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February 4, 2016

Re: Senate Bill 367

Dear Senator Smith and fellow Committee Members,

I write in opposition of Senate Bill 367. I say this in full appreciation of what the bill is trying to accomplish.

Beyond the perception of the financial considerations that this bill tries to present, I can understand how a citizen hearing about our youth being taken from the home or put in a detention center can sound extreme and/or even harmful to them. That was my thought before I became involved in the juvenile justice system. I can tell you I have only seen juveniles taken out of their home for the most extreme and legitimate reasons. I have twelve years of prosecutorial experience, with five of the twelve years as head of the juvenile division in Leavenworth County. As the head of the juvenile division, I handled thousands of juvenile matters, prosecuted hundreds of juvenile cases and protected even more due to abuse and neglect. Based on my experience, it is my belief that this bill should not pass as it is currently written. I also have a better understanding than most on this topic since I have been an adjunct professor in juvenile justice the past four years, as well as serving on multiple committees to find ways to provide services to youth.

This bill is attempting reinvent the landscape of juvenile justice by decreasing the number of youth being detained or taken from the home, and when they are removed, decreasing that time as well. This bill proposal could potentially be more harmful to those youths, and would bring more issues to them and our public safety.

Senate Bill 367 appears to address the idea that juveniles are overly criminalized. That the "Get Tough" programs that were implemented in the 1980s and 1990s (or the philosophy that maximum criminalization is the best

way to handle youth offenses) do not have an effect on reducing recidivism. Senate Bill 367 proposes less incapacitation of youth which, at first glance, one would perceive to be a cost savings. On the contrary, the research shows that the decrease of recidivism will only be successful if programs are available in the child's community with close supervision, participating in productive self-improvement, substance abuse treatment, and rehabilitative programs. (Mears, 2007; Mulvey, 2011). Studies show that long term detainment of a juvenile can actually have a positive effect for youth. The separation of these youth from their unfavorable associations adds to an interruption and even termination of those connections. (Taylor, 2008). I have seen cases where children taken from their environment have given them the opportunity to grow educationally and socially. These are children we would not have been able to classify as Children in Need of Care (or children who come from homes of abuse or neglect). Studies have shown that the best interest of a juvenile is to have the sanction they serve commensurate with the crime, so that the youth have a realization of their actions. (King, 2005). Studies have also shown that the issue is not youth out of the home, but that residential facilities need educational, vocational and substance abuse treatment components to make sure removing them from their environment is successful. (Kupchik, 2007). If those programs are in place, we will see less recidivism. Therefore, before enacting this piece of legislation, the true focus to protect children from the juvenile system should be to make sure these programs exist and are properly implemented in every county. If Senate Bill 367 is for the benefit of the child, then you are failing them by just implementing this bill without providing these services. Shortening their sentences are only putting youth who need help back on the street with the increased likelihood of reoffending, thereby hurting them and hurting you and your neighbors.

Senate Bill 367 proposes an increase in the age and factors for waiving a child to an adult status. Currently, there is a long list of criteria to waive a juvenile to adult status, and even then it is on the discretion of the prosecutor to apply for a waiver. During the 1990's, we saw an increase in waivers with a decrease in crime. Since that time, we have seen the use of waivers cut in half and this continues to not be an issue. (Puzzanchera, 2013). Recently, a few states increased the age requirement to be waived, as proposed in Senate Bill 367. (Merlo, 2016). The thought behind raising the age for a waiver to adult status is because the view of how to help juveniles has changed. This is not an issue that needs to be fixed, nor is it something that is utilized. Currently, there are 29 states including Kanas where there is a mandatory requirement of waiver dependent on the crime. (OJJDP Statistical Briefing Book: Retrieved December of

2012). This bill is asking to eliminate that, however, there are instances and certain crimes that should be waived up automatically. These changes on this are unnecessary and unwarranted.

Senate Bill 367 also aims to eliminate extended jurisdiction for juveniles – this being when a juvenile is sentenced to an adult and juvenile sentence, but if they successfully complete the juvenile conditions they do not need to serve the adult sentence. The purpose of extended jurisdiction has always been for crime reduction and rehabilitation. Twenty states and the District of Columbia have some policy like this. (Merlo, 2016). The purpose that has proven successful is to deter children from entering the adult criminal court. This provides incentives to demonstrate positive adjustments, counseling, training and other developmental activities, improve skills, and psychological and social development to allow them to be in the juvenile system. (Merlo, 2016). Juveniles should have the opportunity of this blended method of justice, which gives them the opportunity and motivation to change or face stricter consequences. (Merlo, 2016). Extended juvenile jurisdiction has saved juveniles from being subjected to an adult sentence. It gives them an opportunity to benefit from juvenile services. Further, still allowing the classification as a juvenile gives the court system more discretion on how to sentence a juvenile than when waived to adult status. Eliminating this alternative for sentencing is a detriment to youth.

Senate Bill 367 is completely detrimental to the public safety of our community in regards to the new rules on detention. According to this bill, law enforcement would not be able to detain a youth who is harmful to themselves or others, or when they violate a crime. You are putting the safety of the youth and our community in jeopardy. Also, in some cases returning the child to their home is not a benefit to that child. We regularly have parents refusing to pick up their child from detention centers because they don't want them at home. Further, I have had cases where parents have used their children to provide them their drugs and even use them to steal for the family. This bill does not have a practical view of the justice system. It appears to only do this for economic benefits of the state under the idea of a possible psychological harming of the child. It completely ignores the needs of the community and the child, whom at times needs to be detained. It also ignores the benefits that come from detention.

Senate Bill 367 presents a complete lack of faith and trust in court service and community correction officers, prosecutors, and primarily the Courts. In order for juveniles to benefit from the juvenile system they need accountability, structure, and respect. Under Senate Bill 367, a juvenile on probation cannot be taken into custody if they test positive for illegal substances by their probation officer. Instead, they will be allowed to leave the office and

continue to cause themselves harm. This bill cuts the authority court service and community correction officers have over benefiting juveniles and protecting them from themselves. I understand the bill is trying to decrease the chances of a juvenile seeing a detention facility, but this legislation is trying to do so at the risk of harm to the child and the community.

In my experience, the main consistency amongst all studies in reducing juvenile criminalization and recidivism is education. More money should be spent not only focusing on bettering youth, but training in interpersonal skills, family counseling, group counseling, individual counseling, behavior management, and skill training. (Greenwood, 2008). Further, children in facilities need cognitive-behavioral therapy, aggression replacement training and family integrated transition. (Greenwood, 2008). If we really want to keep the youth from entering the system, being detained, or taken from the home, we need to start funding more educational and therapy based programs. This bill does not do that.

Sincerely,

Todd Thompson
Leavenworth County Attorney

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*King, Tammy (2005). " Juvenile Detention: A Descriptive Study of Rule Infractions." Unpublished paper presented at the annual meeting of the Academy of Criminal Justice Sciences, Chicago, IL (March).

* Charles Puzanchera and Sarah Hockenberry (2013). *Juvenile Court Statistics 2010*. National Center for Juvenile Justice, review April 17, 2013

* Merlo, Alida, Benekos, Peter, Champion, Dean John (2016), "The Juvenile Justice System: Delinquency, Processing, and the Law." Eighth Edition.

*Kupchik, Aaron (2007). "The Correctional Experiences of Youth in Adult and Juvenile Prisons." *Justice Quarterly* 24; 247-270.

*Greenwood, Peter, (2008), "Prevention and Intervention Programs for Juvenile Offenders." *The Future of Children* 18:185-210