



National Juvenile Justice Network

A SAMPLING OF ADVANCES IN THE JUVENILE JUSTICE FIELD¹ 2005/2006

Organizational and Large Scale Improvements to Juvenile Justice Systems

ILLINOIS – Creation of a New Department of Juvenile Justice

SB 92, which passed on November 4, 2005, created a separate Department of Juvenile Justice. Previously all youth in custody were under the jurisdiction of the adult Department of Corrections. This new division, separate from the adult Department, has the authority to provide for an appropriate mix of rehabilitative programs in the institutions and transitional programs for youth when they leave the institution. It also requires that new staff who deal directly with youth must have a college degree.

LOUISIANA – Implementation of a New Strategic Plan

Louisiana's Office of Youth Development has implemented a progressive Strategic Plan with the help of Youth Services staff, the Missouri Division of Youth Services, the Missouri Youth Services Institute, the Annie E. Casey Foundation, and the John D. and Catherine T. MacArthur Foundation. The Strategic Plan was the result of numerous meetings across the state and input from 50 working groups and over 1600 participants. The Plan calls for continued depopulation of secure facilities, a seamless continuum of care, and focuses on the needs of youth while promoting public safety.

MASSACHUSETTS - Ensured that Youth Continue to be Treated as Youth

Advocates led a successful effort to prevent the proposed legislative transfer of the Department of Youth Services from the Secretariat of Health and Human Services to the Executive Office of Public Safety.

MISSISSIPPI – Improved Conditions of Confinement, Treatment of Status Offenders, Community-Based Alternatives, and Indigent Defense

In 2005, the legislature passed SB 2894 and SB 2366. These two bills establish the monitoring of conditions at detention facilities and training schools, create local teams to develop individualized care for youth with serious emotional disorders, require the referral to services within 48 hours of youth in facilities who are in need of mental health services, require that no juvenile be placed in custody for a status offense, require that youth be placed in the least restrictive setting possible and as close to home as possible, require that no first time nonviolent offender be placed in detention unless no other options are available, and ends boot camps and paramilitary programs for youth offenders. These bills also

¹ Thanks to the National Juvenile Defender Center for its compilation of juvenile justice-related legislation in 2005, from which a significant portion of these advances has been culled. For a complete list of this legislation, go to www.njdc.info. The contents of this sampling of advances in the field, however, are solely the responsibility of the National Juvenile Justice Network.



provide for the creation of community-based alternatives to incarceration in every county and enhance the system of care for youth.

In 2006, the Mississippi legislature passed the Mississippi Juvenile Delinquency Prevention Act. This bill provides the following system reforms: training requirement for youth court defenders; comprehensive standards for detention centers; language prohibiting the detention of status offenders; language requiring that community based alternatives to incarceration “must incorporate evidence-based practices and positive behavioral intervention”; transitional planning for youth leaving the training schools and detention centers, and a \$5 million grant program for community-based alternatives designed to reduce training school and detention placement.

Improved Conditions of Confinement

ARIZONA – Protections for Incarcerated Youth

As a result of a Civil Rights of Institutionalized Persons Act investigation conducted by the US Department of Justice (DOJ), Arizona entered into a Memorandum of Agreement with DOJ in September 2004. Recent evaluation reports articulate improvements in several areas, including the accreditation of all juvenile corrections-based schools.

DISTRICT OF COLUMBIA – Improved Conditions of Confinement

In March 2005, legislation that requires the Oak Hill Youth Center to be closed no later than March 2009 went into effect. This large institution, located miles from youths’ homes and communities, has been under a consent decree for more than twenty years because of its deplorable conditions.

MARYLAND – Improved Conditions of Confinement

In 2005, Maryland enacted legislation that requires private residential facilities serving youth to have an educational program that is subject to approval by the Maryland State Department of Education. (HB 1178/ SB 503)

MONTANA – Improved Institutional Conditions

Montana passed legislation in 2005 that requires that whenever a youth is removed from home, the youth is entitled to maintain their ethnic, cultural or religious heritage. (HB 696)

OHIO – Improved Oversight of Institutions

In April 2005, through prompting of advocates, the legislature mandated an oversight committee for juvenile corrections to monitor the conditions of confinement of youth in secure facilities.

SOUTH DAKOTA – Improved Mental Health Treatment

SB 178 created interdisciplinary teams to share information and assist youth with mental health needs in the juvenile justice system.

Improved Adjudication

SUPREME COURT – End of Juvenile Death Penalty



In March 2005, the Supreme Court declared unconstitutional in *Roper v. Simmons* the execution of offenders under the age of 18 at the time of the offense.

ARIZONA – Protections for Juvenile Competency

A coalition of advocates worked to amend extremely harmful legislation that would have drastically altered Arizona's reasonable juvenile competency law. The proposed legislation would have allowed the prosecution and sentencing of many youth who are currently considered "incompetent" to stand trial.

COLORADO – End of Juvenile Life Without Parole

In 2006, Colorado enacted legislation that ends the use of the sentence of life without parole for juveniles. The law (HB-1315) sets the maximum sentence that a youth can receive as 40 years before parole. The law represents a significant advance since it serves as the first decrease in the life without parole sentence in nearly a generation.

COLORADO – Protections for Juvenile Competency

In 2005, Colorado enacted legislation that makes it illegal for youth determined to be incompetent to stand trial or be sentenced. The law allows multiple parties, including the court, prosecution, and defense counsel, to raise the issue of competency, and sets out standards for how to determine competency. If competency cannot be restored, services must be supplied to the youth. (HB 05-1034)

CONNECTICUT – Increased Protections for Status Offenders

In June 2005, Connecticut passed a law (HB 6978) that changes Connecticut's Families with Service Needs Act so that youth who committed status offenses and who violated their court orders can no longer be adjudicated as a delinquent or held in a detention center.

CONNECTICUT – Increased Protections for Low-Level Teen Offenders in Criminal Court

Connecticut passed legislation (HB 5215) giving a presumptive Youth Offender status for 16 and 17-year-olds who have committed lower-level offenses. While these youth are automatically tried in the adult criminal court because of their age, their YO status affords them the protection of confidentiality and a maximum sentence of four years. Additionally, because there is a YO presumption, youth do not have to make a motion to the court to receive the status.

DELAWARE – Limits on Automatic Transfer

In June 2005, Delaware passed legislation (SB 200) that limits the conditions under which youth can be automatically transferred to adult court. Delaware had an automatic transfer to Superior Court for all youth charged with either burglary 1 or 2 or robbery 1 or 2. Approximately 80% of the youth who were transferred up were eventually sent back to Juvenile Court by the Superior Court judge, but only after having spent many months in detention. SB200 also limits the situations in which youth being charged with robbery 1 can be automatically transferred to Superior Court.

IDAHO – Improved Mental Health Assessments

SB 1165 allows juvenile court judges to order a mental health assessment of a juvenile at any stage in the juvenile court proceedings. Parents or guardians must be included in the screening team and be consulted in developing a treatment plan.

ILLINOIS – Limits on Automatic Transfer



In August 2005, the legislature passed Senate Bill 283, which eliminates "automatic transfer" provisions that sent juveniles charged with drug offenses to adult court and offers individualized review of the decision to try youth in drug cases in adult courts. By implementing a clear set of factors that the courts must consider before transferring a minor from juvenile to adult court for prosecution, the law increases the likelihood that only youth charged with serious drug offenses will have their cases heard in adult court. In the past, virtually all of the Illinois youth tried in the adult court were sent to adult court "automatically" without a court hearing to determine suitability.

ILLINOIS – Improved Indigent Defense

SB 1953, passed into law in 2005, states that youth in delinquency proceedings may not waive their right to counsel.

MARYLAND – Protection for Juvenile Competency

In 2005, Maryland passed a competency law in which multiple parties, including the court, prosecution, and defense counsel, can raise the issue of competency. The law sets out standards for how to determine competency and for how to treat the youth in the case s/he is determined to be incompetent. (HB 802/ SB 616)

MICHIGAN – Improved Sentencing and Defense

Advocates were successful in promoting legislation that would improve sentencing and services for children charged and convicted of a felony offense. House Bill 5512-5515-Second Chance Legislation (pending) amends life without parole sentences for youth sentenced prior to their 17th birthday to allow for the possibility of parole after 10 years. Senate Concurrent Resolution 39 would establish a public defender system to improve public defense services for youth.

MISSISSIPPI – Improved Access to Appellate Review

In 2006, the Mississippi Legislature passed House Bill 298, which expands the mission of the state Office of Indigent Appeals to include appeals in juvenile cases. As originally created, the Office of Indigent Appeals was limited to adult, non-capital felonies.

MONTANA – Improved Indigent Defense

In 2005, Montana passed SB 146, which provides for a statewide public defender system and requires the appointment of counsel for any youth charged with delinquency, regardless of the youth's financial situation.

MONTANA – Privacy Protections

In 2005, Montana passed SB 426, which requires that certain records emerging from the youth court (mental health, medical, school) be sealed on the youth's 18th birthday. If the youth is transferred to the adult Department of Corrections, DOC must have a system for keeping such records private.

VERMONT – Increased Restrictions on Removing Youth from their Homes

In 2005, Vermont passed legislation that requires the court after a detention hearing to make written findings on whether reasonable efforts were made to prevent the child from being removed from his/her home. (HB 515)

VIRGINIA – Improved Juvenile Defense

In 2004, the Virginia General Assembly (GA) passed HB 600, which requires that youth receive counsel



prior to their initial detention hearing. HB 600 also makes it more difficult for youth to waive counsel by requiring that youth who face charges that could place them in a juvenile correctional center first consult with an attorney. In 2005, the GA passed HB 2670, which slightly amends the waiver to counsel provisions of HB 600. HB 2670 requires that juveniles charged with felonies can only waive counsel if they consult with an attorney and the court determines that the waiver is free and voluntary, that is in writing, that the child and parent consent, and that it is consistent with the interests of the child.

VIRGINIA – Protection of Evidence

In 2005, advocates in Virginia successfully defeated a portion of a bill that would have allowed affidavits of alleged gang membership to be introduced as prima facie evidence of a child's gang affiliation.

WASHINGTON – End of Mandatory Minimums for Juveniles

In 2005, Washington state eliminated mandatory minimum sentences for youthful offenders tried as adults. (HB 1187)

WASHINGTON – Mental Health Treatment for Juveniles

Washington state's HB 2073 (SB5502) provides that a juvenile facing a sentence of any length may be eligible for a suspended sentence in exchange for attendance of a mental health treatment program.

WISCONSIN – End of Unrecorded Juvenile Confessions

The Wisconsin Supreme Court held that "all custodial interrogations of juveniles in future cases be electronically recorded where feasible, and without exception when the questioning occurs at a place of detention." *State v. Jerrell C.J.*, 2005 WI 105. Pursuant to this ruling, if a custodial interrogation is not recorded, the interrogation and any written statement resulting from the interrogation would be inadmissible as evidence in court.

WYOMING – Improved Assessment and Services for Youth

SB 39 requires that a pre-dispositional study be completed by a multi-disciplinary team for a youth alleged delinquent. This study must include information about special education needs and appropriate services. The multidisciplinary team must meet quarterly to review the cases for all youth removed from their homes.

Improved Reentry

CALIFORNIA

The Departments of Probation and Education established an exit form and an educational progress report for youth in halls and camps and computerized all school records to ensure that youth do not lose credits, repeat classes, or wait for months to get back into community schools when they leave the Youth Authority.

INDIANA

Indiana expanded from one to five counties a transition services program that utilizes a home and facility-based therapy modality.

VIRGINIA

In January 2006, the Virginia Department of Education adopted new guidelines that facilitate the school reentry of youth exiting detention. This regulation provides a structured procedure for re-enrollment of



students into public school when they have been in the custody of the juvenile justice system and receiving instruction through the Department of Correctional Education or through the Detention Home Education Program. The regulation provides for the exchange of educational information concerning students among the Departments of Juvenile Justice and Correctional Education or Detention Home Education Program and the public school divisions. By establishing a collaborative process for re-enrollment, including timely exchange of student records and delineated procedures, responsibilities, components of the re-enrollment plan, and timelines, planning for the student's continued education can take place on a timely basis prior to a student's release from the juvenile justice system and re-enrollment can occur without delays.

Virginia also passed legislation that requires the Board of Juvenile Justice to consult with the Board of Mental Health, Mental Retardation and Substance Abuse Services to promulgate regulations for the planning and provision of mental health, substance abuse and other therapeutic treatment services for youth returning from corrections or detention. (HB 2245/ SB 843)

Improved Alternatives and Community Based Services

MARYLAND – Increased Funding for Community-Based Programs

In 2006, the Maryland legislature passed the Youth Prevention and Diversion Programs bill, which requires the Governor's Office of Children to implement and fund community-based, non-residential delinquency prevention and diversion programs. It also mandates that the Governor allocate \$10 million for these programs in FY 08.

MISSOURI – Implementation of the Juvenile Detention Alternatives Initiative

The Annie E. Casey Foundation will be supporting Missouri in implementing its Juvenile Detention Alternatives Initiative (JDAI). Objectives of JDAI are to reduce the number of children unnecessarily or inappropriately detained; to minimize the number of youth who fail to appear in court or reoffend pending adjudication; to redirect public funds toward successful reform strategies; and to improve conditions of confinement.

Improved Care for Youth Who are both Dependant and Delinquent

ARIZONA – Protections for Youth Who are Dually Adjudicated

Arizona's child welfare agency adopted a new policy in which it will not drop responsibility for youth who are both delinquent and dependant (dually adjudicated) – thus, providing on-going benefits and supports for dually adjudicated youth in the juvenile justice system.

Improved Services for Girls and LGBT Youth in the System

FLORIDA – Improved Oversight for Girls in the System

In 2005, the Department of Juvenile Justice established a Girls' Advisory Council to monitor and review the progress and placement of girls who were previously assigned to the former Florida Institute for Girls. The Girls' Advisory Council will also make recommendations to improve and design appropriate gender-responsive services for girls in the juvenile justice system.



NEW YORK – Considerations for Sexually Exploited Youth and LGBT Youth

In 2005, there was bipartisan support for the Safe Harbor for Exploited Children Act, a bill that would end the prosecution of children on prostitution charges and create a continuum of services. The legislature also considered the Safe Fair Equal Treatment for Youth (SAFETY) Act, a bill that would protect the rights of lesbian, gay, bisexual and transgender (LGBT) youth in juvenile correctional facilities.

Disproportionate Minority Contact

MASSACHUSETTS – Increased Focus on Disproportionate Minority Contact (DMC)

Advocates worked with the State’s Juvenile Justice Advisory Committee to direct federal funding to DMC, to alternatives to detention efforts, and to incorporate the healthy youth development model in the Committee’s policies.

Bringing Research to Policy

MICHIGAN – Development Research Impacts Treatment Services

Advocates have convinced the Department of Human Services (DHS includes delinquency services) to lead efforts to train decision makers and law enforcement regarding brain development as it relates to competency and culpability and to develop a comprehensive service delivery system for youth being released from training schools.

WISCONSIN – Raised Awareness about New Developments in Adolescent Brain Development

Wisconsin advocates published “Rethinking the Juvenile in Juvenile Justice,” which discusses the latest developments on adolescent brain research and links these findings to current practices in Wisconsin’s juvenile justice system. They followed up with a 450 person conference which brought together a multidisciplinary audience to learn about adolescent brain development and the implications of brain development on juvenile justice.

