



# Michigan's Children

2469 Woodlake Circle, Suite 290  
Okemos, Michigan 48864

517.349.8669

Fax: 517.349.8772

April 17, 1996

The Honorable Michael E. Nye  
Michigan House of Representatives  
State Capitol  
Lansing, MI 48909

*Mike*

Dear Representative Nye:

Attached for your information is a copy of the position statement of Michigan's Children on juvenile justice reform. These materials, which were shared with you at the February 28th hearing of the Judiciary and Civil Rights Committee, outline our position on the juvenile justice reform package which was passed by the Michigan Senate last year, and which you are addressing at this time.

I have recently assumed the position of President of Michigan's Children, and am taking this opportunity to communicate my interest in working closely with this committee on juvenile justice and other children's issues. Michigan's Children provides an independent voice for children in this state, and it is my goal to serve as a resource to you as you evaluate state laws and policies which affect families and their children.

Thank you for your careful review of the attached position statement. I look forward to a close working relationship.

Sincerely yours,

*Sharon*

Sharon Claytor Peters  
President

s:\issues\juvjust\judiciary.mem



# Michigan's Children

2469 Woodlake Circle, Suite 290  
Okemos, Michigan 48864

517•349•8669  
Fax: 517•349•8772

February 28, 1996

Honorable Michael E. Nye  
Michigan House of Representatives  
252 Capitol Building  
Lansing, MI 48909

COPY

Dear Representative Nye:

Michigan's Children has recently adopted a position statement on the juvenile justice reform package which was passed by the Michigan Senate last year, and which is now being considered by the Judiciary and Civil Rights Committee. A summary of our position is attached for your information.

Michigan's Children is an independent, statewide child advocacy organization that receives no public funding. Our mission is to improve outcomes for children and families, and our focus is multi-issue. In the area of juvenile justice reform, Michigan's Children has adopted five basic principles which are reflected in the attached materials. Those principles are:

1. **Michigan's Children supports the goal of rehabilitation in the juvenile justice system, balanced against public safety.** The research evidence does not support the conclusion that rehabilitation and public safety are inconsistent. Most youths ultimately return to their communities, and public safety is enhanced in the long run if effective rehabilitation services have been provided.
2. **Michigan's Children supports judicial decision-making relative to the waiver of children to the adult court.** Independent judges, rather than prosecutors, should be allowed to make waiver decisions based on established statutory criteria. Michigan's Children supports the Michigan Probate Judges Association's alternative to automatic waiver which allows juvenile courts to impose adult-like sentences for certain offenses and then, based on established criteria, stay the adult sentence and commit the youth to a program of rehabilitation.
3. **Michigan's Children supports funding for programs which help prevent delinquent behaviors by youths.** There is evidence that children who have been exposed to poverty, poor pre-natal care and parenting, and abuse and neglect become involved in later violence and criminal activity. Juvenile justice reform in Michigan should include a prevention component.

4. **Michigan's Children supports improvements in, and expansions of, community-based alternatives for delinquent youths.** Community-based rehabilitation programs have had some success in reducing further criminal behavior and recidivism among juvenile offenders. These programs should be expanded and improved.

5. **Michigan's Children supports the establishment of a state commission to review juvenile justice services and procedures in Michigan.** Proposals to reform the state's juvenile justice system should reflect available research on outcomes for youths--including recidivism rates.

We hope that this information will be useful to you as you join the debate on alterations to Michigan's juvenile justice system. If you have questions, or would like more information, please contact Pat Sorenson, our Vice President for Policy at 349-8669.

Thank you.

Sincerely yours,

*Robert W. Spencer*

Robert W. Spencer  
Interim President

## MICHIGAN'S CHILDREN

### *Response to the Juvenile Justice Package Passed by the Michigan Senate on December 7, 1995*

<i>Proposed Change in State Law</i>	<i>Relationship to Policy Principles of MI. Children</i>
<p><b>1. Youth Correctional Facility</b></p> <p>SB 681, which was sponsored by Sen. Loren Bennett (R-Canton), authorizes the Department of Corrections to establish and operate a correctional facility for youths age 19 or less (or contract with a private vendor for operation of the facility).</p>	<p>Michigan's Children supports the goal of rehabilitation in the juvenile justice system, balanced against public safety*. While it is appropriate that juveniles be segregated from the adult prison population, Michigan's Children believes that the goal of rehabilitation--balanced with public safety--should be paramount in all programs for juveniles, including those that are residential or institutional in nature. Further, programs for juveniles must address the actual needs of youth. For example, appropriate treatment for children with serious mental health problems must be available to ensure that effective rehabilitation is possible. Michigan prisons have not provided comprehensive rehabilitative programming, and recidivism rates are relatively high.</p>
<p><b>2. Sentencing</b></p> <p>The Senate-passed bills mandate that youths convicted in circuit or recorder's court of assault with intent to commit murder, attempted murder, conspiracy to commit murder, solicitation to commit murder, first degree murder, second-degree murder or first degree criminal sexual conduct, be sentenced as an adult. All other youth convicted in circuit or recorder's courts would either: (1) be placed in a juvenile facility with the prosecutor's consent; or (2) be sentenced (following a sentencing hearing) as an adult <b>or</b>,</p>	<p>Michigan's Children believes that children are best served when judges have a broad range of dispositional options available to them. Without such judicial discretion in sentencing, attempts to rehabilitate children and provide youths with hope of successful reintegration into their communities are thwarted.</p> <p>While Michigan's Children opposes automatic waiver (see below), if prosecutorial waiver is not repealed, we support the continued option of remaining children to the Michigan Department of Social</p>

Michigan's Children believe that rehabilitation contributes to public safety in the long term. Most offenders are ultimately released into the community, and public safety is enhanced if appropriate rehabilitative services have been provided. The evidence suggests that juveniles receiving rehabilitative services are less likely to commit later crimes which require incarceration.

### *Proposed Changes in State Law*

if a preponderance of the evidence indicates that the interest of the public is best served, be placed on probation and committed to a juvenile facility. Youths placed in juvenile facilities could be given a prison term after an unsatisfactory annual court review.

In determining whether to sentence a juvenile as an adult, the court must consider several factors: (1) the seriousness of the offense; (2) the culpability of the child, including the level of the child's participation in planning and carrying out the offense; (3) the child's prior record of delinquency; (4) the child's programming history; (5) the adequacy of the punishment or programming available in the juvenile system; (6) the dispositional options available for the child; and (7) whether the child had previously been waived. In considering these seven factors, the court must give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency.

### *3. Changes in Waivers of Juveniles to the Adult Court*

SB's 689-692, sponsored by Sen. Michael Bouchard (R-Birmingham) reduce the minimum age at which youths may be waived to adult courts to 14 years of age. In addition, the following are added as waivable offenses for prosecutors: (1) burning a dwelling house; (2) assault with intent to maim; (3) kidnapping; and (4) bank, safe and vault robbery. The alleged offenses for which a prosecutor can currently waive a juvenile to adult court include: (1) assault with intent to murder; (2) assault with intent to commit armed robbery; (3) attempted murder; (4) first

### *Relationship to Policy Principles of MI. Children*

Services (MDSS) for sentencing. Judges should have the option of individually assessing each child who is automatically waived, and determining the best path to rehabilitation. Michigan prisons currently provide little rehabilitative programming, and recidivism rates appear to be similar to or higher than those of state wards under the control of the MDSS. In Michigan, a 1995 analysis of 737 youths tried in adult courts found that in the period between 1990 and the end of 1993, only 9.2 percent of youths released from the MDSS and private training schools later ended up in the Department of Corrections, and the success rate may be improving. The rate of incarceration for waived youth that had been released from the MDSS between 1991 and September of 1994 was even lower at 6.1 percent.

In determining whether a juvenile should be sentenced as an adult, Michigan's Children supports court consideration of a variety of factors, including the possibility of rehabilitation, and the adequacy of programming available, rather than a more narrow focus on prior record of delinquency, and the nature of the offense.

Michigan's Children supports judicial decision-making relative to the waiver of children to the adult court--based on established statutory criteria. This role more properly falls to independent judges rather than prosecutors. Because Michigan's Children supports judicial decision-making, it opposes automatic waiver and any expansions of automatic waiver, including proposals to lower the age of waiver or to increase the number of crimes that may result in automatic waiver. A system of individualized justice which focuses on the rehabilitation of youths is best accomplished through judicial determination, and probate judges should have a continuum of graduated sanctions available to them.



*Proposed Changes in State Law*

degree murder; (5) second degree murder; (6) first degree criminal sexual conduct; (7) armed robbery; (8) car jacking; and (9) distribution or possession of greater than 650 grams of a schedule one controlled substance.

*Relationship to Policy Principles of Ml. Children*

Current evidence suggests that children have a better chance of rehabilitation in the juvenile justice system. A recent U.S. Dept. of Justice report concluded that "studies indicate that transferring of serious juvenile offenders to the criminal justice system does not appreciably increase the certainty or severity of sanctions. More importantly, there is no evidence that young offenders handled in criminal court are less likely to recidivate than those remaining in juvenile court." A 1991 National Institute of Justice report comparing outcomes for adolescent felony offenders found that recidivism rates were equal if not better for adolescents handled through the juvenile court.

Michigan's Children supports the alternative to automatic waiver which was proposed by the Michigan Probate Judges Association in June of 1995. While Michigan's Children has not taken positions on all aspects of their proposal, the concept of providing juvenile court judges with the authority to impose adult-like sentences for certain offenses and then, based on established criteria, stay the adult sentence and commit the youth to a program of rehabilitation, has merit. It provides judges with the opportunity to individualize rehabilitation programs, and establishes adult sentences in cases where the youth does not prove to be amenable to rehabilitation.

*4. Parent Participation*

SB 682, which was sponsored by Sen. Leon Stille (R-Spring Lake), would allow judges to order parents to participate in treatment programs. SB 698, sponsored by

Michigan's Children supports comprehensive rehabilitative programming, and parental involvement can be a critical component as children are reintegrated into their communities.

<i>Proposed Changes in State Law</i>	<i>Relationship to Policy Principles of MI. Children</i>
<p>Sen. Joel Gougeon (R-Bay City) would require that parents attend all hearings involving their juvenile unless excused by the court.</p>	
<p><b>5. Juvenile Boot Camps</b></p> <p>SB's 695 and 696, sponsored by Sen. Mike Rogers (R-Howell), requires the Michigan Department of Social Services to develop one or more boot camp programs</p>	<p>Michigan's Children supports a range of dispositional options for judges, provided the goals of rehabilitation and public safety are balanced. National evaluations indicate that boot camps may not be successful in reducing recidivism. Additional research may be needed on the effectiveness of boot camps in rehabilitating youths.</p>
<p><b>6. Juvenile Line-ups</b></p> <p>SB 697, sponsored by Sen. Walter North (R-St. Ignace), would permit the court to order juveniles to attend line-ups for identification purposes.</p>	<p>Michigan's Children has no position.</p>
<p><b>7. Detention of Waived Juveniles in Adult Jails</b></p> <p>SB 724, sponsored by Sen. Jon Cisky (R-Saginaw) would permit the detention of juveniles who have been waived to the adult court in adult jails--with the approval of the county sheriff. Juveniles must be separated from adults.</p>	<p>Implementation of this proposal would jeopardize federal juvenile justice funding currently provided for early intervention and prevention programs. Further, county jails may be ill-suited to handle juveniles. Many are crowded, and complete segregation of juveniles from adults may be difficult to achieve. Further, the staff in county jails are not generally trained to work with juveniles.</p>

Sources: (1) *Juvenile Offenders and Victims: A National Report*, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C. (August 1995).

- (2) *Council Bulletin*, Michigan Council on Crime and Delinquency, Lansing, MI, (Summer, 1995).
- (3) *Resolution by Michigan Probate Judges Association Regarding Violent and Chronic Youthful Offenders*, Resolution No. 3 adopted by majority, MPA, Summer Meeting (June 28, 1995).
- (4) *Summary of Juvenile Justice Package As Passed the Senate on December 7, 1995*, Coalition for Juvenile Justice Reform, Lansing, MI, (undated).