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IN THE MATTER OF: M.H.

CA 26 116463

VS.

Judge:

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IN THE EIGHTH DISTRICT COURT OF APPEALS
CUYAHOGA COUNTY, OHIO

IN THE MATTER OF : M.H., : CASE NO. CA-26-116463
Appellant :
: ON APPEAL FROM THE
: CUYAHOGA COUNTY COURT
: OF COMMON PLEAS,
: JUVNIELE DIVISION
CASE NO. [REDACTED]

**PROPOSED BRIEF OF JUVENILE LAW CENTER, THE GAULT CENTER
AND DR. GIA ELISE BARBOZA-SALERNO AS AMICI CURIAE IN SUPPORT
OF THE APPELLANT'S MERIT BRIEF**

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TABLE OF CONTENTS

TABLE OF AUTHORITES	ii
INTRODUCTION	1
ARGUMENT	2
I. OUT OF HOME PLACEMENTS CAUSE GRAVE HARM AND MUST BE AVOIDED	2
II. DETENTION IS COUNTER-PRODUCTIVE AND EPECIALLY HARMFUL FOR AN ELEVEN-YEAR-OLD	8
III. BLACK GIRLS ROUTINELY RECEIVE DISPROPORTIONATE PUNISHMENT DUE TO RACIAL BIAS	12
IV. CONFINING CHILDREN IS COUNTER-PRODUCTIVE AND IMPEDES PUBLIC SAFETY	14
CONCLUSION	15
CERTIFICATE OF SERVICE	16

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INTRODUCTION

Confining an eleven-year-old child deemed incompetent in a detention facility puts the child at grave risk of physical abuse, trauma and lifelong devastating health outcomes, and disrupts the supportive systems needed for healthy adolescent development. It is also counter-productive and unlikely to result in any change in competency. It is the wrong approach and every day that passes compounds the damage further.

Ohio's youth justice system aims "[t]o provide for the care, protection, and mental and physical development of children... whenever possible, in a family environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety." Ohio Rev. Code § 2151.01(A). Detaining an eleven-year-old child found incompetent contravenes this goal by putting the child at grave risk – without any likely benefit of restoring competence or promoting safety.

I. OUT-OF-HOME PLACEMENTS CAUSE GRAVE HARM AND MUST BE AVOIDED

A. Confining Youth in Detention Centers Risks Serious Physical Violence

Physical abuse is rampant in youth detention and other correctional facilities. *See, e.g.,* Richard Mendel, *Why Youth Incarceration Fails*, 16-17 (Dec. 2022), <https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf>. Youth confined to these facilities routinely face physical, sexual or other violence from staff or other youth, and witness violence against their peers. *Id.* at 5. In 2023, the United States Department of Justice Bureau of Justice Statistics released data finding 1,263 confirmed sexual victimization incidents of youth against youth in youth justice facilities, and 499 incidents committed by staff between 2013 and 2018. Emily D.

Buehler, *Substantiated Incidents of Sexual Victimization Reported by Juvenile Justice Authorities, 2013–2018*, 1, <https://bjs.ojp.gov/document/sisvrjja1318.pdf>.

Ohio facilities present the same risks as it has a staffing crisis in youth correctional facilities, opening the door to increased isolation, decreased programming and schooling, and ultimately “more disruption and violence in the facility.” See Ohio Juvenile Justice Working Group, *Report: A Holistic Review of Ohio’s Juvenile Justice System and Recommendations for Short-Term and Long-Term System Transformation*, 9-12 (Sept. 2024),

https://content.govdelivery.com/attachments/OHIOGOVERNOR/2024/08/30/file_attachments/2983646/Juvenile%20Justice%20Internet%20FINAL.pdf. Ohio’s youth justice system has faced a staggering number of recent abuse scandals. See, e.g., Cory Shaffer, *Cuyahoga County Settles Lawsuit Over Juvenile Detention Center's 'Fight Night'*, (Oct. 23, 2018), https://www.cleveland.com/court-justice/2018/10/cuyahoga_county_settles_lawsuit_1.html (Cuyahoga County settled a lawsuit in which former students alleged they were forced to fight each other for sport during “fight nights” – one of which was caught on film); Koina Dychess, *Teen Paralyzed After Fight Inside Detention Center Sues Franklin County*, (Aug. 31, 2023), <https://www.10tv.com/article/news/local/paralyzed-teen-sues-franklin-county-detention-center/530-e58c1e68-d303-4cd8-a5e8-42128a5a804a> and Laura Bischoff et al., *Kids Behind Bars: Chaos, Violence and Neglect Plague Youth Prisons and Detention Centers* (Nov. 11, 2023), <https://www.dispatch.com/story/news/2023/11/11/ohio-youth-prison-detention-centers-struggle-with-injuries-neglect/70410221007> (young person was permanently paralyzed due to alleged negligence by staff during a physical restraint); Kyle Beachy, *Mother Alleges Her 16-Year-Old Son Was Sexually Abused in*

Ohio Juvenile Detention Center, NBC4 Columbus (Jan. 5, 2024), <https://www.nbc4i.com/news/local-news/perry-county/mother-alleges-her-16-year-old-son-was-sexually-abused-in-ohio-juvenile-detention-center/> (16-year-old alleged he was a victim of a sexual assault at the now-closed Perry Multi-County Juvenile Facility).

After an lengthy investigation, a number of Ohio newspapers found “local juvenile detention centers and the state’s juvenile prisons consistently fail in their most basic mission: to provide a safe environment for young offenders while trying to turn them into productive members of society.” *Kids Behind Bars*, *supra*. The review noted that while such centers are supposed be “safe” and a “refuge from crime and mayhem,” instead:

kids in the system often encounter a world more dangerous than the one they left behind. Violence erupts without warning, leaving victims bloodied and scarred. Serious injuries and medical conditions, sometimes even deaths, go unnoticed or unreported for hours.

Id. Far from helping youth thrive, placing children in a detention center or another other carceral facility for any reason risks exposing them to devastating, life-altering harm.

B. Removing Youth from Their Homes Interferes with Healthy Development, Disrupting Youths’ Transition to Adulthood

Even absent physical child abuse, detention or any carceral out-of-home placement can be destructive for young people and contrary to the goals of the juvenile justice system. Youth in the justice system have often experienced prior trauma and have higher rates of post-traumatic stress disorder and other mental health diagnoses. Carly B. Dierkhising et al., *Trauma Histories Among Justice-Involved Youth: Findings from the National Child Traumatic Stress Network*, (July 2013) <https://pmc.ncbi.nlm.nih.gov/articles/PMC3714673/> (noting that “[u]p to 90% of justice-involved youth report exposure to some type of traumatic event. On average, 70% of youth meet criteria for a mental health disorder with approximately 30% of youth

meeting criteria for post-traumatic stress disorder (PTSD)"). Instead of promoting healing, incarceration aggravates these challenges. Mendal, *supra*, at 16. Any length of youth incarceration is associated with greater likelihood of worse adult health outcomes, including functional limitations, higher rates of obesity as an adult, and higher rates of stress-related diseases including hypertension. Elizabeth S. Barnert et al., *How Does Incarcerating Young People Affect Their Adult Health Outcomes?*, 139(2) *Pediatrics* (Feb. 2017), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5260153/> (summarizing pre-existing studies). Incarcerating youth for one to twelve months is "associated with worse general health," and longer periods predicted adult functional limitations (based on difficulty climbing stairs), adult depressive symptoms and adult suicidal thoughts. *Id.*, at 2. Ultimately, incarcerated children have a lower life expectancy and are at risk of premature death. Matthew C. Aalsma et al., *Mortality of Youth Cjffenders Along a Continuum of Justice System Involvement*, 50(3) *Am. J. of Preventive Med.* 303, 303 (2016) (study found 1.5 times greater mortality rate for detained youth than those in general adolescent population); Linda A. Teplin et al., *Early Violent Death Among Delinquent Youth: A Prospective Longitudinal Study*, 115(6) *Pediatrics* 1586, 1589 (June 2005) (mortality rate for youth sampled from intake at Cook County Juvenile Temporary Detention Facility had over 4 times higher mortality rate than 15-24 year old peers during studied period, and over 8 times higher for detained girls). Even periods shorter than one month of youth incarceration predicted depressive symptoms as an adult. Barnert, et al. *supra*, at 1. There is no "safe" amount of time in a correctional facility.

Because of their unique developmental stage, youth are particularly susceptible to the psychological harms of being confined in a detention setting. Adolescence—which begins at the onset of puberty, typically between ages 8 to 10—is a time of tremendous

growth and personality development during which youth's brains undergo important changes to prepare for adulthood. See Nat'l Acads. of Scis., Eng'g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth*, 46-47 (Richard J. Bonnie & Emily P. Backes eds., 2019), <https://doi.org/10.17226/25388>. The United States Supreme Court has repeatedly reminded us that youth is a "time and condition of life" marked by behaviors, perceptions, and vulnerabilities that change with age. *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982); *J.D.B. v. North Carolina*, 564 U.S. 261, 272-73 (2011). Adolescents' brains are particularly vulnerable to negative experiences such as resource deprivation or harsh and coercive relationships. Nat'l Acads. of Scis., Eng'g & Med., *supra*, at 58. Youth are at greater risk from the harms of toxic stress, which occurs when someone is "unable to cope effectively with the stress" due to a lack of support. *Id.* at 89. This can result in long-lasting maladaptations in the brain, organ, and metabolic systems. *Id.* Children whose brains develop in response to constant threat and danger find that as they age, they are less able to control their moods and impulses and to engage in thoughtful decision making and planning. *Id.* at 91.

Out-of-home placements can also prevent youth from establishing an identity grounded in self-worth and optimism in the future. See Patrick McCarthy et al., *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, 5 (2016), https://assets.aecf.org/m/resourcedoc/NIJ-The_Future_of_Youth_Justice-10.21.16.pdf. The formation of self-identity is central to adolescence. Nat'l Acads. of Scis., Eng'g & Med., *supra*, at 60-62. Developing a positive self-identity promotes healthy socialization and respect for legal authority. *Id.* at 306 (citing Nat'l Rsch. Council, *Reforming Juvenile Justice: A Developmental Approach* (2013)). Removing youth from their homes labels youth as

“delinquents” or “criminals,” and youth can internalize these negative messages. Lisa Pilnik et al., *Transforming Justice: Bringing Pennsylvania’s Young People Safely Home from Juvenile Justice Placements*, 10 (2019), https://jlc.org/sites/default/files/attachments/2019-10/Transforming_Justice_final.pdf. The inherent design of most institutional environments further reinforces negative self-images that inhibit positive attitudes. McCarthy et al., *supra*, at 5.

Healthy adolescent development also heavily depends on access to social connections and a supportive network. Nat’l Acads. of Scis., Eng’g & Med., *supra*, at 63-67. Dr. Laurence Steinberg, a world-recognized expert on adolescence, has shown that removing youth from their supportive communities of friends, families, or other caring adults disrupts their successful transition to adulthood in multiple ways. Pilnik et al., *supra*, at 9 (citing Laurence Steinberg et al., *Reentry of Young Offenders from the Justice System: A Developmental Perspective*, 2 Youth Violence & Juv. Just. 21 (2004)). Correctional facilities fail to provide youth with the support of parents and other caring adults, along with opportunities to exert their independence, which cuts off youths’ ability to learn self-direction and responsibility. *Id.* at 10. Youth need these experiences to learn how to make better choices and utilize their strengths and resources to thrive in adulthood. Nat’l Acads. of Scis., Eng’g & Med., *supra*, at 68-70. Creating a sense of purpose is also important for developing critical thinking skills, learning, and healthy personal and social behaviors. *Id.* at 72-73. However, separation from “key adults and even friends” reduces the incentive to follow through on goals. Pilnik et al., *supra*, at 10. This leads to a loss of purpose and hope and may cause youth to withdraw from conventional society and become more likely to engage in criminal activity. *Id.*

Detention centers often provide inferior educational programming and education not aligned to the curriculum in the child's home school, causing students in juvenile justice placements to fall behind and become further alienated from school in the community when they return. *See, e.g.,* The Council of State Governments Justice Center, *Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth*, 3-4 (2015), <https://csgjusticecenter.org/publications/locked-out-improving-educational-and-vocational-outcomes-for-incarcerated-youth/>. Nationally, barriers to school re-engagement cause roughly two thirds of youth returning from juvenile justice placements to drop out of school. Off. of Juv. Just. & Delinq. Prevention, *Education for Youth Under Formal Supervision of the Juvenile Justice System*, 6 (2019), https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/education_for_youth_under_formal_supervision_of_the_juvenile_justice_system.pdf. Since detention and longer-term youth justice placements can be so disruptive to the educational experience, these youth also often have much poorer educational and employment outcomes as adults. Pilnik et al., *supra*, at 9. Students with disabilities are at particular risk of receiving an inadequate education. Off. of Juv. Just. & Delinq. Prevention, *supra*, at 2. Inconsistent education further compounds the myriad failings that already exist in the placement's educational environment.

Conversely, the right responses during adolescence can help youth overcome past trauma and develop competencies that will be the foundation of a successful adulthood. Charlyn Harper Browne, *Youth Thrive: Advancing Healthy Adolescent Development and Well-Being*, 27 (2014), [https://www.co.grant.mn.us/DocumentCenter/View/1867/Youth-Thrive-Advancing-Healthy-Adolescent-Development-and-Well-Being?bidId=](https://www.co.grant.mn.us/DocumentCenter/View/1867/Youth-Thrive-Advancing-Healthy-Adolescent-Development-and-Well-Being?bidId=;); Nat'l Acads. of Scis., *supra*,

at 3, 18, 95-96 (“The challenge for a caring society is to take maximum advantage of the developmental opportunities afforded by adolescence.”) “The remarkable adaptability, plasticity, and heterogeneity of adolescent brains creates accompanying opportunities—and obligations—for individuals and agencies responsible for protecting and serving youth to help all adolescents flourish.” Nat’l Acads. of Scis., *supra*, at 18 (internal citation omitted).

II. DETENTION IS COUNTER-PRODUCTIVE AND ESPECIALLY HARMFUL FOR AN ELEVEN-YEAR-OLD

Younger adolescents are most at risk for harm in detention facilities. At the same time, detaining younger incompetent youth in order to “restore” competence is counterproductive and likely futile. Because incompetence in pre-teens often stems from developmental immaturity that cannot be remediated, many experts have called for prohibitions on prosecuting or confining younger children.

A. Detention is Particularly Traumatic for Younger Children

Detention most acutely impacts pre-teens, who are at an especially delicate and formative stage and uniquely vulnerable to the traumas of incarceration. Younger children are most likely to suffer violence when in custody. In the Office of Juvenile Delinquency Prevention (OJJDP)’s Survey of Youth in Residential Placement, over one-fourth of children under 13 self-reported that they were victims of some form of violence while in placement, compared to nine percent of incarcerated 20-year-olds surveyed. Off. of Juv. Just. & Delinq. Prevention, *Juvenile Cjfelenders and Victims: 2014 National Report*, 216 (Melissa Sickmund & Charles Puzzanchera eds., 2014), <https://bit.ly/37TiLON>. Research analyzing National Longitudinal Study of Adolescent to Adult Health data has shown that children incarcerated before the age of 14 experience

demonstrably worse health outcomes as an adult than peers incarcerated at older ages. Elizabeth S. Barnert et al., *What is the Relationship Between Incarceration of Children and Adult Health Outcomes?*, 19(3) *Academic Pediatrics* 342, 349 (2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6309510/>. Specifically, incarcerating children before the age of 14 was associated with an almost 4 times higher risk of having mobility limitations as an adult, almost double the risk of experiencing being clinically depressed as an adult, and an almost 5 times higher risk of having suicidal thoughts as an adult. *Id.*

B. Pre-teens Need Time to Mature in Order to Be Legally Competent

For children ages twelve-and-under, legal incompetence often stems from “pure developmental immaturity” – meaning “underdeveloped abilities in the areas of psychosocial, emotional, intellectual, and/or neurological functioning.” Patricia C. McCormick et al., *Five-Year Trends in Juvenile Adjudicative Competency Evaluations: One State’s Consideration of Developmental Immaturity, Age, and Psychopathology*, 21, 33 (Aug. 2020), <https://doi.org/10.1080/24732850.2020.1804306>. While developmental immaturity is somewhat individualized, in a study of hundreds of youth ages 10 to 17 referred for competency evaluations, almost two-thirds of youth under 12 were found incompetent to proceed due to developmental immaturity. *Id.* at 33. Importantly, the study’s authors noted that “evaluators were also more likely to consider juveniles 12 and under to be poor candidates for restoration within the foreseeable future.” Specifically:

Many evaluators noted that youth in this subgroup needed more time to developmentally mature than what could be achieved in the foreseeable future. In other words, remediation efforts in this subgroup of juveniles were regarded as likely to fail, not because of deficiencies in programming,

but simply because the key remedy for developmental immaturity (sufficient passage of time) cannot be achieved in that time frame.

Id. at 34.

In view of the diminished culpability of young children and the extreme harm of early incarceration, Ohio is moving towards eliminating commitments for youth as young as M.H.. In 2023, a statewide working group formed by Governor DeWine proposed a number of system reforms, including raising the possible age of commitment to state correctional facilities to 14. Sarah Donaldson, *DeWine Establishes Task Force to Look at Ohio's Youth Corrections System*, Statehouse News Bureau, (Nov. 14, 2023), <https://www.statenews.org/government-politics/2023-11-14/dewine-establishes-task-force-to-look-at-ohios-youth-corrections-system>; Ohio Juvenile Justice Working Group, *supra*, at 15. The Group explained:

Experts suggest that “the younger the kids are generally the worse they do in a secure congregate environment.” Children between the ages of 10 and 13 are different in many respects from the vast majority of the DYS population. They are not only physically smaller than their older peers, but they cognitively receive and process information much differently than older youth. Brain research indicates that they are also much less mature emotionally and developmentally overall. This raises several concerns with placing children 13 and under at DYS. The physical and cognitive developmental disparities with older youth create an increased risk of physical harm and trauma to children 13 and under when committed to a DYS facility. Attracting and retaining specialized staff equipped to effectively educate, treat, and habilitate children of this young age further exacerbates the staffing crisis. The conclusion of the JJWG is that better alternate options exist, such as alternate placements, to support children ages 13 and under.

Id. (citing testimony at Ohio Juvenile Justice Working Group, Meeting 3, December 19, 2023; Thomas Woods, Senior Associate - Juvenile Justice Strategy Group, The Annie E. Casey Foundation, (1:15:25).
dam.assets.ohio.gov/video/upload/dys.ohio.gov/OJJWG/2023.12.19_OJJWG_MTG

Recording.mp4). While Ohio has not yet enacted this change and it would not apply to detention centers, its rationale highlights the very real concerns with incarcerating children, especially those deemed incompetent.

Other states and authorities also recognize the severe harms of incarcerating young children. For example, the United Nations Committee on the Rights of the Child calls on States to set a minimum age of criminal responsibility of at least age 14, without exception. United Nations, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, 6 (Sept. 2019), <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>. The

Committee has noted that the unique neurological developmental stage of pre-teens means “they are unlikely to understand the impact of their actions or to comprehend criminal proceedings.” *Id.* Prominent childhood health groups have also called for a minimum age no younger than 12. In their Statement, the American Academy of Pediatrics, American Academy of Child & Adolescent Psychiatry, American Council for School Social Work, American Psychological Association, Clinical Social Work Association, the National Association of Social Workers and the Society for Adolescent Health and Medicine explained: “We now also recognize that younger children and adolescents generally do not have the cognitive ability to understand what it means to break the law nor are they competent to stand trial as a product of their developmental age.” American Academy of Pediatrics et al., *Health Group Statement cf Support for Instituting a Minimum Age cf Jurisdiction for Juvenile Justice Involvement*, 2 https://downloads.aap.org/AAP/PDF/JJMinimumAgeHealthGroupStatement.pdf?_gl=1*1xxj34n*_ga*MTgxOTExNDM5MS4xNzgyNDEyOTQw*_ga_FD9D3XZVQQ*cZE3ODIoMTI5NDAkbzEkZzAkdDE3ODIoMTI5NDAkajYwJGwwJGgw*_gcl_au*MTA2Mjg4

OTAyMC4xNzgyNDEyOTQw*_ga_GMZCQS1K47*czE3ODIoMTI5NDAkbzEkZzAkdDE3ODIoMTI5NDAkajYwJGwwJGgw. The ABA has also passed a resolution calling for states to set age 14 as the minimum age at which they can prosecute a youth. American Bar Association Criminal Justice Section, *Resolution 505*, 1, <https://nyjn.org/wp-content/uploads/Resolution-505-American-Bar-Association-Age-of-14.pdf>. The ABA explained that “[c]hildren under fourteen years old are unlikely to understand and be able to meaningfully participate in the complex procedures of juvenile adjudication proceedings.” *Id.* at 6.

III. BLACK GIRLS ROUTINELY RECEIVE DISPROPORTIONATE PUNISHMENT DUE TO RACIAL BIAS

Though institutional placements can harm all youth, these harms fall disproportionately on Black and Brown youth. The most recent data from the Sentencing Project shows Black youth in Ohio were over seven times as likely to be detained in or committed to correctional facilities. Josh Rovner, *Black Youth Incarceration: Black Youth Almost Six Times as Likely to be Incarcerated as White Peers*, 1 (Aug. 2025), <https://www.sentencingproject.org/app/uploads/2025/08/Black-Disparities-in-Youth-Incarceration.pdf>. Black and Brown youth often do not receive the same privilege of presumed innocence that white youth are given. Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. Personality & Soc. Psychol. 526, 529 (2014). Racial bias in the juvenile justice system affects Black girls just as much and as often as it harms Black boys. One expert, Dr. Monique Morris, has chronicled the disparate treatment Black girls receive for normal adolescent behaviors in classrooms and by law enforcement and the judicial system. Melinda D. Anderson, *The Black Girl Pushout*, The Atlantic (March 15, 2016) (alteration in original),

<https://www.theatlantic.com/education/archive/2016/03/the-criminalization-of-black-girls-in-schools/473718/> (noting that Black girls are described as “disruptive” or “defiant” even for normal adolescent behavior like asking questions, having tantrums, violating dress codes, or speaking out against injustice).

Like Black boys, black girls are adultified—typically “viewed as more adult than their white peers at almost all stages of childhood.” Rebecca Epstein, Jamilia J. Blake & Thalia Gonzalez, *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*, 8 (2017) (emphasis omitted). The disparate treatment is derived from perceptions that they exhibit more socially mature and sophisticated behavior resulting in stereotypes of being outspoken, aggressive, and dominating. *Id.* at 5. Based on survey data, compared to white girls of the same age, black girls are perceived as needing less nurturing and less protection, needing to be supported and comforted less, being more independent, and knowing more about adult topics and sex. *Id.* at 1. These racial and gendered stereotypes function to punish Black girls and “reinforce cultural beliefs about perceived inherent behavioral deficiencies” and negative cultural norms needing social correction. Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 Ark. L. Rev. 101, 102 (2015). Black girls are often labeled as “assertive,” “loud,” “aggressive,” and “confrontational,” to punish them for not assimilating into society’s expectations of them. *Id.* at 109. In justifying disciplinary sanctions or arrest, Black girls are characterized as “irate,” “insubordinate,” “disrespectful,” “uncooperative,” and “uncontrollable.” *Id.* at 112.

As a consequence of adultification and other bias, public authority figures routinely treat Black girls as “less innocent, less needing of protection, and generally more like adults,” who are thus “more culpable for their actions,” and therefore punished “more

harshly despite their status as children.” Epstein et al., *supra*, at 8. The perception of Black girls as less innocent and more adult-like also contributes to a “more punitive exercise of discretion by those in positions of authority, greater use of force, and harsher penalties.” *Id.* at 1 (emphasis omitted). Specifically, in the juvenile justice system, system actors, including judges, “are likely to view girls of color and Black girls in particular as delinquents—as social problems themselves rather than as young girls affected by social problems.” Jyoti Nanda, *Blind Discretion: Girls of Color & Delinquency in the Juvenile Justice System*, 59 UCLA L. Rev. 1502, 1507 (2012) (footnote omitted). This Court should give heightened scrutiny to MH’s treatment given the real risks of harsh treatment to Black girls in the youth justice system.

IV. CONFINING CHILDREN IS COUNTER-PRODUCTIVE AND IMPEDES PUBLIC SAFETY

There is a strong research consensus that placing youth out of the home, including in both secure and nonsecure residential facilities, does not decrease rates of re-arrest and may actually increase them. Richard Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration*, 11 (2011), [hereinafter *No Place for Kids*] <https://assets.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf>.

Indeed “the vast majority of studies find that incarceration is no more effective than probation or alternative sanctions in reducing the criminality of adjudicated youth, and a number of well-designed studies suggest that correctional placements actually exacerbate criminality.” *Id.* Studies controlling for youth backgrounds, offending histories, and other relevant characteristics continue to find incarceration is linked with higher rates of recidivism. Richard Mendel, *Why Youth Incarceration Fails: An Updated Review of the Evidence*, 12-13 (2022),

<https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf>. All other factors being equal, youth who are removed to residential placements are also later incarcerated as adults at rates alarmingly higher than those who are arrested but not placed. *See, e.g.*, Amanda B. Gilman et al., *When is a Youth's Debt to Society Paid? Examining the Long-Term Consequences of Juvenile Incarceration for Adult Functioning*, 1 J. Developmental & Life-Course Criminology 33, 37, 43 (2015) (finding Seattle youth who were incarcerated as youth were nearly four times more likely to be incarcerated as adults); Uberto Gatti et al., *Iatrogenic Effect of Juvenile Justice*, 50 J. Child Psych. & Psychiatry 991, 995 (2009) (finding low-income boys incarcerated in juvenile facilities in Montreal were far more likely to have an adult criminal record than those with similar backgrounds and offending histories); Rebecca A. Colman et al., *Long-Term Consequences of Delinquency: Child Mal-Treatment and Crime in Early Adulthood* 7 (2009), <https://www.ojp.gov/pdffiles1/nij/grants/226577.pdf> (finding 89 percent of boys and 81 percent of girls in New York who had spent time in state youth correctional facilities were arrested as adults by age 28). In view of the harm and inefficacy of placements, jurisdictions around the country have shifted resources from incarceration to community-based supports. *See* Shaena M. Fazal, *Safely Home* 3 (2014), https://www.yapinc.org/portals/0/Docs/safelyhome_es.pdf. States that made the largest reductions in youth incarceration from 1997 to 2007 saw a greater decline in youth arrest rates for violent crime than states that made smaller reductions or increased it. *No Place for Kids, supra*, at 26.

CONCLUSION

In view of the grave harm and likely inefficacy of detaining M.H., *Amici* respectfully request that this Court reverse the trial court's Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will be served to Counsel for all parties
via the Cuyahoga County Clerk of Court's e-filing system on the date of filing.

Respectfully submitted,

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