

H. Thomas Wells, Jr.
President

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May 4, 2009

The Honorable Patrick J. Leahy
Chairman
Senate Committee on the Judiciary
United States Senate
433 Senate Russell Building
Washington, DC 20510

The Honorable Arlen Specter
United States Senate
711 Senate Hart Building
United States Senate
Washington, DC 20510

The Honorable Herbert H. Kohl
United States Senate
330 Senate Hart Office Building
Washington, DC 20510

The Honorable Dick Durbin
United States Senate
309 Senate Hart Building
Washington, DC 20510

Dear Senators Leahy, Specter, Kohl, and Durbin:

On behalf of the American Bar Association (ABA), I am writing to express our strong support for S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, which was introduced on March 24, 2009. S. 678 will reauthorize critical components of the Juvenile Justice Delinquency and Prevention Act (JJDP), which has been protecting youth across the nation for over 30 years. S. 678 makes meaningful improvements that expand several of the core protections and other areas contained in the bill. We encourage the Judiciary Committee to continue to strengthen the JJDP core protections for children and youth as this bill moves through the Committee process.

The bill responds to the following needs, identified by the ABA and a broad spectrum of juvenile and criminal justice organizations with whom the Senators and their staff members have engaged and given voice in the process of crafting this legislation:

Core Protections:

- Strengthens the deinstitutionalization of status offenders (DSO) core protection: Under current law, non-delinquent status offenders, such as children who are truant or runaway or who violate curfew, alcohol and tobacco laws, may be held in juvenile lock-ups under the Valid Court Order (VCO) exception, which allows judges to issue detention orders. The practice persists despite evidence that detaining status offenders in overcrowded juvenile detention centers with delinquent youth is costly, especially compared to more effective responses including family-focused, school, and home-based interventions. S. 678 requires that states eliminate the use of the VCO within three years, but allows states to apply for one-year hardship extensions through the Office of Juvenile Justice and Delinquency Prevention (OJJDP). In the three-year window before elimination,

S. 678 provides extra safeguards for status offenders in locked facilities, limiting to 7 days the time a youth can be held in a facility under a VCO and requiring judges to make certain procedural findings before a youth is held under the VCO.

- Strengthens the Disproportionate Minority Contact (DMC) core protection: S. 678 gives guidance to states on complying with the DMC core protection by listing specific steps toward reducing DMC, including identifying and analyzing key decision points to determine where disparities exist, collecting data, developing a work plan, and publicly reporting on efforts.
- Improves the Jail Removal and Sight and Sound core protection: For the first time, S. 678 expands the jail removal and sight and sound core protections to youth who are charged with adult crimes. Currently, any youth charged with adult crimes would be sent to an adult jail or lock-up while awaiting trial. By allowing youth charged with adult crimes to be held in juvenile facilities, S. 678 takes a significant step towards responding to recent research showing that youth in adult facilities are at a great risk of assault, abuse, and suicide and that youth in the adult criminal justice system are at an increased of re-offending. While our ultimate goal is to remove these youth from adult facilities completely, S. 678 takes a good step in this direction, and we look forward to further strengthening this section of the bill.
- Allows states to continue to place youth convicted in adult court in juvenile facilities without jeopardizing federal funding: S. 678 would permit many states to continue allowing youth convicted in adult court to serve their sentence in juvenile facilities until they reach the extended juvenile jurisdiction age. This reverses current law, which would penalize states that utilize more appropriate and humane placements for youth.

Overall juvenile justice system improvements:

- Improves conditions of confinement in juvenile facilities: S. 678 takes steps to improve conditions in juvenile facilities through elimination of dangerous practices, annual state reporting on the use of isolation and restraints, and providing training to facility staff to support elimination of dangerous practices.
- Provides comprehensive support for youth throughout the juvenile justice system: S. 678 promotes alternatives to detention, improves assessments and treatments for mental health and substance abuse, enhances child welfare and juvenile justice integration, supports effective assistance of counsel, and improves case management and transitional care for youth upon re-entry.

Support for States:

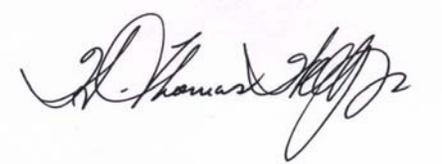
- Increases states' ability to comply with the core requirements: S. 678 provides support to states to comply with the core requirements, including ensuring states will get technical assistance to comply. In addition, for states not in compliance,

S. 678 would allow JJDPA funds that would have been withheld to be used by the states as improvement grants to regain compliance in that specific area.

- Expands the role of OJJDP: S. 678 contains language that will encourage OJJDP to provide an expanded role in working with the states by providing research, technical assistance, and training in the field.

In light of the list above, we support this bill as a significant step towards improving the JJDPA and look forward to continuing to work closely with you and the Committee as the bill moves through the legislative process. Thank you for your efforts on behalf of youth across the country.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Thomas Wells, Jr.", written in a cursive style.

H. Thomas Wells, Jr.

cc: Members of the Judiciary Committee