

APPENDIX

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To: Senate Law and Public Safety Committee
From: Lawrence Hamm, Chair People's Organization for Progress
Jean Ross, Esq. Member of POP
Date: March 12, 2013
Re: Senate Bill 2003: Some Reforms to the Juvenile Justice System

My name is Jean Ross. I appear before you today, on behalf of the People's Organization of Progress, to urge you to support S2003 today. POP is a civil rights organization based largely in Newark. We have recently appeared before this committee to lend our support to S2588, the Bill sponsored by Senators Lesniak and Barnes that would limit the use of solitary confinement in adult correctional facilities.

Although we are interested in all of the efforts undertaken by the legislature and the people of New Jersey to appropriately divert young people from the criminal justice system, we are most acutely aware of the disproportionate impact of that system on people and communities of color.

Therefore, we are very appreciative that Senator Pou has taken the initiative to address one of the most troubling issues affecting the young people we see, who become enmeshed in our juvenile justice system and then lost to the adult prisons. We recognize that this Bill deals with many of the issues that cause us concern, in a way that will benefit youth, their families and their communities. However, we have concerns about some of the provisions in the Bill, which we hope will be discussed further, as the Bill moves through the Legislature.

On balance, we offer our support of S2003, despite our reservations about some of its provisions. Rather than repeat arguments that my colleagues are describing in greater depth, we simply identify here the issues that affect us most.

For us, the important advances in this Bill include:

1. the limitations on the class of juveniles whose cases can be transferred ("waived") from the family court to an adult court; Specifically -
 - a. The change in the authority to effect transfer from the prosecutor to the Judge;
 - b. The placement of the burden of proof to justify transfer on the State, rather than requiring the juvenile to carry the burden of resisting transfer;
 - c. The requirement that the State meet its burden by clear and convincing evidence;
 - d. The raise in the age of eligible transfers from 14 to 15;
 - e. The removal of certain offenses from the list of offenses that can justify transfer.
2. presumptions that juveniles will be detained in youth rather than adult pre-adjudication detention, and serve their sentences in juvenile rather than adult prisons;
3. restrictions on what is essentially the solitary confinement of juveniles in juvenile facilities; including but not limited to requiring exhaustion of lesser restrictive alternatives;
4. the provisions for due process, before juveniles are administratively transferred from a juvenile to an adult facility;
5. the opportunity for transferred juveniles in adult prisons to be returned to a juvenile facility.

**Coalition for Alternatives to Isolated Confinement
Statement to the Senate Committee on Law and Public Safety**

In Support of S2003: AN ACT concerning juvenile justice, amending and supplementing various parts of the statutory law, and repealing section 7 of P.L.1982, c.77¹.

March 12, 2015

The Coalition for Alternatives to Isolated Confinement, is a New Jersey based association of individuals and organizations who work, in coordination with state and national secular and religious groups, to change the practice of imposing solitary confinement on people in jails and prisons.

The Coalition includes individuals and representatives of organizations interested in a wide range of justice issues, including the American Friends Service Committee Prison Watch Program, the American Civil Liberties Union of NJ, the Campaigns to End the New Jim Crow, the Integrated Justice Alliance, and the National Religious Campaign Against Torture. The activities of our members, in support of our mission, encompass direct services and representation of adults, children, and their families, administrative negotiation and advocacy, legislative advocacy, and litigation.

Our most recent appearances before legislative committees were in support of S2588 the Bill introduced by Senators Lesniak and Barnes to limit the use of solitary confinement in New Jersey adult correctional facilities. We have been inspired by and have learned from other states which have drastically reduced their use of solitary confinement, by adopting safer, cheaper and more creative ways to decrease the risk of violence in the prisons and teach pro-social behavior. Therefore, we have been actively engaged in educating the community about the harms produced by isolating human beings and the negative impact of such practices on individuals, institutions and the community.

We come before you today to support S2003, the first legislative initiative in New Jersey to try to protect our imprisoned youth from being subject to isolation or solitary confinement (by whatever name). As with adults, we find ourselves in the forefront of a national movement to protect youth, encourage alternative more effective interventions for confined youth, and improve the living and working conditions in facilities confining juveniles.

Based on our review of the successful practices in other states, and the views of clinical, religious and legal experts, it is our position that juveniles should never be placed in solitary confinement. Therefore, we believe that the provisions circumscribing the use of solitary confinement in S2003 should adopt that position.

However, short of that objective, we are heartened that a number of the provisions of S2003 do incorporate significant protections for youth, including:

1. A strict standard for placement in isolation, requiring "an immediate and substantial risk of harm to others or the security of the facility;" However -
 - a. The harm envisioned should be "significant;"
 - b. "Harm to the security of the facility" should be more clearly described. e.g. "preventing the safe operation of the facility;"
2. A requirement that isolation be available only after all other less-restrictive options have been exhausted;
3. A requirement that isolation cease, as soon as the risk of harm is reduced sufficiently;
4. Short time frames for consecutive days of isolation; limits on the number of days of isolation in a month



Giving Every Child A Chance

ADVOCATES
for CHILDREN OF NEW JERSEY

TO: Senate Law and Public Safety Committee
FROM: Cecilia Zalkind, Executive Director, Advocates for Children of New Jersey
Mary Coogan, Assistant Director, Advocates for Children of New Jersey
DATE: March 12, 2015
Re: Testimony in Support of Senate Bill 2003

Thank you for the opportunity to testify on Senate Bill 2003. Advocates for Children of New Jersey (ACNJ) is a statewide child advocacy organization and a member of the Juvenile Justice Reform Coalition that is providing testimony here today. While we support the coalition's position, I would like to make a few brief comments on behalf of ACNJ.

First, I want to commend Senator Pou for introducing this bill, which proposes reform of New Jersey's juvenile justice system. It is long overdue. As a society, we know so much more about brain development than we did when the Juvenile Justice Code was first enacted. A growing body of research demonstrates that brain development continues to age 26; teens do not have the same decision-making ability as adults. That is why they are more likely to take risks and less likely to anticipate the consequences of their actions.

While we agree that juveniles should be held accountable for their actions, we must treat juveniles who commit crimes differently than adults. These youth will return to their communities and we must equip them with the skills they need to stay out of trouble and mature into productive adults.

In November 2012, ACNJ released a *Kids Count Special Report on Juvenile Justice* that examined New Jersey's successful efforts to reduce the numbers of juveniles in county detention centers. This success is credited in part to the state's participation in the Juvenile Detention Alternatives Initiative (JDAI), a national project led by the Annie E. Casey Foundation. While this initiative focuses on reducing the number of youth confined in county detention facilities, it has also resulted in far fewer youth being committed to longer-term incarceration in the Juvenile Justice Commission's facilities without risk to public safety.

New Jersey is the only state to be designated a national model for detention reform as part of this initiative. This has been, arguably, one of the most significant successes to benefit New Jersey youth over the past decade. We need to continue to implement reforms that are making New Jersey's juvenile justice system smarter, safer and saving taxpayer dollars.

Senate Bill 2003 moves us in that direction. The bill proposes reforms to New Jersey's juvenile justice system that take into account the most current scientific research on brain development. A critical provision of the bill addresses the transfer or "waiver" of minors to adult court. Under the current version of the bill, the minimum age for a juvenile case to be transferred from family to adult criminal court would be raised from age 14 to 15.

I currently serve on the New Jersey Council on Juvenile Justice System Reform and chaired the subcommittee that addressed the waiver issue. After exhaustive research and discussion, the subcommittee, made up of a cross-section of people working in the juvenile justice field, concluded that the age at which a juvenile can be waived should be raised, and could be raised without threatening public safety. Numerous studies have documented the harmful effects of incarcerating young teenagers – to both the youth and society.

The subcommittee recommended that the age at which a juvenile may be waived to adult criminal court should be raised from 14 to 16. In examining data on waiver, the committee found that very few 14 and 15-year-olds were actually waived to adult court. However, having the law on the books sends the message that it is available and appropriate for younger teens. The committee also recommended increasing the time allotted to file a waiver motion from 30 to 60 days to allow adequate time for investigation.

Raising the waiver age, as well as the other common-sense reforms advanced in S-2003, are backed by recent scientific research showing that adolescents need time to mature. Our focus must be on rehabilitating these youth – not sentencing them to a life in the criminal justice system. New Jersey's success in significantly reducing the number of youth in detention demonstrates that there are better ways to treat juveniles and that these reforms can be done with no risk to public safety.

We agree with the coalition that there are provisions of the bill that need further discussion. However, we would urge this committee to release the bill today so that we can take the important first step on a pathway to reform.



**Mental Health
Association
in New Jersey, Inc.**

**Chairman of the Board of Trustees
William Waldman, MSW, CSWM**

**President and CEO
Carolyn Beauchamp, MSW, ACSW**

Testimony to the Senate Law and Public Safety Committee
Thursday, March 12, 2015; 10:30 AM
Committee Room 11, 4th Floor, State House Annex, Trenton, NJ

S2003

Makes certain reforms to juvenile justice system

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Good morning, I am here today on behalf of the Mental Health Association in New Jersey (MHANJ). We would like to thank Chairwoman Senator Linda R. Greenstein, Vice-Chairman Senator Peter J. Barnes, and the Senate Law and Public Safety Committee for the opportunity to hear our testimony.

MHANJ is a statewide private non-profit advocacy organization dedicated to improving access to treatment and opportunities for children and adults with mental illnesses through legislation and advocacy efforts. Our organization works with consumers and families to create a better life for those with mental illness.

MHANJ supports S2003 and thanks Senator Pou for her strong advocacy for youth. We do have some amendments that we believe will strengthen the bill as it relates to youth and solitary confinement. We support the laudable protections in S2003, by limiting the use of solitary confinement to when "the juvenile poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted" (S2003 at 6, lines 31-36).

However, we ask you to consider incorporating into bill S2003, those portions of S2588 that require a clinical assessment of juveniles which help protect juveniles with mental illness and other disabilities from the effects of isolation, which states, "(7) A clinician shall evaluate each inmate placed in isolated confinement on a daily basis to determine whether the inmate is a member of a vulnerable population. Except as otherwise provided in subsection d. of this section, an inmate determined to be a member of a vulnerable population shall be immediately removed from isolated confinement and moved to an appropriate placement" and "initiate a review of each inmate placed in isolated confinement pursuant to the policies and procedures developed and implemented under subsection a. of this section; and c. develop a plan for providing step-down and transitional units, programs, and staffing patterns to accommodate inmates currently placed in isolated confinement" (S2588 at 4, lines 30-35, and at 5, lines 42-47). S2003 does not presently require these clinical assessments, which may help prevent irreparable harm to inmates with mental illness. It would be particularly inappropriate to put someone in isolated confinement for behavior that is the result of their disability, while not providing treatment and services for the disability.

Additionally, we recommend adding that members of vulnerable populations, such as anyone under the age of 21, or anyone with a mental illness, developmental disability or serious medical condition, would be prohibited from being confined in isolated confinement.

We also ask you to consider addressing the Behavioral Accountability Unit (BAU) alongside solitary confinement. The BAU is a separate wing segregated from the general population, which is used either as a place for a juvenile who poses a threat or as a transitional placement upon discharge from isolation. See N.J.A.C. 13:95-7.2. In current practice, a juvenile is released from isolation after a period of up to five days, and sent to the BAU for usually about a week. Anecdotally, however, advocates report clients who stay for much longer periods. The BAU consists of separate cells. Unlike solitary confinement, the BAU has a classroom that the juveniles attend during the school day, from approximately 8:30AM until 11:30AM and 1:00PM until 3:00PM. Other than during meals, school, and recreation, these residents remain in their cells while in the BAU.

The BAU could be considered a "less-restrictive" option under the current bill. If the bill significantly curtails the punitive use of solitary confinement, it may have the unintended consequence of increasing the use of the BAU. Therefore, we recommend the same protections be amended to cover the Behavioral Accountability Units.

We thank you for hearing our testimony and for your consideration of these amendments, which we believe will enhance your already very strong bill.



**American Friends
Service Committee**

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S2003: AN ACT concerning juvenile justice, amending and supplementing various parts of the statutory law, and repealing section 7 of P.L.1982, c.77.

The Prison Watch program of the American Friends Service Committee empowers individuals harmed by criminal justice policies and violence to heal and transform the conditions under which they live. Our staff has a long history of monitoring and advocating on behalf of people in prison extending through their re-entry. We have worked with people of all ages, including people on parole and people who have maxed out after decades in prison. We have worked with individuals, groups and families, with men and women, and with people young and old.

So many of the letters we receive involve the experiences of children and youth in confinement, that we have published a special report called Our Children's House: Interviews With Youth On Their Experiences With Juvenile Detention

We have come before you in the past, and continue to welcome every opportunity to engage with you on issues of mutual concern. Today, we join with our colleagues from the Coalition for Alternatives for Isolated Confinement and the People's Organization for Progress, in their statements and recommendations concerning S2003.

Although we see ways that S2003 may be improved, as suggested by our colleagues, we urge you to vote to approve the Bill today. We agree with our colleagues' assessments that S2003 represents a historic and important step in improving the justice system on behalf of youth, their families and their communities.

Sincerely,
Bonnie Kerness, MSW
Director
Prison Watch Program

Encl. Our Children's House

THE COALITION FOR ALTERNATIVES TO ISOLATED CONFINEMENT

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