



## WISCONSIN CATHOLIC CONFERENCE

TO: Supreme Court of Wisconsin

FROM: Kim Vercauteren, Executive Director, Wisconsin Catholic Conference

DATE: February 15, 2022

RE: Rule Petition 21-04 to Amend Wis. Stats. secs. 48.299 and 938.299, Regulating the Use of Restraints on Children in Juvenile Court

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On behalf of the Wisconsin Catholic Conference (WCC), the public policy of the bishops of Wisconsin, I thank you for the opportunity to offer testimony in support of the proposed rule to amend Wisconsin State Statutes secs. 48.299 and 938.299, which govern the shackling of children.

Catholic teaching holds that, in every place and in every circumstance, the right to life and dignity of every human person is to be protected. Human life and dignity do not depend on our age, utility, or our good behavior. For this reason, we strongly support Rule Petition 21-04 and the proposed rule to prevent children from being shackled in the courtroom, unless there are serious security risks.

Shackling children on a routine basis is dehumanizing. While a young brain is still being formed, it is essential that adults utilize age-appropriate means to ensure that children become healthy, well-integrated, and responsible adults. In 2011, Wisconsin enacted a law that protects all students, both with and without disabilities, by prohibiting the use of physical restraint or seclusion in schools, except in circumstances where a student's behavior presents a clear, present, and imminent risk to the physical safety of the student or others (Wis. Stat. s. 118.305). Thus, for the past decade, Wisconsin's education system has recognized the impact that undue restraint has upon children. It is therefore vital that similar consideration and protection be provided to children within our justice system.

In many instances, children appearing in court have already experienced serious trauma and psychological harm. The National Child Traumatic Stress Network (NCTSN), created by the U.S. Congress in 2000 as part of the Children's Health Act, is tasked with raising the standard of care for children and families who experience or witness traumatic events. Funded through the U.S. Department of Health and Human Services, an NCTSN 2014 review found that youth in the juvenile justice system have been exposed to significantly higher rates of traumatic events than community youth, with rates of trauma exposure generally ranging from 70 to 96 percent, depending upon the study.<sup>1</sup> The review notes how physical restraint can impact already-traumatized girls in the justice system:

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<sup>1</sup> Patricia K. Kerig, [TRAUMA AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM](#) (2014), p. 5, National Child Traumatic Stress Network.

Interviews with stakeholders in the justice system, including staff, parents, and girls themselves, confirm that many characteristics of juvenile courts and detention environments can be experienced as re-traumatizing. (Ravoira et al., 2012) These include overtly physically intrusive and threatening detention procedures such as being handcuffed, restrained, or strip-searched; witnessing violence among peers in the facility; or observing take-downs and other kinds of restrictive procedures being implemented against other youth by staff (Ford & Blaustein, 2013).<sup>2</sup>

When restraints are used upon a traumatized individual, he or she is more likely to respond negatively, even more so with children who, by virtue of their age, are less able to exert self-discipline. Restraints can therefore be counterproductive.

What we know about Wisconsin's current juvenile corrections system and the need for mental health services only affirms this reality. The Wisconsin Department of Corrections Division of Juvenile Corrections estimates that 88 percent of the youth under supervision at Copper Lake and Lincoln Hills School, which are the state's Type 1 secure juvenile correctional facilities for male and female youth, have a mental health condition. About 27 percent have what is considered a serious condition.<sup>3</sup>

The impact of childhood trauma is staggering and not just in terms of the personal impact. In 2007, the NCTSN found that childhood trauma had a direct cost (e.g., hospitalization, mental health care, child welfare systems, law enforcement) of \$70.7 billion and an indirect cost (e.g., special education, juvenile delinquency, juvenile justice system, loss of work) of \$33.1 billion.<sup>4</sup>

Shackling and the use of physical restraints on youth within the Wisconsin juvenile justice system only further degrades and humiliates already-troubled children. As noted in the 2014 NCTSN review, "The creation of a trauma-informed juvenile justice system in which staff are trained to recognize trauma triggers and are prepared to respond to traumatized youth is an important step forward (Marrow et al., 2012)."<sup>5</sup> We urge the Court to take this step forward and adopt the proposed rule.

Thank you for the opportunity to comment on this petition.

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<sup>2</sup> *Id.* at 7.

<sup>3</sup> State of Wisconsin, Department of Corrections, [DIVISION OF JUVENILE CORRECTIONS - CORRECTIONS AT A GLANCE](#) (January 2022).

<sup>4</sup> National Child Traumatic Stress Network, EFFECTS OF CHILDHOOD TRAUMA, <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects>.

<sup>5</sup> Patricia K. Kerig, [TRAUMA AMONG GIRLS IN THE JUVENILE JUSTICE SYSTEM](#) (2014), p. 5, National Child Traumatic Stress Network.