

Wisconsin Justice Initiative



P.O. Box 100705
Milwaukee, WI 53210

December 22, 2021

Clerk Of the Supreme Court
Wisconsin Supreme Court
clerk@wicourts.gov

RE: Rule Petition 21-04, In the Matter of Amending Wis. Stats. §§48.299 and 939.299 Regulating the Use of Restraints on Children in Juvenile Court (Juvenile Shackling)

Dear Honorable Justices of the Supreme Court:

I write on behalf of the Wisconsin Justice Initiative in support of Supreme Court Rule Petition 21-04, regarding juvenile shackling.

The mission of the Wisconsin Justice Initiative is to improve the quality of justice in Wisconsin by educating the public about legal issues and encouraging civic engagement in and debate about the justice system and its operation. I serve as the WJI board president and have been practicing law in Wisconsin since 1994. I spent over 13 years as a staff public defender, and I am now in private practice. I practice in municipal, state, and federal courts, primarily in southeastern Wisconsin.

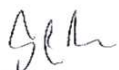
We support the petition that would establish a presumption against shackling children in juvenile court, subject to judicial override in limited circumstances. We believe that there is consensus among system partners in favor of this petition, including juvenile court judges and practitioners. The American Bar Association and the State Bar of Wisconsin both oppose indiscriminate shackling of children. The ABA has noted that shackling children interferes with attorney-client relations, chills fairness, and undermines the presumption of innocence. Other organizations, including the National Council of Juvenile and Family Court Judges, have noted that shackling is contrary to the rehabilitative goals of the juvenile court system. The trauma associated with shackling children only increases the damage they can experience in a court setting.

Thirty-four states and the District of Columbia have put in place rules similar to that proposed here. Several counties across Wisconsin have also implemented policies similar to the proposed rule at the local level. My understanding is that the results in these areas have been positive.

The proposed rule will bring consistency to this practice across the state. It should provide the necessary clarity that decisions about courtroom security belong to the judiciary and provides a humane framework for those decisions. It has appropriate guidance for the judiciary as to when the presumption against shackling may be overcome, with specific and clear standards.

On behalf of the Wisconsin Justice Initiative, I urge you to adopt the petition. Thank you.

Sincerely,



Craig R. Johnson
President