

CAMPAIGN FOR
YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

July 29, 2008

The Honorable Patrick J. Leahy
Chairman
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Arlen Specter
Ranking Member
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Leahy and Specter:

We write in strong opposition to the Kyl amendment to S. 3155, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008, and urge you to vote against the amendment during Committee consideration this Thursday, July 29th. We thank you for your strong leadership in making improvements to the Juvenile Justice and Delinquency Prevention Act (JJDP A); however, the Kyl amendment directly contradicts the goals and purposes of the JJDP A. If the Kyl amendment is adopted, we regretfully must oppose S. 3155 as amended and urge you to vote against the bill.

Current federal transfer law provides that, except in one narrow circumstance, a judge must make a determination that it is "in the interest of justice" for a youth to be charged as an adult in federal court. The Kyl amendment would take the decision of whether a youth should be prosecuted as an adult for an enumerated list of crimes away from neutral federal judges and instead place the decision with prosecutors. The Kyl amendment would affect a vast group of youth by allowing this provision to be applied not only to youth who are charged as adults with certain crimes, but also youth charged as adults for attempting to commit or conspiracy to commit these crimes or for crimes that are joined or lesser included offenses, such as manslaughter instead of murder.

We strongly oppose the Kyl amendment because the amendment:

- Decreases public safety. No study, to our knowledge, exists that shows that sending more youth to adult court increases public safety or decreases crime. On the contrary, a vast body of research shows that youth transferred to the adult criminal justice system are more likely to re-offend. A November 2007 report released by the U.S. Centers for Disease Control and Prevention's Task Force on Community Preventive Services reviewed several studies on transferring youth to adult facilities. The report found that youth who have been previously tried as adults are, on average, 34% more likely to commit crimes than youth retained in the juvenile justice system. The report also showed that transferring youth to the adult system resulted in an increase in pretrial violence and victimization and elevated suicide rates of juveniles in adult facilities. The Task Force recommended against "laws or policies facilitating the transfer of juveniles from the juvenile to the adult judicial system."

- Contradicts public opinion. A Zogby poll commissioned by the National Council on Crime and Delinquency last year found that 92% of Americans believe that the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a juvenile court judge, instead of by prosecutors. In addition, national polling shows that a vast majority of Americans support rehabilitating youth, even youth convicted of serious offenses. For example, two independent polls released in December, 2007 indicated that 72% of Americans feel that incarcerating youth in adult correctional facilities led to subsequent crime after release, and 89% agreed or strongly agreed that rehabilitative services and treatment would help reduce crime.
- Is inconsistent with the latest scientific evidence on the adolescent brain. Adolescent brain research shows that children's brains are still developing well into their early 20's and that youth do not have all the same capacities as adults. Indeed, the final area of the human brain to mature is the prefrontal cortex, which governs the "executive functions" of reasoning, advanced thought and impulse control. This research is reflected in a variety of laws (i.e. voting and driving age) as well as by the corporate world (i.e. car insurance rates based on age and the minimum age for car rental).
- Would result in long-lasting harm to youth. The Kyl amendment would result in additional youth being placed pre-trial in adult jails, therefore resulting in more harm to these youth. Youth placed in adult jails are at high risk of physical and sexual assault. According to the U.S. Department of Justice, 21% and 13% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005 and 2006 respectively, were youth under the age of 18. These numbers are surprisingly high given that only 1% of jail inmates are juveniles. Additionally, youth placed in adult jails have a much higher rate of suicide when compared to youth in juvenile facilities - youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and 20 times more likely to commit suicide in an adult jail than youth in the general population. Even when they are separated from adults in adult facilities, children are then often placed in isolation, which can also produce harmful consequences. Youth are frequently locked down 23 hours a day in small cells with no natural light. These conditions can cause anxiety, paranoia, and exacerbate existing mental disorders, putting youth at increased risk for suicide.

The Kyl amendment runs counter to the goals of the JJDPa legislation and, if adopted during the Committee's consideration of S. 3155, we urge you to oppose S. 3155 as amended.

Thank you for your consideration and if you have any questions please feel free to contact me at 202-558-3580 or lryan@cfyj.org.

Sincerely,



Liz Ryan
President and CEO
Campaign for Youth Justice

cc: Members of the Senate Committee on the Judiciary