



Michigan Probate Judges Association

Executive Committee:

Hon. Monte Burnmeister
President

Hon. Darlene A. O' Brien
President-elect

Hon. Thomas D. Slagle
Vice-president

Hon. John Tomlinson
Treasurer

Hon. William Doherty
Secretary

Hon. F. Kay Behm
Presiding Judge

Hon. Dorene S. Allen
Imm. Past-president

At Large Members:

Hon. Michael Jaconette
Hon. Thomas Byerley
Hon. Curtis Bell
Hon. Kathleen A. Ryan

Regional Assn. Presidents:

Hon. Kathleen A. Ryan
Southeastera

Hon. Marcy Klaus
Central

Hon. Benjamin Bolser
Top of Michigan

Hon. Charles C. Nebel
Upper Peninsula

Hon. G. Scott Pierangeli
Southwestern

Committee Chairs:

Estates and Trusts
Hon. Michael Jaconette

Mental Health
Hon. Curtis Bell

Legislation
Hon. Lisa Sullivan

Governance
Hon. Patrick McGraw

Compensation
Hon. Patrick McGraw

Family court – juvenile
Hon. Dorene S. Allen

Family court – Dom. Rel.
Hon. Marcy Klaus

Family court – adoptions
Hon. William Doherty

Child Care Fund
Hon. Susan Dobrich

Technology
Hon. Thomas Byerley

Inter Com
Hon. Cheryl Lohmeyer

Michigan House Testimony on Raise The Age Senate Bill Package (RTA) April 9, 2019

My name is Dorene S. Allen and I am the Midland County Probate & Juvenile Court Judge and have been for 18 years now.

On behalf of the Michigan Probate Judges Association (MPJA) we are pleased with the progress that has been made as to the Raise The Age (RTA) issue - moving the jurisdictional age for Juvenile Court purposes from 17 to 18 years of age. MPJA has been actively involved in this discussion for over five years. We have concerns as outlined below regarding this current set of proposed legislation.

1. Funding - We continue to rely on the funding options contained in SB 101. The first option to counties will be 100% reimbursement for any and all costs affiliated with the Raise The Age under the Child Care Fund. The second option would raise the State's share of costs from the current 50% to 68% for ALL delinquent wards in the court with no limit. **The Probate Courts almost unanimously believe that this second option is preferable.**

2. Designated Proceedings - Senate Bill 97 changes the age on proceedings called designated proceedings. Succinctly put, designated proceedings are specific to juveniles. The law, as it currently exists, permits a prosecutor to seek designation of a juvenile to attempt rehabilitative services in the same way it would for any other juvenile case, but the court reserves the ability, if certain statutory factors are met, to revert to a more traditional, adult disposition if the rehabilitative services are inadequate to address the juvenile's issues or to ensure the safety of the community. The current proposed legislation, specifically Senate Bill 97 eliminates the ability for a court to sentence a designated juvenile to jail or prison prior to his or her 18th birthday (SB 97, P13, L25-26). This change significantly reduces the effectiveness of the designation status, perhaps even fatally. A prosecutor simply won't select designation at all without the built in assurance to public safety that comes with the ability to sentence the juvenile to jail or prison if the rehabilitative efforts available to the juvenile court system fail. Understandably, the prosecution needs the assurance that incarceration is an option when addressing a crime as severe as murder. Unfortunately, under the proposed legislation that assurance would only be available by seeking waiver of juvenile court jurisdiction or for specified crimes, not utilizing the juvenile court at all. This of course removes the juvenile from the juvenile system and its corresponding benefits.

Maintaining the option to place a designated juvenile in a jail or prison is necessary for the proper functioning of the designated status. We ask that designated status be maintained as it currently exists. The unintended consequence of this proposed legislation removes the hammer on designated proceedings. The current law possesses appropriate safeguards that must be met through evidence before the minor may be treated as an adult.

3. Detention Facilities - The second item is the inclusion of funding for additional construction of detention facilities. There is a need for additional detention facilities once that change is made. Despite the allegation that there are “mothballed facilities ready to go” that is an inaccurate analysis of the detention bed availability throughout the state, particularly in northern Michigan. Certainly there will be a savings to the adult criminal system as a result of the 17 year olds being transferred to the family courts. It is our suggestion that this savings be reflected with a fund from which counties who find that the current facilities are inadequate can apply for funding for a time period of five years.

4. Grant Increase - Third is an increase in the basic grant from the current \$15,000 for individual counties to \$50,000. This is a more practical and feasible amount to actually provide some new programming opportunities for our counties.

5. Technical Changes - The fourth items are some technical changes that need to be made to the package. With regard to pending cases – currently the legislation does not include a provision specifying the process for pending cases involving a 17-year-old in either district or circuit courts. The legislation does amend MCL 712A.3 (immediate transfer to family division), but this amendment only changes 17 to 18. That transfer needs to be addressed in the legislative proposals.

Further there are two other statutes that may have been overlooked for the committee to consider including in this package as they will be impacted by expanding the juvenile justice system to include 17-year-olds:

- MCL 722.151 – Aiding or Abetting Violations of Juvenile Court Orders
- MCL 28.258 (amended) – Uniform Crime Reporting System

It is a priority for MPJA to make sure that these changes are being made.

Respectfully submitted,

Dorene S. Allen

Midland County Probate Court Judge