



Illinois State Bar Association
Standing Committee on Law-Related Education Newsletter

November/December 2011



LAW-RELATED EDUCATION

The Newsletter of the ISBA's Committee on Law-Related Education

*Statements, expressions of opinion or comments appearing herein are those of the editors or contributors,
and not necessarily those of the Association or the Committee.*

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2012 ISBA High School Mock Trial Case Released

The 2012 Illinois State Bar Association High School Mock Trial Materials have been released. This year's case is an Estate Law & Animal Law issue. The mock trial case materials are available online at the ISBA's Law-Related Education website <http://www.isba.org/teachers/mocktrial>

Teachers wishing to participate will also find the 2012 Rule Handbook and Registration materials at this site. If teachers want to contact a lawyer or lawyers to help them prepare students for the mock trials, check the Lawyers In Classrooms resource. <http://www.isba.org/lawyersinclassrooms>

The Registration Deadline is February 1, 2012. Registration Fee is \$100, payable to Illinois LEARN, 424 South Second Street, Springfield, Illinois 62701. The Mock Trials will be held at the University of Illinois Springfield Campus on Friday, March 30th and Saturday, March 31st, 2012.

Statement of the Case: Estate Law and Animal Law

Estelle Heeney-Potter, a wealthy widow with two estranged adult children, Addison and Alexi Heeney-Potter, died leaving a will that is vigorously contested by Addison and Alexi.

The estate, estimated at over \$20 million, leaves \$10 million to establish a trust to care for the pets. The \$10 million trust includes provisions to pay an annual salary of \$100,000 to Riley Rendlow, who is to remain in the family home to care for the pets. The trust also will pay for the upkeep of the mansion, land, out-buildings, automobiles, as well as ensure financial provisions for veterinary visits to the property on a quarterly basis to check on the animals, provisions for pet food and other necessities for their care. These pet care expenses are to be drawn from the trust and not from Riley Rendlow's salary, which is also stated in the will.

WILLS – EVERYONE NEEDS ONE

Many associations and companies have done studies on how few people have done any estate planning. Estate planning is the preparation of a plan of administration and disposition of one's property before or after death, including a will, trusts, and powers of attorney. Its primary goal is to protect, preserve and manage an individual's assets if they die or become disabled. Despite that, the American Association of Retired Persons estimates that ninety percent (90%) of Americans have no estate plan. Forbes magazine has recently reported that at least fifty percent (50%) of Americans do not have the most basic estate planning documents, including wills and powers of attorney.

Some people believe that estate planning is for the rich. However, in reality, estate planning benefits anyone who cares about what happens to themselves and those close to them. Wealth and estate tax have little to do with need for basic legal documents. Only those who have attained the age of 18 and are of sound mind and memory can create a will and other estate planning documents.

A will and many other estate planning documents can be changed or revised at any time as life circumstances change, therefore there is no reason to delay when creating a will. The benefits of a will are numerous; another reason not to delay.

A will allows an individual to determine who receives his or her assets, otherwise the law dictates who receives the assets and it may not be what the individual wants. Many people believe that upon the death of a husband or wife, the assets will go to the survivor. However, in Illinois, if there are children, only one-half will go to the surviving spouse. In addition, because of the current trend involving blended families, step-children may be unintentionally left out of an individual's gifting. Many people want to give gifts to charities or friends; however, those too are missing from the statutory rules of distribution.

Wills can also be vehicles to appoint guardians for minor children. Guardians are the persons who have either legal custody of minor children or have the authority to manage the

financial assets distributed to minor children when the children's parents are deceased or disabled. This is very important because the alternative to appointing guardians is to allow the court to appoint one. While this may at first blush seem okay, anyone can petition the court to be guardian. The person petitioning the court may not be the best person for the job and in fact, may be the person one would least like to see raise their children. In the limited time that a judge generally has to determine guardianship, she cannot possibly know the values, lifestyle and child-rearing philosophy of the parents. The difficulty for the judge to determine the children's best interests is daunting.

It is similarly just as important for an individual to decide who will be the executor of his estate. The executor is the person or entity who carries out, or executes, the instructions of a will. He will pay the decedent's final bills, prepare final tax returns, collect and safeguard assets, cancel credit cards, distribute assets according to the provisions of the will and otherwise administer a decedent's financial affairs. Only a will can appoint an executor. If an individual does not appoint an executor, a judge will do it for him. Again, the person a judge appoints may not be the most conscientious or fiscally responsible person. In such case, it could fundamentally affect the family and friends who are to receive a portion of the estate.

Creating a will can also save an individual's estate thousands of dollars. Illinois law requires that every legal representative post a surety bond before undertaking the duties of a legal representative. The bond of a representative is an amount not less than double the value of the decedent's personal estate (everything other than real estate) if individuals act as sureties and not less than one and one-half times the value of the personal estate if a surety company acts as surety. This bond must be paid every year until the administration of the estate is complete. However, this surety bond may be waived in a will.

A will can accomplish many other significant functions. A will can include trusts to provide for the special needs of a disabled person, keeping the funds available for the disabled person while allowing the disabled person access to governmental benefits. It can also include trusts for minor children such that a parent has control over when the child receives the assets, instead of automatically distributing those assets to the child when she reaches the age of 18. A will can be structured to avoid or defer estate and generation skipping taxes.

Due to the substantial benefits that can be realized by the formation of a will, individuals do themselves and their loved ones a disservice by failing to prepare a will. Although meeting with an attorney and dealing with one's own mortality can be intimidating, it's imperative that everyone meet those challenges.

By: Lauren Evans DeJong

CIVICS EDUCATION GRANTS AND TEACHER AWARDS

Please check on current information by visiting these sites. The synopses that appear below are taken from the materials furnished by the provider.

National Council for the Social Studies: awards and grants information.

<http://www.socialstudies.org/about>

Illinois Council for the Social Studies: Awards and grants.

<http://www.illinoiscss.org/home.php>

Pay It Forward Mini-Grants. K-12 Students. Community Service up to \$500 to fund one-time-only service-oriented projects identified by youth as activities they would like to perform to benefit their school, neighborhood, or greater community.

<http://www.payitforwardfoundation.org/educators/mini-grant.html>

NEA Foundation-Nickelodeon Big Help Grants Elementary School Teachers, Middle School Teachers. The Big Help Grants program is dedicated to the development and implementation of ideas, techniques, and approaches for addressing four key concerns – environmental awareness, health and wellness, students' right to a quality public education, and active community involvement.

<http://www.neafoundation.org/pages/educators/grantprograms/nea-foundation-green-grants/>

Target Field Trip Grants. Up to \$700 for field trips.

<http://sites.target.com/site/en/company/page.jsp?contentId=WCMP04-031880>

American Historical Association: Beveridge Family Teaching Prize.

The American Historical Association Beveridge Family Teaching Prize recognizes excellence and innovation in elementary, middle school, and secondary history teaching, including career contributions and specific initiatives.

www.historians.org/teaching/Beveridge.htm

Illinois Ag in the Classroom. <http://www.aginthe classroom.org/060605/Teachers/grants/grants.htm>
\$250 teacher grants .

Oracle "Help Us Help" Foundation ThinkQuest Collaborative Learning.

<http://www.thinkquest.org>

Thinkfinity Education Foundation.

Free professional development program and learning materials

<http://www.thinkfinity.org>

The Best Buy Children's Foundation.

supports existing and emerging national programs that creatively use interactive technology to make learning a fun and engaging experience for children.

<http://tinyurl.com/ydckro5>

Intel® Education. Enables 21st century teaching and learning through free professional development, tools, and resources that help K–12 teachers engage students with effective use of technology.

<http://www.intel.com/about/corporateresponsibility/education/k12/index.htm>

Teaching Tolerance. Free K-12 classroom materials to promote diversity and equity.

www.tolerance.org/teaching-kits

Campbell's Labels for Education.

School fundraising program, schools can earn free educational merchandise, including computers, software, library books. Public and private K-12 schools, etc.

<http://www.labelsforeducation.com/>

Social Studies Online Activity Packs. PBS Teachers offers online social studies activity packs for K-12 teachers, a set of educational resources focused on global populations, citizenship, the presidency, and democracy around the world, packaged in a widget format that teachers can embed in their own class or social media web page. Each pack includes links to PBS websites and a set of activities by grade level. Lessons on American identity, indigenous cultures, China, citizenship, patriotism, religious diversity in America, genocide, and other subject matter.

<http://www.pbs.org/teachers/activitypacks/socialstudies/>

First Amendment School Affiliate Program. The FAS Network is accepting applications for its Affiliate Program, which is the entryway into the work of becoming a First Amendment School. There is no fee to join the FAS Network. Affiliates commit to the guiding principles of the FAS Project, receive materials and resources on democratic freedom and whole school reform, and are eligible for \$500-1,000 grants to support best practices for implementing First Amendment School principles. Affiliate School applications may be submitted by the principal and two additional members of the school community.

<http://www.firstamendmentschools.org/involve/affiliate.aspx>

Instructify Free Online History Resources.

Created by LEARN NC, Instructify lists the most innovative and successful practices in K-12 education and makes them available to teachers and students everywhere. The site lists free resources for history teachers to stock their toolboxes with classroom ideas and methods of instruction. Teachers can also find useful, free technology to utilize in the classroom.

<http://instructify.com/category/history>

DonorsChoose.org.

Funding for supplies, programs, and field trips for K-12 public school teachers.

Wells Fargo.

Supports educational programs that promote academic achievement for low to moderate income preK-12 students in literacy, and history of the American West. Eligible applicants include educational institutions and nonprofits located in Illinois. Grants are also considered

for professional development programs and programs that encourage school partnerships with parents, the business community, or the community in which the school is located.
<https://www.wellsfargo.com/about/charitable/index.jhtml>

Active Learning Grant Program.

Samsung Digital Presenters will award 50 SAMCAM 860 digital presenters to schools that can best utilize a document camera to encourage active learning. The grant will be offered to any K-12 school in the United States or its territories. The application must be completed by a teacher who has taught at the K-12 level in 2011 and intends to teach at the K-12 level in 2012.

<http://samsunggrants.com/>

Robert H. Michel Special Project Grants.

Dirksen Congressional Center

\$2,500-5,000 for social studies and history teachers who propose creative ways to teach their students about Congress.

http://www.dirksencenter.org/print_grants_specialprojects.htm

State Farm and Youth Service America.

Grants up to \$1,000 for the promotion of service-learning projects in K-12 public schools to engage participating youth in service-learning, a teaching and learning strategy that helps to promote student learning, academic achievement, workplace readiness, and stronger communities.

The State Farm Good Neighbor Service-Learning Grants encourage semester-long projects.

Up to one hundred and twenty-five grants will be awarded; at least ten to fifteen grants will support projects addressing teen driver safety issues.

<http://www.ysa.org/goodneighbor/>

National Service-Learning Clearinghouse. Link to private and public grants for service learning projects and classes.

http://www.learnandservice.gov/for_organizations/funding/index.asp

Allstate Foundation. Offers grants for Safe and Vital Communities, Economic Empowerment and Tolerance, Inclusion and Diversity. A majority of our funding is dedicated to addressing two issues: Teen Safe Driving and Domestic Violence.

<http://www.allstatefoundation.org/funding-guidelines>

ISBA LAWYERS IN CLASSROOMS PROGRAM

As part of ISBA's initiative to make a difference in the lives of Illinois students, and to assist in expanding diversity in the legal profession, we invite attorneys to go back to school and speak to students on law-related topics.

This informal program provides a way for Illinois teachers to search an ISBA volunteer database to find lawyers in their areas who are willing to speak on specific subjects. The list is

available on our law-related education website, <http://www.isba.org/lawyersinclassrooms>, as an on-going resource for teachers.

Typical classroom presentations would last for 30-60 minutes and should be on topics that the teachers wish discussed or enhanced by the participating ISBA volunteer.

LAWYERS IN CLASSROOMS PRESENTATION OUTLINE BY DIANA BRODMAN SUMMMERS

Lawyers In Classrooms and ISBA member, Diana Brodman Summers, recently volunteered her time to speak at a high school in her community. The teacher and students were very appreciative of her visit and have asked her to return in the Spring. Speaking to the students about the legal profession was such a positive experience that she would like to share the presentation she prepared.

I. INTRODUCTION

- Accurate information about the profession
- Dispel the myths about being a lawyer
- Annual studies about 'unhappy lawyers'
 - Dehumanizing hours (12-14 hr days/7 days a week)
 - Mind numbing law firm assignments (do only one type of task ex: read contracts, research all day)
 - Huge gap between expectations and reality of profession

II. FROM HIGH SCHOOL TO LAW SCHOOL

- A. Education Time Line:
 1. Graduate from high school – 4 years
 2. Graduate from college with a 4 year degree – 4 years
 3. Take the LSAT (www.lsats.org) entrance exam.
 4. Apply to law schools
 5. Graduate from law school – 3 years day program / 4 years evening program
 6. Take the Bar Exam
 7. Be sworn in as an attorney
- B. High School & Colleges courses that will help in law school
 - Increase reading speed & comprehension
 - Improve writing ability
 - Develop research abilities both on-line and using books
 - Public speaking
- C. Major in a subject that you are interested in and get good grades

- Lawyers are used in every type of business/art/life
- D. Take business courses
 - Law is a business, especially if you are a solo or managing partner
 - Corporations hire attorneys who have a business education
- E. Consider a major that can provide a fall back career other than law
- F. College “Pre-Law” courses
 - NOT required to get into / be successful in Law School
 - May hurt when studying the same subject in Law School
 - Laws created by legislatures and courts
 - Daily changes to law by courts
 - May not keep current
 - Some organizations for students interested in law offer pre-law seminars that do not teach law subjects but provide info on getting to Law School, such as the American Bar Associations Pre-Law group.

III LAW SCHOOL

- A. LAW SCHOOLS ARE BIG BUSINESS
 - Big money in preparing people to be lawyers
 - Tuition \$100,000 - \$150,000
 - Books and fees
 - Exaggerate number of graduates with jobs / their salary
 - Reported to press, public, NALP www.nalp.org Association for Legal Career Professionals.
 - NALP statistics used to impress potential students, & rank law schools
- B. TAKE THE LSAT
 - Website www.lsat.org has the most comprehensive information on this exam
 - LSAT preparation programs
 - Best preparation to take LSAT is to take sample LSAT exams
 - Can get these through website, preparation books
- C. SELECT A LAW SCHOOL
 - **MUST be American Bar Association accredited**
 - Vitaly important
 - If attend a non-ABA accredited law school cannot take bar exam and cannot be licensed
 - Current large number of non-accredited law school advertising on Internet
- D. LAW SCHOOL CLASSES

- For every hour in class 3-4 hours of homework
- Majority of classes are required – tested on Bar Exam
 - Constitutional law, contract, civil procedure, criminal law, family law, wills & trusts, torts.
- Course grade depends on one exam
 - Grading tough, one ‘D’ can end law school
- Background check; ethics course and pass state ethics
- Day (3 year) or Evening (4 year) program
 - Day program - work only during summer
 - Evening – considered less committed to profession by law firms

E. BAR EXAM

- www.ilbaradmissions.org Illinois Board of Admissions
- 2 day exam
- About 2/3 on law of all states, 1/3 on Illinois law
- Should take commercial Bar preparation course
- Must pass to be licensed as an attorney

F. GETTING A JOB AFTER LAW SCHOOL

MYTH – AFTER GRADUATING FROM LAW SCHOOL, I CAN GET A JOB.

- Not legally required to assist in finding a job for graduates
 - Court cases, graduate sues law school fraud on getting a job
- “Lost generation” of unemployed attorneys due to economy
 - 2007 – 2008 – 2009
 - Some entire graduating classes not employed as attorneys
- Law school counts any job in law firm/legal dept/gov agency for statistics
 - Continue to have huge classes, evening and day programs

IV. MONEY – Myth: ALL LAWYERS MAKE A HUGE SALARY

A. PROMOTING THE MYTH

- Salary statistics from Law Schools
 - Benefit from statistics that show graduates with high salaries
 - Help school ranking against all USA law schools
- Statistics go to media / on-line sites that track salaries – over \$100,000
- Actual salary numbers not easy to get

B. FACTS

- In 2005 study Chicago area - \$42,000 average entry level attorney
- In 2009 the entry level Illinois States Attorney - \$56,000
- In 2008 the entry level Public Defender - \$44,000
- There are big law firms across the USA that pay over \$150,000 for entry level attorneys

- From top tier law schools (Harvard, Yale, etc.) in entire country
 - Top of class grades
 - Political / big business connections
- Attorney jobs scarce
 - Economy: law firms cut back, firms close, less clients
 - Outsourcing off-shore (research, document review, document preparation)

C. SATURATED PROFESSION

- ARDC (www.ardc.org) est. 10,000
 - Increase 1,500 to 3,600 per year
 - Approx. 62% of all licensed attorneys in Cook and collar counties
 - 45% in Cook
- Law schools graduate 2 times a year
- Competition for jobs / clients

V. WORKING AS A LAWYER

A. WHERE LAWYERS WORK

- Law Firms
 - Partnerships – most common
 - Problem of burn out
 - Assoc. attorneys required to work very long hours
 - Solo – have your own firm
 - Temporary agencies - temp assignments in various law firms
- Corporations
- Government (Federal / State)

B. TYPE OF LAW PRACTICED

- Criminal (Federal & State)
 - State of Illinois v. defendant
 - Village of Downers Grove v. defendant
- Civil
 - Plaintiff v. Defendant
- Agency or Administrative Law
 - EEOC v. defendant
 - U.S. Department of Labor v. defendant
- Alternative Dispute Resolution
 - Binding arbitration – employment contracts, unions (RR)
 - Illinois Mandatory Arbitration Program
 - Formed to eliminate 10+ year case backlog
 - Civil cases under \$30,000 (Cook) \$50,000 (DuPage)
 - 2 hours for both sides present case to 3 attorney panel
 - Mediation

- Law firms that only do formal mediation
- Family law using trained mediators in divorce
- Some courts require mediation
- Agency (EEOC, IDHR) uses mediation as an option

C. LAW TOPICS

- All type of business use lawyers
- www.megalaw.com research website lists 250 different topics

D. REAL LAWYERS v. TV LAWYErS

- Closest - CBS "The Good Wife" shows attorneys working beyond the normal 8 hour day, attorneys being on call 24/7, unfriendly judges, nasty opposing counsel.
- Worst - any NBC "Law & Order" criminal act + police work + legal work + court appearances all in 60 minutes less commercials
- Most lawyers rarely in court
 - Exceptions: attorneys who do large volumes of traffic violations, foreclosures, creditor judgments, or other high volume transactions
- Real courtrooms
 - Administrative hearings
 - Agency office (IDHR)
 - Telephone hearings (IDES Unemployment Appeals)
 - Video hearings
 - Traffic courts
 - DuPage satellite courtrooms DG VFW

E. TYPICAL CASE WORK-UP FOR TRIAL / HEARING

1. Interview client – is this a good case
2. Client signs agreement for representation and to pay
3. Research case: look at facts; law, past cases that match this one
4. Meet with client on what research shows, advise on what is next
5. Settlement negotiations open
6. File case with court or agency
7. Court or agency provides attorney with schedule of appearances
8. Continue to negotiate settlement
9. Possible professional mediation, may be provided by court/agency
10. Depositions of witnesses for both sides
11. Required motions brought before the court
12. Keep negotiations open
13. Frequently check to see if law overturned and past cases changed by the courts
14. Keep client informed of work
15. Prepare witnesses for trial

16. Prepare opening statement, questions to witnesses, exhibits, cross-examination questions, closing argument for trial
17. Make last attempt to settle case
18. Begin trial

VI. MY LAW FIRM

- Solo, Arbitrator for Cook & DuPage County, ALJ Tollway, Author
- Graduated 1993 DePaul, evening, sba rep, passed Bar first time
 - Independent contractor attorney 1993 to 2001
- July 2001 opened firm concentrating on employment law
 - Discrimination complaints filed with Illinois Department of Human Rights and EEOC
 - Review of severance documents and contracts of non-compete
 - Negotiations with employers
 - Unemployment cases
 - Preparation of employee for meeting with IDES Claims Adjudicator
 - IDES appeals
 - IDES Board of Review Briefs
 - Represent Federal employees in discrimination, salary actions and terminations
 - Mediations
 - Appeal with MSPB (Merit System Protection Board)
 - Represent State employees in mediations
- DAILY:
 - Read: ISBA daily new laws and cases report for Illinois; FINDLAW daily new cases in USA; LAW.COM legal news: EL Update employment law firms info and cases
 - Screen potential clients on the phone

How do you know if you should go into the profession of attorney?

It is a calling, something that you are drawn to, and are willing to put up with the problems in law school and difficulties in getting work to obtain. A profession that the public thinks is lower than a used car salesman. Do not go into the legal profession because of something you saw in the movies or on tv or to make lots of money. If you are interested in this profession learn all you can before you put down your \$100,000 for an education.

Please feel free to contact me if you have any questions. The best way is via e-mail at dscatlaw@sbcglobal.net You may also want to visit my website for legal information and links www.lawyer4employees.com

VII. SOME BASIC EMPLOYMENT LAW CONCEPTS

- Illinois is an 'at will' state
 - If you are not covered by a union contract or are not covered by a written employment contract, you are considered 'at will'.
 - In an 'at will' employment situation an employee can be terminated for any or NO reason, with or without notice, following the employee manual or not, fair or un-fair.
 - An 'at will' employer cannot terminate due to discrimination basis
 - The employer would be subject to complaints filed with EEOC
www.eeoc.gov and IDHR (Illinois Dept of Human Rights)
www.state.il.us/dhr/
- Discrimination
 - A discrimination complaint can only be filed on the basis of:
 - Age (over 40); sex (including pregnancy); race; color; nationality; ethnic origin; religion; disability; marital or military status
 - Illinois follows all of the above Federal laws and adds sexual orientation to the list of discrimination basis
 - For more information start with www.eeoc.gov
- Unemployment
 - Unemployment benefits come from taxes paid by the employer and some Federal Funding
 - A person is denied unemployment benefit for 2 reasons:
 - 1. Employee quits – unless there is a medical reason documented by a doctor, job has changed in major ways, other minor reasons.
 - 2. IDES Misconduct – legal meaning is that the employer has a rule or policy; that rule or policy effects the bottom line; the employee knows about the rule or policy; AND the employee willfully and deliberately violates the rule or policy.
 - Unemployment benefits rarely provided for:
 - Person terminated for sexual harassment
 - Person terminated for criminal act that the employer is prosecuting
 - Person terminated for excessive absenteeism

WEBSITE REFERENCES:

- www.americanbar.org American Bar Association; legal news, analysis of significant case decision, list of accredited law schools, information for those interested in becoming a lawyer.
- www.americanbar.org/groups/legal_education/resources/pre_law.html this site is for those interested in becoming lawyers.
- www.adrc.org Attorney Registration & Disciplinary Commission; lists all ethical laws attorneys must follow, determine who has a law license.
- www.chicagobar.org Chicago Bar Association; public section includes lawyer referrals, judicial election information, general legal information.

- www.dcba.org DuPage County Bar Association; legal news, explain the legal system, find a lawyer, legal self-help and legal research sites.
- www.eeoc.gov EEOC Equal Employment Opportunity Commission
- www.findgreatlawyers.com Lawyer referral service
- www.findlaw.com current cases, general info by type of law
- www.ides.illinois.gov/default.aspx IDES Illinois Department of Employment Security – unemployment
- www.ilbaradmissions.org Illinois Board of Admissions; Bar Exam information.
- www.isba.org Illinois State Bar Association; public section contains some legal information, lawyer referral, judicial elections
- www.law.com news in the legal field, career information, has links to sites for those interested in law school
- www.lawschoolpodcaster.com information about selecting a law school and surviving law school
- www.lawyer4employees.com My website on employment law
- www.lsat.org contains all information on the LSAT exam and help to select a law school
- www.megalaw.com Research by legal topic
- www.nalp.org Association for Legal Career Professionals; statistics about attorney salaries, jobs, hours worked
- www.nela-Illinois.org National Employment Lawyer Association' bar association for attorneys who practice employment law.
- www.state.il.us/dhr/ IDHR (Illinois Dept of Human Rights)

ABA ACCREDITED LAW SCHOOLS IN ILLINOIS:

CARBONDALE:

- Southern Illinois University School of Law
 - 1150 Douglas Drive
 - Mailcode 6804 –
 - Carbondale, Illinois 62901
 - (800) 739-9187 or (618) 536-7711
 - www.law.siu.edu/

CHAMPAIGN:

- University of Illinois College of Law
 - 504 East Pennsylvania Avenue
 - Champaign, Illinois 61820
 - (217) 333-0931
 - www.law.illinois.edu/

CHICAGO:

- DePaul University College of Law
 - 55 E. Jackson Blvd.
 - Chicago, Ill 60605
 - 312-362-8701
 - www.law.depaul.edu/
- Illinois Institute of Technology Chicago Kent College of Law
 - 565 West Adams Street
 - Chicago, IL 60661-3691
 - 312-906-5000
 - www.kentlaw.edu
- John Marshall Law School
 - 315 S. Plymouth Court
 - Chicago, IL 60604
 - 312.427.2737
 - www.jmls.edu
- Loyola University Chicago School of Law
 - 25 E. Pearson Street
 - Chicago, IL 60611
 - 312.915.7120
 - www.luc.edu/law/
- Northwestern University School of Law
 - 375 East Chicago Avenue
 - Chicago, Illinois 60611-3069
 - (312) 503-3100
 - www.law.northwestern.edu/
- University of Chicago Law School
 - 1111 East 60th Street
 - Chicago, Illinois 60637
 - 773.702.9494
 - www.law.uchicago.edu/

DEKALB

- Northern Illinois University College of Law
 - Swen Parson Hall
 - Northern Illinois University
 - DeKalb, IL 60115
 - (800) 892-3050 or (815) 753-8595
 - www.law.niu.edu/law/aboutus/index.shtml

JUVENILE JUSTICE LEGISLATIVE UPDATE

The April/May LRE Newsletter contained a lesson plan on researching and monitoring legislation. Two bills were highlighted: House Bill 0083 and House Bill 2067. After several agreed amendments House Bill 0083 passed both houses and was signed by the Governor as Public Act 97-0362. It will become law on January 1, 2012. House Bill 2067 was never called for a vote in the House and has not moved.

House Bill 0083 amends the Juvenile Court Act section 405/5-750. As a result of the new law, judges prior to committing a youth to the Department of Juvenile Justice must find that commitment to the Department was the least restrictive alternative based on evidence that efforts were made to secure alternatives and that these were unsuccessful. Additionally, the court must find that confinement is necessary following a consideration of factors listed in the statute. Finally the court must find that reasonable efforts were made to prevent the removal of the child from the home or that such reasonable efforts cannot at this time be made and that it is in the best interest of the minor, the minor's family, and the public that the minor be removed from the home.

As a result of these required findings, courts will have to consider several additional factors before committing a minor to the Department of Juvenile Justice. The use of community sentencing alternatives may be more likely as a result of this change in juvenile sentencing practice.

JUVENILE JUSTICE LESSON PLAN

Community Forum - Raising the Age for Juvenile Court.

Objective: This lesson plan allows students to discuss a public policy question which has a direct impact upon their age group. It provides basic information to conduct a mock town hall meeting in the classroom. Students will develop the presentations of five panelists that are provided in this lesson plan. These presentations are in summary form. Students should be encouraged to do independent research to more fully address the issue.

Method: Give the entire class the background information and the materials for all of the panelists. Divide the class into five teams. Each team is assigned to develop the position of one of the panelists. Students should be given sufficient class time to analyze the positions of each speaker and to develop a research strategy. Each group shall identify one of their members to be on the panel and make a presentation consistent with the role they have been given. The remaining students will be the audience at the town hall meeting and will be able to ask questions of any of the panelists. The teacher should moderate the panel.

Each panelist will make a three minute presentation and will respond to questions for and an additional three to five minutes. They should answer questions consistent with their roles and they may seek help in answering from any of their team members. At the end of the panel presentation, the class should discuss the issue for a brief time and then vote on whether the policy should be adopted. In discussing the issue and in voting the students should take their own position not necessarily the position of the person they developed in the role play.

Time: This lesson should take a portion of two class periods and a third for the mock town hall meeting. The mock town hall meeting format should be discussed in the first class period and the students divided into teams. There should be sufficient time to select a presenter and to develop a

research strategy. There should be an interval between class periods to allow for independent or team research. A portion of the second class period should be devoted to allow the students to meet to discuss their research and to develop their presentations. The third class meeting should be the mock town hall meeting. Following a brief time for final preparation, the meeting should be conducted with the discussion and voting to follow.

Background: Illinois was the first state to have a juvenile court. One of the primary purposes of a juvenile court is to hear cases of crimes committed by young persons. It is thought that young people because of the age and stage of development should be treated differently than adults when charged with criminal offenses. One of the issues that had to be determined is at what age does the juvenile courts jurisdiction or authority to hear the case end. Should it be 15 or 21 or any age in between? Most states have used the 18th birthday as the dividing point.

Up until a few years ago Illinois used the 17th birthday as the dividing point. In 2010 the Illinois General Assembly passed a bill that increased the age of juvenile court jurisdiction to include 17 year olds who committed a misdemeanor. Youth 17 years old charged with a felony continued to have their cases tried in criminal court. A misdemeanor is a minor offense and a felony is a more serious offense. The bill also contained a provision that required a study to be made to determine whether the age should also be raised for felonies. The Illinois Juvenile Justice Commission is undertaking this study and should report its findings sometime near January 1, 2012. If the report's findings are favorable, it is likely that legislation will be introduced to raise the age of juvenile court jurisdiction to include all 17 year olds regardless of what type of crimes they are charged.

A community town hall meeting has been called to discuss this proposed change. Five experts with knowledge of juvenile justice have been called to discuss this change. At the end of the panel discussion you will be asked to decide whether you would favor or oppose this change.

Issue: Should the age of juvenile court jurisdiction be raised to include all 17 year olds regardless of the crime with which they are charged?

Forum Members

Role 1 - Janice Adamosky

I am a youth advocate working in the juvenile justice system. I definitely think that the age of juvenile court jurisdiction should be raised. Juvenile court offers several advantages to youth. In juvenile court rehabilitation rather than punishment is stressed. There are age appropriate sentences. Restorative justice principles govern the proceedings.

The procedure followed in juvenile court is designed to allow the youth to take responsibility for the wrong committed and often is provided the opportunity to make amends by paying restitution or engaging in some form of community service. Often the case is handled informally without a formal court order of guilt. While this is less likely in the case of a felony change it is still a possibility. Additionally if the youth is truly a danger to community, the case could be transferred to adult court. In fact under Illinois many of the most serious felonies will be transferred to the criminal court automatically.

Juvenile court is staffed with court service workers, lawyers and judges who are trained and are interested in working with you. There is likely to be better decisions as a result of this training and experience. The records are more confidential than in adult court which will reduce any lasting

stigma associated with the criminal act. We have created a separate system of juvenile justice for youth we should use it for all youth.

Role 2- Jorge Ortega

I am a social science teacher but before that I was a probation officer. I think the age should be raised. Raising the age would create a more uniform age for adulthood. The 18th birthday is considered the age for voting, contracting and being able to consent to medical treatment without parental approval. At this time 38 states and the federal government use the 18th birthday as the ending point for juvenile justice. The United Nations Convention on the Rights of the Child use the 18th birthday to define the end of childhood. In 2010 Illinois amended the Juvenile Court Act to include 17 year olds charged with a misdemeanor offense

Perhaps most important from a youth development stand point is that the 18th birthday coincides with graduation from high school. In most instances a 17 year old is in high school and a 18 year old has completed high school. The age of 18 would become a milestone age for both educational and legal purposes.

This business about age is much more than numbers. I have been reading a lot lately about brain development studies. Now with modern brain scanning devices medical personnel have been able to actually observe the brain's development. The brain continues to grow and change well until the onset of early adulthood. What they have discovered is that the part of the brain that controls thinking is basically fully developed by about 16 but the part of the brain that controls judgment and risk avoidance develops later. To a great extent this research supports the juvenile court philosophy that children should be treated differently than adults and that there should be a different level of accountability.

Role 3 - Toni Azullo

I am a retired police officer. I really do not feel strongly about this issue, but I think it would be much easier if there was a uniform age for all offenses. Whether it is the 17th or 18th birthday doesn't make much difference.

Under the current law if we charge the youth with both a misdemeanor and a felony the case is filed in the adult criminal court. As often happens in these cases, there is a settlement by a negotiated plea. Over 90% of cases in the criminal justice system are plea bargained. If only the felony remains the youth is to be sentenced as a juvenile. In this instance it may be better to have the case filed in juvenile court right from the beginning.

On the other hand, I think that public safety demands that we vigorously fight crime. Some of these kids are well on their way to a life of crime by the time they hit 17. Maybe some tough sentencing will deter them and others from committing crimes.

Role 4 - Matt Howell

I am an investigator working for the States Attorneys office. I think it was a mistake for Illinois to raise the age for juvenile court for misdemeanors, and this mistake would be compounded if it were raised for felonies. By the time many of these youth reach 17 they have been arrested several times and been slapped on the wrist in the juvenile justice system. If you look at their records you will see several station adjustments and informal periods of supervisions as well as convictions.

I live by the principle that if you are old enough to do the crime you are old enough to do some time. Many of these youth are gang members and have been schooled to be criminals. I have

seen instances where gangs recruit younger kids to do criminal acts because they know they will be given light sentences as a juvenile. Criminologists who study crime have shown that a small number of people are involved in many crimes. If these people can be identified and sent to prison for a long time crime will be significantly reduced. This process is known as selective incarceration. Even if we convict persons as juveniles and they are sent to the Department of Juvenile justice they are likely to be on the streets again in a short time.

Illinois has treated 17 year olds as adults for almost as long as we have had a juvenile court, well over 100 years. We don't need to change the law to make things any easier for persons who commit felonies.

Role 5 - Violet Defrost

I am a probation officer employed by the juvenile court. I think that before we go about changing the law we need to look at the impact this will have on court services. Changing the law will bring more youth into juvenile court. While misdemeanor cases are often handled informally, felony cases being more serious will have to be reviewed more thoroughly and supervised more closely. This will require more work and consequently more workers. Either the cost of running juvenile court will go up or the level of services will have to be spread more thinly. Either way it is not a good outcome.

Furthermore it is not just probation services in juvenile court which will see an increased workload. The attorneys and judges who work there will also have an increased workload as well as other court staff.

From a youth development perspective, a 17 year old held in pre-trial detention may be with children as young as 10 and with youth as young as 13 if sent to an institution run by the Department of Juvenile Justice. I do not think it is good idea to have these older teens put in situations where they can teach the younger youth criminal behavior. Changing laws always has consequences and this change may have more impact than is initially considered.

Resources: Students should be encouraged to fill in the basic presentations of the panelists by doing research either independently or as a team.

There are many websites that have information on juvenile justice issues. Many of these have links to other sources.

A partial list of websites

Juvenile Justice Initiative <http://www.jjustice.org>

Office of Juvenile Justice and Delinquency Prevention <http://www.ojjdp.gov>

Illinois Criminal Justice Information Authority <http://www.icjia.org>

National Council of Juvenile and Family Court Judges <http://www.ncjfcj.org>

Fight Crime Invest in Kids <http://www.FightCrime.org>

McArthur Foundation Research on Adolescent Development <http://www.adjj.org>

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