

Memorandum in Support of HB 2616A

Date: May 2, 2017

To: Chair Prozanski, Vice-Chair Thatcher, Members of the Senate Judiciary Committee

From: Senior Judge Elizabeth Welch

Re: Right to Counsel in Delinquency Cases in the Juvenile Court

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In addition to the testimony I provided at today's hearing, there are a couple of final points that I believe are important.

After the US Supreme Court decision in *In Re Gault*, the response in Juvenile Courts was a combination of exasperation and avoidance. This was well illustrated by my experience in the Court I visited several years ago, which I described to you this morning. After I refused to allow the child to plea to a felony, it was his first referral to the Juvenile Court, I was approached by the Juvenile Court Counselor who had presented the request to me. He lectured me on the importance of speedy resolution and consequences for young people. Lawyers ...get in the way. You bet they do! A lawyer who does not get in the way is not doing his or her job!

The current level of waiver of counsel by juveniles is modest. The decline in waiver of counsel by juveniles, from 40% ten years ago to today's 3% is the result of PDSC's efforts using persuasion and education. Unfortunately, when local policymakers move on, policy and practice can change.

Without the proposed law, there could be erosion in practice to the previous levels. The Legislature needs to uphold the principles of Due Process and the dictates of common sense by declaring that children should not face the judicial process without the advice of qualified counsel, acting as their advocate.

Thank you for allowing me to supplement my comments.