



**Brian Stewart & Brian Lampton**  
State Representatives

## House Bill 500 Sponsor Testimony

Chairman LaRe, Vice-Chair Swearingen, Ranking Member Leland, thank you for the opportunity to provide sponsor testimony in favor of House Bill 500, which will restore discretion to Ohio's elected juvenile court judges in determining whether children accused of crimes should be adjudicated in the juvenile court system, or whether they should be bound over for prosecution in the adult criminal court system.

In short, House Bill 500 would eliminate "mandatory bindover" in Ohio and require "discretionary bindover" instead. Under current law, children as young as 14 are *mandated* to be tried in the adult court system when they are charged with certain serious crimes, even where a juvenile judge may believe that the child is capable of being rehabilitated in the juvenile court system, which is, of course, the purpose of our juvenile system. Today, that judge's "on the ground" perspective and expertise is disregarded in favor of the Ohio Revised Code's "one size fits all" penalty system.

There are a few crucial points to be made in favor of House Bill 500. First, nothing in this bill eliminates any juvenile court judge's discretion to send a child offender to be tried in the adult court system, if that judge believes the child should be sentenced to serve in an adult prison. Period. If the accused, and their alleged crime, warrant an adult prison sentence in the eyes of the Court – that is where they will go, and House Bill 500 does nothing to prevent that from occurring. Rather, House Bill 500 merely gives the same discretion to that same judge, to determine that a child offender does *not* belong in an adult prison. Today, even if the facts and circumstances strongly favor a child being rehabilitated in the juvenile system, our current "mandatory bindover" law takes that decision out of the judge's hands and forces them to transfer the child to the adult system.

Second, this bill does not limit the ability of local prosecutors to seek bindover of child offenders to the adult system. Prosecutors may still request bindover, in open court, and make their strongest arguments in favor of bindover. As with other advocates in the court system, the Court can then weigh the competing arguments, and if they are persuasive, agree to bind over the child from the juvenile to adult systems. The only change in House Bill 500 is that prosecutors would not obtain their requested bindover automatically.

Third, eliminating mandatory bindover will not negatively impact public safety. In fact, voluminous research has shown that children who are bound over to the adult court system are 34% more likely to reoffend than children who commit similar offenses but are kept in the juvenile

court system.<sup>1</sup> And, again, nothing in House Bill 500 prevents any judge from binding over any juvenile to the adult system if that judge believes that the alternative would jeopardize public safety. We elect, and trust, our judges to use their discretion to make these kinds of decisions in the public interest every single day, and House Bill 500 would simply acknowledge that they are just as capable of making this same determination with respect to children accused of crimes.

Fourth, and of particular importance to Representative Lampton and me, is that children are at a greater risk in adult prisons. While Ohio follows federal guidelines that require children in adult prisons to be separated from adults inmates by sight and sound, children are still vulnerable to physical assaults.<sup>2</sup> Nationwide, youth in adult prisons are 5 times more likely to be sexually assaulted, usually within the first 48 hours of being incarcerated.<sup>3</sup> Additionally, young people are mixed with the adult population when they turn 18 years old, typically on their 18<sup>th</sup> birthday. If we consider an 18-year-old inmate, housed with inmates more than twice his age, it is not difficult to envision why these young inmates are victimized at a far greater rate. The vulnerability of these inmates is the state's responsibility; we sentence offenders to *serve their time* in prison, we do not sentence them to be *raped* in prison. Due to these safety concerns, young people in prison will often be placed in isolation for their protection. However, this higher rate of sexual and physical assault,<sup>4</sup> coupled with isolation, impacts the still-developing brain of a child, which, combined with what is often a history of childhood trauma and abuse, results in this staggering statistic: children bound over to adult prison are also 36 times more likely to commit suicide.<sup>5</sup>

Moreover, mandatory bindover has a history of disproportionately affecting children of color. As just one example, Cuyahoga County's black community make up 30.5% of the total

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<sup>1</sup> *If Not the Adult System, Then Where? Alternatives to Adult Incarceration for Youth Certified as Adult*, Campaign for Youth Justice, [http://www.campaignforyouthjustice.org/images/ALT\\_INCARCERATION\\_FINAL.pdf](http://www.campaignforyouthjustice.org/images/ALT_INCARCERATION_FINAL.pdf); Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, Office of Justice Programs, <https://www.ojp.gov/pdffiles1/ojdp/220595.pdf>; Karen Miner-Romanoff, J.D., Ph.D., *Juvenile Offenders Tried as Adults: What They Know and Implications for Practitioners*, Northern Kentucky University Law Review, [https://chaselaw.nku.edu/documents/law\\_review/juvenile\\_justice\\_symposium/p4/AAJuvenileOffendersTriedAsAdultsNKULawReview9\\_18-19\\_13.pdf](https://chaselaw.nku.edu/documents/law_review/juvenile_justice_symposium/p4/AAJuvenileOffendersTriedAsAdultsNKULawReview9_18-19_13.pdf); *Falling Through the Cracks: A New Look at Ohio Youth in Adult Criminal Justice System*, Children's Law Center, Inc., <https://www.prisonpolicy.org/scans/FallingThroughTheCracks.pdf>.

<sup>2</sup> *The Child not the Charge: Transfer Law are Not Advancing Public Safety*, Justice Policy Institute, 2021, [https://justicepolicy.org/wp-content/uploads/2021/09/child\\_not\\_the\\_charge\\_report5.26.pdf](https://justicepolicy.org/wp-content/uploads/2021/09/child_not_the_charge_report5.26.pdf); last accessed Feb. 12, 2022.

<sup>3</sup> Caitlin Curley, *Juveniles Tried as Adults: What Happens When Children Go to Prison*, GenBIZ, November 11, 2016, <https://genbiz.com/juveniles-tried-adults-happens-children-go-prison>; citing The National Prison Rape Elimination Commission; last accessed Feb. 12, 2022.

<sup>4</sup> *The Child not the Charge: Transfer Law are Not Advancing Public Safety*, Justice Policy Institute, 2021, [https://justicepolicy.org/wp-content/uploads/2021/09/child\\_not\\_the\\_charge\\_report5.26.pdf](https://justicepolicy.org/wp-content/uploads/2021/09/child_not_the_charge_report5.26.pdf); last accessed Feb. 12, 2022.

<sup>5</sup> Caitlin Curley, *Juveniles Tried as Adults: What Happens When Children Go to Prison*, GenBIZ, November 11, 2016, <https://genbiz.com/juveniles-tried-adults-happens-children-go-prison>; citing The National Prison Rape Elimination Commission; last accessed Feb. 12, 2022.

population. However, Black children make up 90.4% of “boundover” children in the county. In both Franklin County and Hamilton County, 85% of bound-over children are black. Statewide, 80% of bindovers occur in the 6 largest counties, whereas the other 82 counties contribute to just 20% of bindovers. In other words, whether a child is placed in adult prison in Ohio is overwhelmingly a function of where you live, and what color you are.

Colleagues, to put it very bluntly: Ohio is a great state, and we should be better than this. House Bill 500 will help us get there, and we will not be alone. Currently 10 states have already repealed mandatory bindovers in one form or another. These include red, blue, and purple states such as Kentucky, Kansas, Illinois, Georgia, and Florida. Doing so in Ohio would affect not just the statistics, but very real families, like the family of Matthew Aalim, which my colleague Representative Lampton will now share.

In 2013, Matthew Aalim was charged with two counts of aggravated robbery after robbing two individuals with a gun. While he took responsibility for his crime, he was also 16 years old. He had been a good student in school, but he grew up in a very rough neighborhood, and fell in with a group of friends that were a bad influence. Despite multiple remarks by the juvenile judge on the record indicating that he favored a sentence to be served in the juvenile system, under mandatory bindover, the judge was forced to sentence Matthew to 4 years in adult prison instead. At 18, when he entered the general population of adult prison, his family described it as being “fed to the sharks.” He was amongst rapists, murderers, and hardened convicts of every sort. During visits and video calls, Matthew’s family could see injuries in Matthew’s body from beatings he received. As a result, Matthew felt that he had no choice but to join a prison gang for his own protection. Mathew survived prison but left forever changed at 20 years old. He got a job, started to make money, got a car, and was working towards going to college. But the gang connections he made in prison followed him to the outside, and the gang began making demands on Matthew as a free man. When Mathew refused to cooperate, the members of his own gang murdered him over a video game system. Matthew is just one of many examples of children who could have rehabilitated in the juvenile system, but whose lives were changed forever by being sent to adult prison instead, often against the wishes of the juvenile court judge handling their case.

We want to thank the numerous co-sponsors of this legislation, including multiple members of this committee. We are very pleased to be able to share that we have already received a letter of support for this bill from the Ohio Judicial Conference and the Ohio Association of Juvenile Court Judges, who will be able to share their important perspectives on this bill moving forward. By removing mandatory bindover, we will restore authority to our juvenile court judges, and enable juveniles to have a better chance to rehabilitate and enter successfully back into society, which must always remain our goal with respect to children in Ohio.

Thank-you for your time and consideration, and we will attempt to answer any questions you may have.

