



December 10, 2024

Senate Majority Leader Brinks and Members of the Michigan Senate:

For nearly 60 years, the United States Supreme Court has recognized that the Constitution guarantees children the right to legal representation in delinquency proceedings. Today, in Michigan, that guarantee is little more than a badly broken promise. Our most vulnerable young people are left to navigate the juvenile justice system with woefully inadequate legal representation, or no representation at all. The Michigan Senate can, and must, right this wrong before the Legislature adjourns *sine die* by giving final approval to House Bill 4630.

Over a year ago, this Legislature celebrated the passage of nineteen of twenty bills in a package based on the consensus recommendations of the Michigan Task Force on Juvenile Justice Reform. House Bill 4630—which would authorize the Michigan Indigent Defense Commission (“MIDC”) to develop and oversee local compliance with minimum youth defense standards—was advanced to third reading where it has now been left to languish by the State Senate for 398 days.

Failing to pass House Bill 4630 would not only be a grave disservice to Michigan’s children, who would be left to navigate the dangers of the juvenile justice system unaided, but it will also expose the state to litigation. The choice before the Senate is not whether Michigan will opt to provide young people with the legal representation that they are constitutionally entitled to, but rather whether Michigan will meet its obligation proactively via legislative action today or when left with no other option by the courts in the near future.

We urge the Senate to consider the parallels between the present situation surrounding representation of indigent youth and the history of how Michigan’s system of indigent defense for adults came into being. Over a decade ago, adult representation via MIDC was established only in the wake of a scathing report published by the National Legal Aid & Defender Association, followed by a class-action lawsuit—*Duncan v Granholm*—brought by the ACLU of Michigan. Today, for children, both an independent assessment and the state’s own analysis have laid bare the inadequacy of Michigan’s current system (or lack thereof). All that remains to be seen is whether the Senate will learn from Michigan’s experience with indigent adults and take responsibility for the state’s failure to provide constitutionally adequate representation to children by passing House Bill 4630, rather than waiting for a court to force the Legislature’s hand.

Passing House Bill 4630 costs the state nothing today and it is anything but a blank check for the future. MIDC has repeatedly confirmed that they can begin development of minimum standards for indigent youth defense in the current fiscal year without the need for a supplemental appropriation and that standard development and implementation will take several years (as it did with adult system). House Bill 4630 is not an appropriations bill. The legislation simply provides MIDC with statutory authorization to begin the work of developing minimum standards for youth indigent defense, as unanimously recommended by the Michigan Task Force on Juvenile Justice Reform. Once standards are drafted and approved by the MIDC, 2013 PA 93 requires the Michigan Indigent Defense Commission to hold a hearing to receive public

comment before recommending the standards to the Department of Licensing and Regulatory Affairs (“LARA”) for approval. Upon LARA’s approval of a standard, a process to determine the funding necessary to implement each standard begins as part of the annual appropriations process, involving MIDC, LARA, the Governor’s executive budget, and the Legislature.

House Bill 4630 was approved by the House with broad, bipartisan support. All that remains is for the Senate to finish the work it left undone over a year ago by putting House Bill 4630 on the board for a final vote and sending it to Governor Whitmer for her signature. Our children deserve this vote and our Constitution demands it.

ACLU of Michigan
Criminal Defense Attorneys of Michigan
Detroit Justice Center
The Gault Center
Michigan Association of Treatment Court Professionals
Michigan Catholic Conference
Michigan Center for Youth Justice
Michigan Collaborative to End Mass Incarceration
Michigan Disability Rights Coalition
Michigan League for Public Policy
Michigan Voices
MI-CURE
MOSES Action
Safe and Just Michigan
State Appellate Defender Office
State Bar of Michigan

