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Justice Committee  
Room T3.60  
The Scottish Parliament  
Edinburgh EH99 1SP

### **Criminal Justice and Licensing (Scotland) Bill**

Children in Scotland appreciates the opportunity to submit written evidence to the Justice Committee in respect of the *Criminal Justice and Licensing (Scotland) Bill*. Children in Scotland represents over 450 statutory, voluntary and independent members promoting children's wellbeing and best interests.

We are confining our comments to the aspects of the Bill relating specifically to children and to a broad outline of our position. Our Director of Research, Policy and Programmes (Dr Jonathan Sher) has been invited to appear before the Committee on 26 May. At that time, more detailed evidence will be offered.

We support the additional safeguards contained in the Bill for children who become involved, in various ways, with the criminal justice system. The ending of 'unruly certificates' and the requirement on courts to use detention for a child only in exceptional circumstances [Section 17 (3) and Section 47] are welcome.

We also agree with the Bill's provision that the Court will be required to document its reasons for believing that no other option would be

suitable. We believe that placing children in prison is both entirely inappropriate and detrimental to their future welfare. Children placed in adult prisons are frequently subject to assault and intimidation by adult prisoners, as well as being more likely to re-offend.

The extension of the circumstances in which indecent images of children constitutes grounds for prosecution [Section 33] is welcome. We hope that it will have a deterrent effect. It is critical that children who have been abused in this way will be dealt with through child protection procedures. An unambiguous connection needs to be made between criminal prosecution procedures and child protection systems.

We commend the measures proposed to deal with human trafficking [Section 35]. We are, however, particularly concerned about the trafficking of children, the inadequacy of the systems for investigation and support of such children, and the complications of prosecuting those responsible. Many unaccompanied children arrive in Scotland, some of whom have been trafficked and some of whom have been smuggled into the UK and abused en route. The Bill would be strengthened by specific reference to, and specific remedies for, this problem.

The policy intent of additional protection for child witnesses [Section 64] and of specified time limits for the retention and destruction of samples taken from children [Section 59] are heading in the right direction. Particularly, on the latter issue, there are further safeguards for children and young people that should be put in place.

Increasing the age of criminal responsibility [Section 38] is strongly endorsed. We continue to believe that the term 'criminal responsibility' is an unhelpful euphemism. The underlying issue is the age at which children become subject to criminal prosecution, criminal penalties, criminal status and criminal records. While many aspects of Scotland's policy and law in relation to children and young people has been ground-breaking and progressive, notably the welfare-based Children's Hearings system), allowing 8-year-olds to be regarded and treated as criminals has long been out of step.

Raising the age significantly will bring Scotland into line not only with its own general approach to the rights of children and young people, but also with the majority of European states. While the UN rapporteurs found many elements of Scottish policy for children commendable, they expressed deep concern over this question, and strongly recommended that the age be raised. The Scottish

Government has publicly endorsed the UN Convention on the Rights of the Child. Significantly raising the age through this Bill demonstrates a step toward the appropriate implementation of the UNCRC.

Yours Sincerely,

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Children in Scotland is Scotland's national agency for organisations and professionals working with and for children, young people and their families. It exists to identify and promote the interests of children and their families and to ensure that policies, services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents over 450 members, including 90% of Scottish Local Authorities, all major voluntary, statutory and private children's agencies, professional organisations, as well as many other smaller community groups and children's services. It is linked with similar agencies in other parts of the UK and Europe.