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# Hall, Sacks: Ensure kids in justice system have fair representation

**Bradley Hall and Jonathan Sacks** The Detroit News

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In May 2020, an Oakland County judge sent a 15-year-old girl to juvenile detention for failing to complete her online homework during the darkest days of the pandemic. In September 2022, a Hillsdale County judge sent a 16-year-old boy to juvenile detention for “incorrigibility” — despite his never having been charged with a crime — and then refused to appoint an appellate lawyer to challenge that decision.

Sadly, what happened to these children is not rare; these are just two examples of a Michigan juvenile justice system that often loses focus of the welfare of children. What makes these cases exceptional is that we know about them at all. Thankfully, these two cases found their way into the public conscience and the Michigan Court of Appeals, which reversed the lower court’s decision.

The good news is that Michigan has taken significant steps to address many of these shortcomings.

On the heels of two comprehensive and critical reports, our Legislature introduced a twenty-bill package to help alleviate the overincarceration of children and improve their prospects for success. Among the most important proposals were bills to expand Michigan’s trial and appellate indigent defense systems to ensure an access to high quality, independent legal representation with the tools and resources needed to meet constitutional guarantees.

As public defenders overseeing the State Appellate Defender Office and Michigan Appellate Assigned Counsel System, we applaud the Legislature for this entire reform package, including expanding the Appellate Defender Act to include youth defense.

For the first time in our state's history, youth in delinquency cases will be represented on appeal by attorneys subject to strict qualification, training, and oversight standards, with necessary funding provided by the state.

However, the Legislature failed to pass one bill in the package — House Bill 4630, the companion legislation that ensures children in our legal system also receive trained, qualified, and properly compensated lawyers after arrest and through trial.

This expansion is critical. In 2020, the National Juvenile Defender Center, now the Gault Center, evaluated public legal defense for Michigan's children. Its report, *Overdue for Justice*, documented events that included a child's detention review hearing without an attorney present, families not receiving advice on an arrested youth's right to an attorney, and attorneys rarely consulting with the children they represent.

In 2022, the Michigan Task Force on Juvenile Justice established by Gov. Gretchen Whitmer and chaired by Lt. Gov. Garlin Gilchrist made findings and recommendations on public defense for children. The Task Force unanimously recommended expansion of the Michigan Indigent Defense Commission (MIDC) to include youth defense.

As appellate attorneys, we see first-hand the importance of the MIDC to our criminal legal system for adults. There are more challenges to unconstitutional and unfair practices through motions and pre-trial appeals, and trial attorneys routinely retain investigators and experts to provide better representation to their clients. If the MIDC also included children's defense, we would need to fix fewer errors after a child has already been detained.

We urge the Legislature to complete what they started, pass the full Task Force on Juvenile Justice reform package, and ensure that children receive fair representation at both the appellate and trial levels of the justice system.

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