

**LEGISLATIVE JUDICIARY COMMITTEE MEETING
JUVENILE COURT JURISDICTION STUDY
JANUARY 10, 2012**

Mr. Chairman, Members of the Committee:

My name is Haley Wamstad and I am an Assistant State's Attorney for Grand Forks County. I have been assigned to prosecute juvenile crimes for the past 4 years. I am speaking to you today in support of extended juvenile court jurisdiction. Extended Juvenile Jurisdiction (EJJ) is an extra tool that enables the Court to impose juvenile or adult sanctions (or both) on certain juvenile offenders. This extra tool provides a middle ground between over punishment and under punishment in juvenile court.

Under our current transfer statute (NDCC § 27-20-34) there are certain offenses that are mandatorily transferred to adult court, such as certain types of Gross Sexual Imposition, drug offenses, or murder. This "mandatory transfer" provision takes away the ability of the juvenile court to assess what type of treatment or rehabilitation is best for the child, but rather deems the mere commission of these offenses an automatic transfer to adult court upon a showing of probable cause.

EJJ is an extra tool for juvenile court, which can be used to assess each case individually. Rather than sending a child directly to adult court, the extended jurisdiction would give a child one last chance for treatment in juvenile court before facing the significant sanctions of adult court. The Juvenile Court would have the ability to first attempt to treat the child in Juvenile Court. Then if, after a period of time, Juvenile Court determined that the disposition attempted was not successful, they could revoke that disposition and sentence the child as an adult.

I am appearing before you again today because I respectfully disagree with the conclusion of the Juvenile Policy Board. There is more to consider on this bill than what the Juvenile Policy Board has presented. In their consideration of this matter, they looked at the number of cases that are transferred to adult court. They are right; that number is small. But, there are two things to consider about that small number. First, since when do we legislate only for the masses. We don't have many murder cases in this state, but we still have a murder statute. Second, EJJ would affect many cases beyond just those that transfer to adult court. EJJ would provide us with an extra tool to use for those cases that are not automatic transfers to adult court. EJJ could be used to give a child one last chance in adult court or to

provide us with the ability to continue to treat a child if they have failed to comply with the juvenile court order, rather than allowing them to age out of the system.

As a juvenile prosecutor I often see cases where there is no perfect disposition under our current law – a juvenile disposition is sometimes not enough, but an adult sanction seems to be over punishment. For example, I prosecuted a case where a 16-year-old girl was charged with Gross Sexual Imposition. This juvenile had no prior record in juvenile court, but the circumstances of the offense were quite egregious. The defendant in this case tied her 12-year-old female cousin to a bed and used a purse strap to whip her cousin's naked body, amongst other sexual acts. Because she had no prior involvement with juvenile court, her case was not transferred to adult court. She was ordered to the custody of the Division of Juvenile Services (DJS). In the time she spent with DJS, she failed to comply with the requirements of her sentence. She was placed at the Youth Correctional Center, juvenile court's highest level of care, and remained there until her 20th birthday. On her 20th birthday, she was released to the community, without one day of sex offender treatment or any transition back to the community. Unfortunately, it is not uncommon to see kids like this one age out of the system. This is an area that EJJ would be beneficial, which was not considered by the Juvenile Policy Board's review of cases.

The failure in this case was not that of the juvenile court officers, DJS workers or any specific person – the fault lies in the system. Under our current law, we don't have jurisdiction over a child once they reach 20-years-old. With Extended Juvenile Court Jurisdiction, if a child failed to comply with a juvenile disposition, we would have the ability to revoke the child's juvenile court sentence and sentence the child as an adult. This provides an extra incentive for the child to comply with the juvenile court requirements, as well as giving the system the ability to continue working to adequately treat a child.

As a juvenile prosecutor, one of the heaviest burdens I face is the decision of whether a child should be charged as a juvenile or as an adult for an offense they committed as a child. As you are aware, the purpose in juvenile court is to treat and rehabilitate the child so that they do not continue to commit crimes once they become an adult. However, we also have to consider public safety and if we think a juvenile court disposition would be enough to fully treat the child's needs. This balance is very difficult when you know little to nothing about the child. EJJ gives us the ability to wait-and-see; we can first give the child the opportunity to be treated as a juvenile and then impose the adult sentence if

what we can provide in juvenile court is not enough. A perfect example of this is the case I shared with you the last time I testified. That was a case of a juvenile facing a transfer to adult court, which meant a minimum mandatory sentence of 20 years with lifetime registration as a sex offender. The other option was to keep his charge in juvenile court, where he would likely only get 1 year of supervised probation. In our current system, there is no middle ground.

Therefore, I would encourage this committee to support and recommend legislation on extended juvenile court jurisdiction. In the Juvenile Policy Board's review of this matter, Jim Ganji drafted a proposed bill after his review of other state's EJJ statutes, which I think is an excellent proposal. It is unfortunate that the Supreme Court has a policy that prohibits juvenile court officers from testifying here today. They are the people that work with these kids every day and they are the people that know our current system best.

Thank you for your time and consideration. I would happy to answer any questions.

Thank you,

Haley L. Wamstad
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