

MICHIGAN

Michigan's appeals aid for juveniles is 'nonexistent.' This project aims to fix that



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When adults are sentenced in a criminal case, they are automatically notified of their right to an appeal.

That's not the case for Michigan juveniles when their case is adjudicated. Courts do not have to tell juveniles of their appellate rights and many don't even know they can appeal certain orders and decisions, said Josh Pease, the director of Michigan's new Youth Defense Project, which operates out of the State Appellate Defender Office.

More: Michigan parents put their son on consent probation. Now they can't get him out of juvenile detention

The Youth Defense Project comes from a three-year, \$392,000 federal grant SADO received in December 2021.

"Appeals for youth are nearly nonexistent in Michigan," Pease said. "The lack of appeals prevents error correction, hurts efforts at uniformity, and limits the creation of case law applicable to delinquencies. Without a robust system of appeals, the youth justice system remains incomplete."

SADO hopes the Michigan Legislature will provide long-term funding for the system after the grant money runs out, said Brad Hall, administrator of the Michigan Appellate Assigned Counsel System at the State Appellate Defender Office.

The program now is focused on training, getting the word out to juvenile defense lawyers across the state and proposing court rule changes to make sure juveniles are advised of their rights to appeal as soon as they are removed from their homes, Hall said.

One of the next steps is to create a roster of private lawyers for youth appellate defense who can be appointed to cases statewide, he said.

"We have a long way to go, but we are encouraged by the progress thus far and the broad support we have received from the courts, state government and many other stakeholder groups," Hall said.

The problem with Michigan's juvenile appellate indigent defense system was highlighted in a 2020 report by the National Juvenile Defender Center. It noted that Michigan had no statewide oversight or way to ensure that county-based juvenile defense systems gave effective defense and appellate services, something that is required in the U.S. Constitution.

There's no state funding for juvenile defense, which has meant attorneys frequently lack the training, resources and time needed to give juveniles the aid they need in cases, according to the National Juvenile Defender Center report.

"As a result, young people's constitutional rights are often inadequately protected, their voices are not heard, and they may miss opportunities to be connected to successful pathways forward," according to the report. "Young people are guaranteed the right to counsel by the United States Constitution; the quality of representation they receive cannot be dependent upon the county in which they reside."

One report recommendation was to expand SADO to include appeals of juvenile delinquency and status offender cases, as well as training specific to juvenile law.

As a part of the new Youth Defense Project, SADO reached out to Hillsdale County's juvenile court after 16-year-old Brandon Dihle asked for appointed appellate counsel, Hall said. The appellate attorney would not have cost the county anything, but Hillsdale County Juvenile Administrator and Referee Timothy Dixon denied the request to appoint an attorney. The trial court has the power to appoint an attorney, Hall said.

Brandon has been at the Maurice Spear detention and treatment center in Adrian since September, but has never been charged with anything more than a status offense — something that would not be a crime if he were an adult. He was found to be incorrigible, which is when a child is "repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian," according to state law. After several probation violations, though he was never charged with a crime, he landed in a detention center away from his family for five months.

Dixon denied the request for an appellate attorney because he is in an "intensive rehabilitation program that requires completion for the juvenile to obtain any possibility of rehabilitation, as nothing the court provided leading up to placement at Maurice Spear Campus was successful."

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