



Eastern Region Office
PO Box 40008
Philadelphia, PA 19106
215-592-1513 T
215-592-1343 F

Central Region Office
PO Box 11761
Harrisburg, PA 17108
717-238-2258 T
717-236-6895 F

Western Region Office
313 Atwood St.
Pittsburgh, PA 15213
412-681-7736 T
412-681-8707 F

MEMORANDUM

TO: House Judiciary Committee
FROM: Andy Hoover, Legislative Director, ACLU of PA
DATE: May 4, 2009
RE: SUPPORT FOR HOUSE BILL 1211

Tomorrow the House Judiciary Committee is scheduled to consider House Bill 1211. This legislation would create a new safeguard for ensuring that children facing judicial proceedings have adequate defense counsel. Specifically, the bill eliminates the ability of a parent or guardian to waive counsel for a juvenile defendant. The American Civil Liberties Union of Pennsylvania believes this is a positive first step in addressing problems in the juvenile justice system that arose from the recent scandal in Luzerne County. On behalf of the 15,000 members of the ACLU of PA, I ask you to please vote “yes” on HB 1211.

As you probably know, two Luzerne County judges were arrested earlier this year for a scheme in which they received financial incentives from a private prison company to send juvenile defendants to detention centers. The two judges received \$2.6 million in kickbacks from the company. The scheme ended when federal officials charged the judges with tax evasion and wire fraud. The judges pleaded guilty.

The ability of juveniles and their parents and guardians to waive counsel played a role in this scheme. According to a New York Times article from March 27, “Lawyers told families not to bother hiring them. They would not be allowed to speak, anyway.” The law is complex, and young people cannot be expected to maneuver through proceedings on their own.

It is true that the percentage of juveniles who waived counsel in Luzerne County was well above the statewide average. But this scandal has brought unwelcome national and international attention to Pennsylvania, and the judges’ actions significantly damaged the lives of many young people. HB 1211 begins the process of providing checks on the juvenile justice system to stop this kind of scheme from ever occurring again.

This is an issue not just in Pennsylvania but around the country. As a result, the National Council of Juvenile and Family Court Judges recommended in 2005 that courts ensure that children have representation at every hearing and that judges should only allow counsel to be waived after the child has consulted an attorney. The Council is a member organization consisting of over 1,700 juvenile and family court judges. The American Council of Chief Defenders and the National Juvenile Defender Center also recommended in 2005 that juveniles be denied the ability to waive counsel.

The Supreme Court has ruled that children facing juvenile delinquency charges have a constitutional right to legal representation. This legislation will help Pennsylvania to honor its constitutional requirements originally passed down more than four decades ago. Please vote “yes” on HB 1211.