

SB 368 Written Testimony Selected Quotes

My organization works with children and youth who are filled with immense potential weekly. It would be so sad to see any of the hundreds of those we work with have their promise snuffed out because of a juvenile mistake. It is surprising to learn that juvenile records are not automatically expunged in the state of Indiana. It is widely believed that they are automatically expunged because common sense dictates that juvenile records should be.

Pastor Richard A. Reynolds, Indianapolis Ministerium

Fully half of all lifetime mental illnesses develop by age 14, yet the average delay between onset of mental illness symptoms and treatment is 11 years. At the same time, 70.4% of youth in the juvenile justice system have a diagnosed mental illness. This is a tragic disconnect....Children need help, not handcuffs.

Barbara Thompson, NAMI Indiana

Our growing statewide organization of pastors and faith leaders stands for children and for this positive legislation that ensures the compassion and leadership of our state is evidenced in the laws that we advance. In a time of darkness, this bill represents the light of progress and renews faith in institutions that are established to represent and protect all people.

Pastor Ivan Douglas Hicks, Indianapolis Ministerium

The lack of a legal standard may cause youth with mental illness and/or developmental disabilities to be subject to delinquency proceedings in order to attain critical services. This is certainly not the best avenue for youth in our state. Indiana needs to pass a juvenile competency statute in the best interest of Indiana youth, and guidance for all involved.

Lindsey A. Grossnickle, Whitley County Deputy Prosecutor

I speak in favor of this legislation as a juvenile forensics psychologist who has been practicing in Indiana for almost 20 years. The majority of young people in the juvenile justice system have a mental health and or substance use disorder. Moreover, I continue to be surprised that the large number of youth with limited intellectual capabilities that I see in my practice. Lastly, we will occasionally have young children involved in the juvenile justice system under the age of 12 and these young people simply have a very hard time understanding procedures due to their developmental stage.... I want to add my voice to those asking for state level guidance on competency proceeding for young people...

Dr. Matthew Aalsma, Professor Indiana University School of Medicine

INAAP represents over 800 pediatricians across Indiana, and we support this legislation because it will help ensure that: (1) children are not in adult facilities while awaiting trial; (2) children with mental illness, disabilities or just too young, do not enter the juvenile justice system in order to access services; (3) children are not subject to overly harsh and punitive life sentences; and, (4) the collateral consequences due to a juvenile record do not follow children, placing barriers to education, employment, joining the military, housing and other essential aspects of life. It also eliminates laws and procedures that disproportionately and negatively impact Black children and youth.

Dr. Sarah Stelzner, Indiana Chapter of the American Academy of Pediatrics

Many people in Indiana believe juvenile are “sealed” or “expunged” when a child becomes 18 or 21. Neither of these are true. Most juvenile records are available to the public at the County Clerk’s office forever....it does not make sense to say a child is rehabilitated, but still allow their juvenile record to negatively affect their future options.

Rachel Roman-Lagunas and Cynthia K. Booth, Child Advocates

As juvenile defenders, we are appointed to represent children in delinquency cases. Some are unable to communicate about their cases due to a variety of cognitive, developmental, or mental health conditions; and to grasp even a basic understanding of what is happening at court, let alone the possible consequences. These children may languish in the traumatic environment of detention as the court and probation scramble to figure out how to provide services to a child whose case cannot proceed to trial or other resolution.

Marion County Public Defender Agency, Juvenile Division Attorneys

In Marion County, the adult jail does not offer any of the opportunities made available to children held in the Juvenile Detention Facility. Specifically, children held at the adult jail cannot earn school credit, participate in therapeutic interventions, or even go outside. When faced with a pending major felony case, defendants often remain incarcerated for a year or longer. Without any of the above services, juveniles held in adult facilities have little to no opportunity to maintain their education or protect and improve their physical and mental health.

Marion County Public Defender Agency, Major Felony Court Attorneys

There are no face-to-face visits done with inmates inside the Marion County Jail. If parents wanted to see their child or vice versa, they’d need to pay to utilize a video visitation service. Due to this, youth inside MCJ often go the entirety of their case not seeing their family members.... my clients are not able to visit their families regularly or even hug their parents while they are being housed in MCJ.

Abbie Rust and Kristin Fouse, Social Workers, Marion County Public Defender Agency

Sections 3 and 4 state good policy by increasing the age at which a court may waive juvenile court jurisdiction and allow a child to be tried in adult court. Fourteen-year-olds are not adults and regardless of their actions their culpability is not the same as that of adults. The harm experienced by children in adult penal institutions extends to society as a whole. Most persons sentenced to prison will eventually be released back into society. It is folly to expect children who have spent their formative years in an adult penal institution to be fully functioning human beings upon their release.... Section 7 wisely limits pretrial incarceration of juveniles in adult institutions. Jails are generally less secure and more dangerous than adult prisons. Inadequate supervision, outdated facilities, and limited ability to classify detained persons combine to produce a hazardous environment for all detainees; the danger is exacerbated for juveniles.

**William E. Marsh, Profess or Law Emeritus IU McKinney School of Law;
and retired Executive Director of Indiana Federal Community Defenders**

Being on the front lines, we in the juvenile correctional field see on a daily basis the direct impact of incarceration on youth. Being placed in a juvenile facility is traumatic and should be used when the safety and security of the community is at stake and no other viable safe option is available for the youth. The trauma is compounded when the youth is placed in an adult correctional facility due to an adult waiver....Children as young as 12 who are waived could be subject to pretrial incarceration in adult facilities.

Alison M. Cox, President, Indiana Juvenile Detention Association (IJDA)

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Establishing timelines for completing evaluations and reports, as well as timelines for completion of competency building attempts will protect juveniles from potentially lengthy delays that could involve separation from their families. At present, there are no limits on how long a juvenile could be held in an out-of-home placement undergoing attempts to help them attain competency. SB 368 also provides much needed direction regarding next steps when a juvenile is found not competent to stand trial and will not attain competency within the time periods outlined in this bill.

Dr. Ann M. Lagges, Associate Professor Clinical Psychiatry, Indiana University School Medicine; and Psychologist, Riley Hospital for Children at Indiana University Health

I've learned two truths in 17 years as a public defender: there is no harsher punishment than imprisonment, and time can change a person for the better. Both are especially true of juveniles. Because their minds are still developing and thus malleable, children and teenagers can be unusually prone to making bad and even tragic decisions. But, for the same reason, they are unusually receptive to rehabilitative efforts.

Jon Chenoweth, Deputy Public Defender of Indiana

I have practiced law as a public defender for more than 20 years, and have represented juveniles who face all their remaining years behind bars after committing a single, impulsive act. Of the hundreds of cases I have handled, it is cases involving these children that stick with me the most. Meeting them decades after being sentenced for their crimes, I see firsthand the change that occur with rehabilitative programs and emotional development—yet often there is no path for even a trial court judge who regrets the length of the sentence originally imposed to adjust the sentence to a term commensurate with the kind of adult that the child turned out to be.

James T. Acklin, Chief Deputy Public Defender

I have a client with a sentence so lengthy (108 years) that he will not likely get out of prison. He was sentenced for a crime he committed when he was 16 years old. He started working as a sewing machine operator. His work reviews were excellent. He was promoted to supervisor in the sewing machine shop. He told me that he used the skills he learned in a DOC program in supervising the other men. Some of the men were older than him or more experienced. He knew he had to earn their respect. He described the items manufactured in the shop. They make belts for the correctional officers and for the military. He took great pride in explaining that he had studied how the items needed to be made. He knew they needed to be made with precision. You cannot have your equipment fail while in combat, he told me. The United States Supreme Court called a life sentence for a juvenile “the extinguishment of hope.” My client, and others like him, need to have hope for a second chance if they prove themselves worthy.

Joanna Green, Deputy Public Defender

There are few cases in the juvenile delinquency system that are more frustrating and heartbreaking than those involving children who are profoundly mentally ill, cognitively impaired, or developmentally immature. Without competency statutes, such as those proposed in SB 368, similar children are treated differently around the state as different courts grapple with these difficult situations. Our children are also treated differently than those across the country, because Indiana is one of only a few states without comprehensive juvenile delinquency competency statutes. The proposed statutes in SB 368 are similar to those recommended by researchers and implemented across the country.

Magistrate Kaarin M. Lueck, Wayne Superior Court

Since 2017, I have been employed via VOICES Corp, a youth-serving organization that focuses on relationship-building, healing-centered engagement, and leadership development. One of the components of our organization is the Day Reporting program. Students are referred to Day Reporting, primarily, from Juvenile Court as an alternative-to-detention and a method of supervision. Since the inception of the program, we have served close to 350 young people with a variety of charges, including possession of a handgun, robbery, theft, and drug-related charges....The vast majority of our students come to us with significant adverse childhood experiences and traumas, which lead to deeply layered distrust of systems, institutions, and the people who work in them. We work, diligently, to undo that harm and model what positive, caring, and consistent connections look like....Our students have demonstrated time and time again that if they are simply given the opportunity to show their potential, share their truth and be given access, they are capable of greatness. What they have done in the past, as a still-developing adolescent, should not hover over them and create additional barriers to their success, hindering them from ultimately achieving their goals.

Brandon Randall, Director of Engagement, VOICES Corp.

One key provision we believe must occur quickly is prohibiting minors as young as 12 from being placed in adult jail facilities before they go to trial. Such transfer and waiver cases to adult court and pretrial confinement disproportionately impact children of color. Startling statistics from recent reports reveal the adverse effects of placing minors in adult facilities. According to the Indiana Criminal Justice Institute Report, (2018), in Indiana, 69% of all cases filed in 2017-18 for Direct File were Black children, and only 23.4% were white. The Taskforce on Community Preventive Services, (2007), found that children placed in adult confinement are 36 times more likely to commit suicide; and the U.S. Department of Justice in 2020, found that these children were 200% more likely to be beaten by staff and 50% more likely to be attacked with a weapon than those juveniles in juvenile confinement. Additionally, such children are confined and segregated with long periods of isolation, facing significantly more likelihood of sexual abuse, receiving no school or support services, and actually ending up with a higher recidivism rate for more violent offenses than juveniles who were confined in juvenile facilities with similar charges (American Bar Association, 2016).

Barbara Bolling, President, Indiana State Conference of the NAACP

Indiana law already prevents minor children from being housed in the same facilities as adults following adjudication or sentencing; this provision would ensure that children, including those with pending adult charges, also remain out of adult jails pre-trial. Children in adult jails can face extremely harsh conditions, elevated risks of physical and sexual assault, and long periods in isolation. In response to this fact, the Juvenile Justice and Delinquency Prevention Act (1974) has long required states to house children in facilities designed for youth. In 2018, this mandate was updated to include ALL minors, even those facing adult criminal charges. States have until the end of 2021 to implement this law or will face a 20-40% reduction in their federal Title II Formula grants. Indiana, through its longstanding commitment to JDAI (Juvenile Detention Alternative Initiative), has already reduced its use of youth detention by 50%. This means that there is ample space in youth detention centers to house the children who are currently pending trial in adult jails....Finally, in a handful of counties across Indiana, this practice is already being successfully implemented.

The Sentencing Project National Sign-on Letter: Center for Children's Law & Policy, Children's Advocacy Institute, Equal Justice Under the Law, Juvenile Law Center, Justice Policy Institute, National Crittenton, National Juvenile Defender Center, National Juvenile Justice Network, R Street Institute

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Most people believe that when a child turns 18, their records are sealed. This is not true in Indiana. We do great harm to children when they do not have access to automatic expungement of their juvenile records. This information follows them into adulthood because many do not realize they must have an attorney to help them through the court process, nor do some have the resources to pay for those services. Even after rehabilitation, these juvenile records create inequitable barriers to future education and employment opportunities, access for joining the military, fair housing practices and other essential aspects of life.

Drenda Henry, President, National Council of Negro Women Indianapolis Section

There is no more important responsibility of lawmakers than to protect their citizens, and particularly children. Sen. Tallian has authored comprehensive legislation to accomplish several objectives, which together further distinguish children from adults in the criminal justice system, based on extensive research and common sense.

Alan Smith, Midwest Director & Senior Fellow, R Street Institute

Indiana has long been a leader in sensible criminal justice reform. We were one of the first states to provide counsel for criminal defendants, one of the first states to prohibit the death penalty for juveniles, and one of the first states to prohibit the death penalty for those with intellectual disability. We can, and should, also be among the first to prohibit life without parole penalties for juvenile offenders.

Steven H. Schutte, Deputy Public Defender, Public Defender of Indiana

Having spent the majority of my career in Special Education I am keenly aware of the fact that children (and many adults) do not have an understanding of the criminal justice system. It is imperative that the competency of children to stand trial be determined prior to the commencement of any prosecution. Further, as a member of the Catholic Faith, I am opposed to the death penalty. Juvenile Life Without Parole is a death sentence. Children should never be condemned to death for the worst moment of their life. The criminal justice system disproportionately harms young Black boys, who look like my son. SB 368 is the first step towards racial equity in the criminal justice system and ensuring that all of Indiana's children are treated as children.

Paula K. Smith, Educator, Mother and Grandmother to Indiana's Children

IBE has a long-standing tradition of advocacy in our state including youth development and youth justice issues....We have previously opposed attempts to lower the age for the direct filing of teenagers into adult court or charging them for adult offenses. We support SB 368 for many of the same reasons we have opposed other legislation we felt was harmful to children. We recognize that Black youth are 2.5 times more likely than white students to be arrested by school police in Indiana. While black youth make up only 35% of youth in the juvenile system, they represent 70% of the children directly filed to adult court. This is not only a matter of justice, but these racial disparities signal a deeper problem of systemic racism.

Tanya Bell Mckinzie, President & CEO, Indiana Black Expo, Inc.