year old might be influenced by a 17 year old even though they are an “adult”. Upon motion and second to include the language as proposed, the motion failed 4 – 9.
7. The committee discussed new division (6) which adds consideration of a program or sanction existing that had not been utilized. A concern was expressed regarding the breadth of the language. Proponents argued that it adds protection for the juvenile judge. Another concern was expressed that the proponents were adding language already covered by other factors – in this case the ninth factor which requires consideration of whether there is sufficient time to rehabilitate the child in the juvenile system. Ms. Beeler argued that the ninth factor is generally just a number and not whether available programs had been utilized. Upon motion and second the language was approved with the addition of “reasonable and appropriate” before the word “program” (12 -1).
8. The committee discussed division (8) which changes the phrase “mentally retarded person” to “has a developmental disability”. Discussion ensued surrounding the inclusiveness of that phrase and also whether or not substance abuse should be included. Ms. Lampl was helpful in explaining how various terms are used in the mental health field. Upon motion and second the proposed language was amended to say “The child has a behavioral health issue including mental illness, substance use disorder, and/or a developmental disability” and accepted unanimously.
9. The committee then turned its attention to the factors that were drafted by Ms. Davies. The first significant suggestion was to put all of the factors into one list instead of separating them, as they are now, into aggravating and mitigating factors. After lengthy discussion it was decided that a side-by-side comparison with the changes to the existing statute already agreed to by the committee would be helpful. Ms. Davies and Ms. Beeler will prepare the comparison for the May meeting. In discussing some of the specific new factors included in Ms. Davies draft the committee had a discussion of the Ohio Youth Assessment System (OYAS). There was consensus that risk level may be something that should be considered if the factors are considered into one list. The committee



OHIO

CRIMINAL SENTENCING COMMISSION

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

also discussed a suggested factor regarding the child's background and home environment and any trauma in the child's history. Ms. Lampl indicated that "trauma" can have many different meanings to different groups of people. Finally, committee discussed inclusion of consideration of the impact of transferring a youth to the adult system. There was a lengthy discussion of the lack of resources for treating juveniles and the difficulties associated with multi-system youth.

10. With no further business, the committee adjourned at 12:33 p.m.