



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of HB568 Sophie's Law Sponsor Representative Butler

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee, thank you for the opportunity to testify on behalf of the Office of the Ohio Public Defender in opposition of House Bill 568 ("HB568").

HB568 would require mandatory transfer to adult court when a sixteen or seventeen-year-old is charged with aggravated vehicular homicide while driving under the influence. This bill conflicts with HB394 that was favorably voted out of this committee on May 22, 2018. HB394 eliminates mandatory bindover and requires juvenile courts to have a hearing before transferring a child's case to adult court, except when the child is age sixteen or seventeen and charged with aggravated murder. The elimination of mandatory bindover is supported by the Ohio Judicial Conference, and this committee heard testimony from Pickaway County Juvenile Judge Long, Franklin County Juvenile Judge Gill, and Former Supreme Court Justice Lanzinger regarding the need for judicial discretion when juvenile cases are transferred to adult court. HB568 eliminates judicial discretion

and would force a child into adult court, even if that child has never been in trouble with the law before.

As this committee has heard in testimony throughout this session, the human brain is not fully mature until the individual reaches their mid-twenties.¹ Until that time, young people have a weaker ability to control their impulses and make good decisions.² This fact is even more pronounced when juveniles are surrounded by their peers.³ The presence of peers increases juvenile risky behavior, because the presence of peers increases activity in a juvenile's reward center of their brain.⁴ This science explains why even good kids may drive while intoxicated, especially when surrounded by their friends. This gross lack of judgement could happen to any teenager, the star athlete, the class valedictorian, or the robotics club president, because they all have brains that are not fully developed.

HB568 does not fix the unfortunate outcome in the case of Sophie. In testimony provided to this committee, it was stated that there was not probable cause to believe the driver of Sophie's vehicle was intoxicated. Even in cases of mandatory bindover, the juvenile court must find probable cause before the case

¹ Nancy Guberti, M.S., C.N., *5 Stages of Human Brain Development*, <http://nancyguberti.com/5-stages-of-human-brain-development/>

² *Id.*

³ Kavanaugh, Antoinette, Dr., *A Wrinkle in Time: Resilience and the Adolescent Brain's Ability to Changes*, 2018 Juvenile Defender Summit, May 11, 2018; citing Chein, Albert, O'Brien, Uckert and Steinberg (2011).

⁴ Kavanaugh, Antoinette, Dr., *A Wrinkle in Time: Resilience and the Adolescent Brain's Ability to Changes*, 2018 Juvenile Defender Summit, May 11, 2018; citing Chein, Albert, O'Brien, Uckert and Steinberg (2011).



can be transferred to the adult court. Therefore, his case would not have been transferred to adult court even if this law had been in effect. The Office of the Ohio Public Defender offers our sympathies to Sophie's family, but the outcome in that case was not because aggravated vehicular homicide was not a mandatory bindover offense, but because there was no probable cause. Under current law, and HB394, all juveniles age 14 and older are subject to bindover to adult court if the circumstances warrant. If the prosecutor files a motion, the court is required to hold a hearing, make a probable cause finding, and make the best determination possible for the child, the victim, and the community.

If the juvenile is convicted in adult court, they will have to start their life with an adult felony conviction significantly hurting their chances of getting an education, housing, or obtaining a job. During testimony, it was suggested that juveniles convicted under this bill will likely be sentenced to a DYS facility. This is incorrect. If a juvenile is transferred to the adult court system, any incarceration imposed as part of the sentence must be served at an adult prison or an adult jail. Juveniles in adult prisons are five times more likely to be sexually assaulted, usually within first 48 hours of incarceration, and 36 times more likely to commit suicide.⁵ Aggravated vehicular homicide is a serious offense, and I am not trying

⁵ Curley, Caitlin, *Juveniles Tried as Adults: What Happens When Children Go to Prison*, Genfkd, November 11, 2016, <http://www.genfkd.org/juveniles-tried-adults-happens-children-go-prison>; citing The National Prison Rape Elimination Commission.



to minimize the seriousness of driving drunk or the tragedy of the loss of life. However, the children bound over to adult court under this bill will have been charged with an offense that involves no intention to hurt, injure, or victimize another person. This is unlike the other offenses that require mandatory transfer under current law, offenses like aggravated murder, murder, rape, aggravated arson, kidnapping, aggravated robbery, and aggravated burglary.

It is awful when someone's life is taken, but these cases should remain in juvenile court where judges, who have the expertise in delinquency and childhood development, can impose an appropriate penalty. Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

