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Elizabeth Arnovits: Take a cue from Illinois on child defendants

Michigan sadly falls behind on representation

I hate to see our state of Michigan passed by other states, especially when it's a Great Lakes neighbor, Illinois, and when it's on an issue that deals with how we treat our children. Given the deplorable practices of juvenile representation in Michigan, our state has much to learn from Illinois.

More than 40 years ago, the U.S. Supreme Court recognized that children accused of delinquent acts are entitled to the assistance of legal counsel, even if they cannot afford it. The recent decision by leaders in Illinois should be commended as they will now require that arrested children receive the advice of a lawyer early in the court process.

The juvenile justice system was founded on the premise that children can benefit most from and are open to rehabilitation, treatment, and guidance from caring adults. Illinois clearly embraces this principle - meeting with an attorney prior to a detention hearing allows fuller exploration of alternative options to detention and incarceration, which can often be overlooked without assistance of counsel.

A study recently released by the National Legal Aid and Defender Association noted that "juvenile justice representation is considered in many ways as an afterthought all across the state of Michigan."

Attorneys are overburdened with excessive case-loads; have little time to prepare or even meet with clients prior to hearings; and often lack specialized training needed for juvenile proceedings. Inadequate representation jeopardizes a child's opportunity to fully understand the juvenile court process, explore rehabilitative alternatives to detention or incarceration, and learn about the consequences of adjudication. Attorneys are vital to ensure that a child's rights are protected given the common practice of "binding over" youth on to the adult criminal system.

"Juvenile defenders need not only be aware of the procedural rules and constitutional criminal procedures of the adult court system, but also must be aware of the developmental and mental abilities of their young clients, collateral consequences of conviction (including immigration, access to housing and jobs, admission into armed services, among others), and the enhanced protections for children under federal and state law."

Investing in our state's children must include those that are most vulnerable and marginalized. What kind of message do we send to our youth when a broken system throws away their rights and, often, their futures? It is imperative that we learn from the progress made in Illinois. Michigan's lawmakers should fix our failing public defense system to ensure that we provide the resources necessary to set children on the right path.
