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To: Assembly Committee on
Corrections and the Courts

From: Wendy Henderson, Policy Analyst

Re: AB 249

Date: May 3, 2007

Thank you for the opportunity to comment on this legislative proposal. The Wisconsin Council on Children and Families is very concerned about allowing conditions prior to disposition for a juvenile who is not under a custody order because of the potential for juvenile court case expansion under this proposal. This proposal is sweeping and would cover every child who comes into contact with the juvenile court. Further, we are concerned that federal dollars Wisconsin receives for delinquency prevention would be jeopardy if this legislation were to pass.

Each year in Wisconsin, there are over 100,000 juvenile arrests. The vast majority of these arrests are for non-violent crimes. Currently, a small proportion of kids who are arrested are subject to custody orders (secure or non-secure) due to one of three factors: 1) the likelihood they will commit injury to a person or property if not held, 2) likelihood they will run away or be taken away so as to be unavailable for future court proceedings, or 3) the inability to a responsible adult (parent or guardian) to provide adequate supervision. In other words, if they are not dangerous, will not run away, and have a parent to supervise them, the court process is allowed to continue without any interim interference. The rest of the kids who come in to court are given the opportunity to avail themselves of services voluntarily during the pendency of their proceedings.

Custody orders are available tools for the kids who are in need of the kind of supervision the court provides. However, for kids who do not rise to the level of requiring a custody order, there is no need for the type of interim orders allowed here. Children brought in on serious allegations, such as sexual assaults, are almost always subject to a custody order with a no-contact with the victim provisions because they fall under the dangerousness category described above.

Kids brought in to court on less serious allegations who have the family support to provide supervision and ensure their appearance at court hearings must be given the opportunity to present their cases prior to being subject to court ordered conditions. This bill would create an anomaly where kids who are not found to be delinquent of the initial crime may then be found in violation of interim court rules and that would create an independent

delinquency action. Thus, more kids will be spending more time in court, there will be many more hearings about whether a child violated the conditions of their pre-dispositional order, and the juvenile court, which is meant to move swiftly to disposition, will become clogged with needless cases.

As a practical matter, part of the juvenile court process involves counseling kids to remedy whatever problem has brought them to court. If a child is brought in on a truancy petition, their attorney will advise to attend school. If they do not attend school during the court process, they will be dealt with more seriously by the judge than a kid who straightens out their act.

Finally, and very importantly, **federal law prohibits locking status offenders (like truants) in juvenile detention.** In 2006, the Wisconsin Office of Justice Assistance was informed that our secure detention rate is too high and that Wisconsin persists in locking status offenders in detention. Both of these practices resulted in a loss of \$200,000 federal dollars. Under this bill a truant could be put in detention for continuing to be truant. This may cause a significant problem with our federal compliance and put more federal delinquency dollars in jeopardy.