
T H E M I N N E S O T A
C O U N T Y A T T O R N E Y S
A S S O C I A T I O N

Background:

Senate File SF 256 and House File H.F. 317 of the Minnesota Legislature propose to create a new category of juvenile offense called “violent juvenile offense.” A violent juvenile offense is defined as:

- murder in the first degree
- murder in the second degree
- murder in the third degree
- manslaughter in the first degree
- manslaughter in the second degree

A juvenile who is 13 years of age who has committed a violent juvenile offense would be subject to either certification to adult criminal proceedings or being designated an extended jurisdiction juvenile. Under the current system, no thirteen year old may be either certified to adult court or designated an extended jurisdiction juvenile regardless of the offense they have committed.

Position of the Minnesota County Attorneys Association:

The Minnesota County Attorneys Association (hereafter Association or Minnesota’s County Attorneys) opposes the proposal.

Public safety must be a paramount consideration in the handling of all juvenile delinquency cases. At the same time, the juvenile justice system must also continue to recognize the unique nature of juvenile offenders and their need for consequences beyond simple removal from society for a set period of time. The Juvenile Justice System was created to provide juvenile offenders consequences that would provide public safety and also change their behavior. Unlike the adult system, the juvenile system is designed to use means that “are fair and just, that recognize the unique characteristics and needs of children and that give children access to opportunities for personal and social growth.”¹ Thus each child’s consequences for unlawful behavior are developed to “fix” the child, rather than warehouse him/her for a set period of time, resulting in change of behavior or attitude.

This proposal would permit the courts to sentence 13 year olds convicted of the above listed crimes to prison under the Minnesota Sentencing Guidelines. This is counter-productive to changing the juvenile’s behavior to prevent future criminal activity. With the exception of three of the listed offenses,² the Sentencing Guidelines provides for presumptive sentences of 86 months or less. With time off for good behavior, most thirteen-year-old certified felons would be released before their 18th birthday without programming or rehabilitation. Instead, they would

¹ Minn. Stat. §260.B.001 Subd.2

² The exceptions are Murder in the First, Second and Third Degrees..

receive a graduate-level program in adult criminal activities in an adult prison. If kept in the current juvenile system, thirteen year olds who committed one of the listed offenses could be under juvenile court jurisdiction until their 19th birthday, all the time receiving programming to change their behavior. Research has found that “criminalized juveniles are more likely, following correctional institution release, to reoffend, to reoffend more quickly, and to reoffend more often and more seriously than similarly law violating juveniles handled in a juvenile justice system.”³

While the individual circumstance bringing rise to this proposal is certainly horrific, Minnesota Supreme Court data show that only a very small number of youth age 10 to 13 commit the violent offenses listed above. Since the beginning of 2000, only four children age 13 and only two children age 12 have been charged with causing the death of someone. No one younger than 12 has committed any such crimes in Minnesota. Based on these data, we do not believe a change in existing statutes is warranted.

A more telling statistic is that we have not been able to find any case in which a 13 year old, charged with murder and committed to the Juvenile Justice System, committed another murder later in life. Thus, an examination of the few cases involving youth who have committed murder prior to age 14 appear to support the notion that committing a violent 13 year old to the Juvenile Justice System is consistent with public safety as well as rehabilitation.

While we strongly believe that there is no need to modify existing law, if it is felt there is a need for change, a possible solution would be to apply the existing procedures for Extended Jurisdiction Juvenile (EJJ) to the extremely small number of youth age 13 who commit a much more limited number of offenses. We believe a more balanced approach would be to lower the age of EJJ designation to age 13 for any juvenile who commits Murder in the First or Second Degree and Attempted Murder in the First or Second Degree. By limiting EJJ designation to these very few offenses, the concerns raised by a high-profile case will be addressed.

And finally, as practitioners we notice all too often the overwhelming mental health issues facing troubled youth in our community where sufficient resources for diagnosis, treatment, and general mental health services are in short supply. Therefore, we strongly support options that would increase these services to those juveniles who need it most. And, we welcome the opportunity to have a dialog with legislators about ways to ensure these services are provided (i.e. court ordered treatment, retention of court jurisdiction for treatment).

Approved by the Board of Directors 2/20/2009

³ Rubin, *Juvenile or Adult Jurisdiction? Age Changes in the States*, JUVENILE JUSTICE UPDATE, December/January 2008, at 1.