



OHIO

CRIMINAL SENTENCING COMMISSION

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

Juvenile Justice Subcommittee

August 18, 2016

Meeting Notes

Attending:

Paul Dobson, Chair	Erin Davies, Vice-Chair
Jill Beeler	Ron Burkitt
Jim Cole	Judge Robert Fragale
Kathleen Hamm	Judge Teri Jamison
Hon. Aaron Montz	Rep. Dorothy Pelanda
Kyle Petty	Director Harvey Reed
Judge Nick Selvaggio	Sara Andrews
Jo Ellen Cline	Tammy Alsaada (JJC)
Lucy Chandler (SCO)	Marla Burton (DYS)
Kathy Wellington (Rep. Craig)	

1. Vice-Chair Davies called the meeting to order at 10:03 a.m.
2. The meeting notes of July 21, 2016 were approved unanimously.
3. Brief introductions were made by committee members.
4. The committee began by returning to the discussion of a bright line exemption from transfer for those children with an IQ of 70 or below. Vice-Chair Davies noted that an adult cannot be executed in capital cases if they have an IQ of less than 70 but also noted that the Supreme Court has said that 70 is not a “magic number”. It was also noted that competency can be an issue in bindover cases. A concern was raised that have a mandatory “non-bindover” takes away judicial discretion and that a hard and fast rule will lead to an increase in arguments about IQ and what it means for bindover. There was extensive discussion about resources and the lack thereof in both the juvenile and adult systems. Judge Fragale raised an issue regarding the financial impact locally in regards to resources. A motion was made and seconded to not include a bright line exclusion of those with an IQ of 70 or below and the motion carried. [10 – 2 (Davies, Beeler)]. The committee then turned to consideration of a bright line exclusion of misdemeanors. This was intended to address the concept of “once an adult, always an adult” in the system. The proposal was that if a juvenile is transferred to adult court and serves their adult time and is subsequently commits a misdemeanor that the juvenile does not automatically go to adult court. After discussion a motion was made to limit the language of



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2152.02(C)(5) to felony cases. The motion failed 2 – 12. Ms. Beeler discussed that some cross reference issues need to be cleaned up in the draft and then suggested that division (F) of the proposed language could be deleted because it applied in mandatory bindovers and, under the proposal, all bindovers would be discretionary. Upon motion and second the committee unanimously agreed that division (F) should be removed from the draft. Ms. Beeler also led a discussion of division (K) of the draft which says that if a juvenile commits an offense before they are 18 but are not apprehended until after they are 21 they go to adult court. Ms. Beeler wondered if this should be the process or if the juvenile court should be able to have some input on whether the offender should be subject to the adult court's jurisdiction. A robust discussion followed regarding timing of charges and collateral consequences for the juvenile. There was some consensus among committee members that in sex offender cases the adult court would consider the juvenile registration requirements instead of the adult requirements. There was also some consensus that putting a requirement in that the adult court consider what the juvenile disposition would have been had the juvenile been apprehended before age 21. It was noted that record sealing is also impacted in this scenario. If division (K) were deleted from the draft an individual in these circumstances would not be charged at all. It was decided that Ms. Beeler would compose a memorandum to the Criminal Justice/Sentencing Committee of the Commission to bring this issue to their attention and request that the matter be dealt with in the adult court sentencing statutes. The committee then turned its attention to the final draft as a whole. A question was posed regarding what happens when a juvenile waives their amenability hearing, gets bound over and serves their time and then commits another offense as a juvenile. Their amenability to rehabilitation has never been determined. The committee, after lengthy discussion, determined that this is an issue that will likely have to be handled in litigation. There was also discussion that the draft that is finally presented to the Commission should include the deletion of 2152.121 regarding reverse bindovers because, if all bindovers are discretionary, it would no longer be needed. A motion to approve the draft was approved 9 – 3 (Dobson, Petty, Jamison). There was concern expressed that the particular language of each factor was not reconsidered by the committee prior to the final vote.

5. The committee briefly turned its attention to probation. Ms. Beeler suggested that the committee look at 2152.19. It is broadly written, contains several different levels of probation, does not include a set time for probation, includes monitored time, does not include terms of probation, and has a wide open catchall provision. Ms. Beeler will disseminate questions she has identified with R.C. 2152.19 and the issue of probation and the



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committee will invite David Williams who is Chief of the Holmes County Juvenile Probation department to discuss this issue at the next committee meeting.

6. Ms. Hamm introduced the topic of how detention time is being used in Ohio. The initial suggestion was to look at just post-adjudication time; however, after more consideration, Ms. Hamm would like the committee to get information and research on both arrest and detention pretrial and then how local time is used and how it is imposed. Ms. Hamm indicated that she is gathering information that she will share with the committee in the future.
7. There being no further business to come before the committee, the committee adjourned at 12:40 p.m.

NEXT MEETING: OCTOBER 20, 2016