



OHIO

CRIMINAL SENTENCING COMMISSION

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Juvenile Justice Committee

May 16, 2019

Agenda

- I. **Call to Order & Approval of Meeting Notes of February 2019 meeting**
- II. **Old Business**
 - A. **Juvenile Probation Recommendations**
Discussion of paths to moving Committee proposals forward
- III. **New Business**
 - A. **JJDPa Reauthorization**
Review and update of Committee roster
- IV. **Legislative Update**
Scott will update the Committee on pending and recently enacted legislation.

Upcoming Meetings

Ohio Criminal Sentencing Commission

June 27, 2019
Rhodes Tower,
Conference Room 2925
29th Floor

Juvenile Justice Committee

July 18, 2019
Ohio Judicial Center, Room 281

**Juvenile Justice Committee Meeting Minutes
February 21, 2019**

CALL TO ORDER AND APPROVAL OF November 15, 2018 MEETING NOTES

Chair Paul Dobson called the meeting to order, and the minutes from the November 15, 2018 meeting were approved. It was noted that the November meeting took place via conference call due to inclement weather throughout the state.

Old Business

Review of Legislative Proposals:

Scott Shumaker and Shawn Welch of the OJC discussed the history of 132 GA 394, the Juvenile Omnibus bill. It was sponsored by then Commission member Jeff Rezabek and included provisions relating to reform of mandatory bindover procedures, review of extended juvenile sentences and juvenile life without parole sentences, calculation of confinement credit, and juvenile court costs, fees, and fines. Several of these provisions stemmed from the recommendations of the Juvenile Justice Committee. Commission staff hope to work with the OJC and the legislature to move pieces of this legislation forward in the new General Assembly.

Cindy Peters spoke on behalf of Senator Cecil Thomas and indicated that the Senator intends to introduce a juvenile life without parole and extended sentence review bill, as well as a bill aimed at reforming the bindover process. Shawn Welch indicated that introduction could start with the latest house version of HB 394, as it had been subject to vetting through committee and interested party meetings.

Members then discussed what if any changes might be needed to the various proposals, which sparked a discussion as to the role of the Committee. Erin Davies felt that the Commission should only support the proposals as they were voted on by the Commission. Director Andrews stressed the importance of moving the needle forward, and that compromise in pursuit of needed reform is better than letting nothing happen. Chair Dobson noted historical concerns with the role of the Commission, namely that it can be slow to respond, and that staff need direction from the Commission in how react to changes in proposals. Director Andrews noted that the previous director David Diroll had substantial authority to discuss policy with the legislature. The revised enabling statutes being drafted for consideration in the current GA address more clearly define these roles.

Teresa Lampl noted the challenge of balancing the role of Commission recommendations versus trying to move pieces of those recommendations forward, and that passing legislation does not remove the need for continued advocacy. Assistant DYS Director Walburn and Chair Dobson both stressed the need for commission staff to have leeway in their advocacy role. Judge Selvaggio suggested elected officials have multiple concerns – their constituents, their stakeholder organizations, as well as their personal views.

Probation Study Fundraising:

Members then discussed the Case Western Reserve University research proposal, and potential funding avenues. Kathy Hamm suggested that the fundraising draft letter be shared with the Committee so that members could look for funding sources. Judge Selvaggio expressed concerns with ethical conflicts of judges soliciting funds. Director Gies suggested that the Committee look into grant funding opportunities in conjunction with CWRU and offered to have a DYS grant write work with CWRU if necessary. Commission staff will discuss this with CWRU in the near future. Teresa Lampl asked if a budget request had been considered, and Ms. Walburn noted that agency budgets were nearly complete at this point.

Scott Shumaker will reach back out to CWRU researchers regarding final cost numbers, taking into account the changes suggested by the Committee. He will also circulate a copy of the draft fundraising letter to members.

Work Chart discussion:

Jill Beeler then referred the Committee to a memo she had prepared in 2017 regarding juvenile probation reform recommendations. Given that the proposed study could take over a year, she posed the question of if the Committee should recommend changes now rather than continuing to wait for data that can be difficult to find statewide. Director Gies discussed what DYS sees as working in the area thought changes should be meant to incentivize adoption of cognition based models, but that his reach was limited to counties that rely on DYS. He also noted that JDAI is spreading on its own at this point, and that he felt there would be value in decriminalization of status offenses for juveniles. Scott will pull the proposed changes to the probation structure for adults from JRI recommendations for discussion at the next meeting.

Erin Davies offered to discuss reauthorization of JJDPa at the next meeting as well.

Commission staff will follow up with Justice Kennedy from her previous discussion with the commission around juvenile life sentences.

Ashley Gilbert from the Supreme Court briefly discussed potential right to counsel changes for juvenile being discussed by the Court's Juvenile Justice Committee.

New Business

Roster Update:

Members then reviewed the roster of active Committee members and made several suggestions as to potential useful additions including a member from JDAI and the Ohio Juvenile Probation Association.

Adjourn:

With no further business for the good of the order, a motion to adjourn was then passed.



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TO: Juvenile Justice Committee
FROM: Scott Shumaker, Criminal Justice Counsel
DATE: May 16, 2019
RE: Justice Reinvestment 2.0 – Recommended changes to Community Control

Driven by a recognition that, for drug and property offenses, individuals sentenced to community control rather than prison are less likely to recidivate, and that sentences to community control are far less costly than prison sentences, the Justice Reinvestment Initiative made several recommendations aimed at refining Ohio's community control system, with a goal of further improving recidivism rates and reallocation of resources. While these recommendations were primarily tailored to adult supervision, members of the Juvenile Justice Committee asked to review these recommendations during discussions of Jill Beeler's 2017 recommendations for juvenile probation reform.

Length of terms of supervision

Justice Reinvestment struggled with the lack of statewide aggregate data on probation practices and outcomes in the state, but were able to determine that probation violation was a substantial driver of prison commitments between 2011 and 2016. One recommendation aimed at reducing the number of violations resulting in commitment was to reduce the maximum length of community control supervision for offenses and to tailor the length to the seriousness of the offense. After soliciting feedback from stakeholders, JRI proposed the following maximum terms of community control:

- For all felonies of the first and second degree, a maximum supervision term of 5 years (same as current law)
- For felonies of the third degree – 3 years
- For felonies of the fourth and fifth degree, as well as for misdemeanor offenses – 2 years

"Recovery Sentencing"

In an effort to better address issues of substance abuse and mental illness, Justice Reinvestment developed a policy they termed "recovery sentencing" – provisions aimed at requiring courts have defendants who present with those issues professionally assessed and making the treatment plan recommended the focus of the community control sanctions imposed.

The use of "recovery sentencing" and professional assessments by credentialed professionals would ensure that individuals suffering from mental health and/or substance abuse disorders get the appropriate level of treatment based on their needs and risk level. JRI, in speaking with treatment professionals, felt that inpatient vs outpatient treatment is often a decision best made by a treatment professional who can analyze an individual's situation.



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Overview of the Juvenile Justice Reform Act of 2018

Background:

The week of December 10, more than a year after the House and Senate passed standalone reauthorization bills for the Juvenile Justice and Delinquency Prevention Act (JJDP), Congress passed H.R. 6964, the Juvenile Justice Reform Act of 2018. The bill contains compromise language of H.R. 1809, which passed the House by voice vote on May 23, 2017, and S. 860, which passed the Senate by unanimous consent on August 1, 2017. H.R. 6964, which had overwhelming bipartisan support, passed the Senate by unanimous consent on December 11, 2018, and passed by unanimous consent in the House on December 13, 2018.

Below, please find a summary of updates to key provisions in the law:

Title II - Charles Grassley Juvenile Justice & Delinquency Prevention Program (Formula grants to states):

H.R. 6964 strengthens the 4 core requirements of the bill by:

- Strengthening the Deinstitutionalization of Status Offenders (DSO) core protection: Under current law, non-delinquent status offenders, such as children who are truant, runaway, violate curfew, or who violate alcohol and tobacco laws, may be held in juvenile lock-ups under the Valid Court Order (VCO) exception, which allows judges to issue detention orders. The practice persists despite evidence that securely detaining status offenders is harmful to youth development and is costly, especially when compared to more effective responses including shelter care, crisis counseling, family support, and/or community and school-based interventions.

While H.R. 6469 does not phase out the VCO exception, it does strengthen protections for youth who commit a status offense. Under the new law, youth who are found in violation of a valid court order may be held in detention, for no longer than seven days, if the court finds that such detention is necessary and enters an order containing the following: 1) identifies the valid court order that has been violated; 2) specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order; 3) includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile; 4) specifies the length of time, not to exceed seven days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility. Such an order may not be renewed.

- Strengthening the core protection requiring states to reduce Racial and Ethnic Disparities: Research has documented that youth of color are disproportionately over-represented and subject to more punitive sanctions than similarly-charged/situated white youth at all levels of the juvenile justice system. The bill gives clear direction to states and localities to plan and implement data-driven approaches to ensure fairness and reduce racial and ethnic disparities, to set measurable objectives for disparity reduction, and to publicly report such efforts.

- Improving the Jail Removal and Sight and Sound core protections: Research shows youth confined in adult jails and lock-ups are more likely to re-offend upon release and that, while confined, are at pronounced high risks for suffering assault and committing suicide. The bill extends the jail removal and sight and sound core requirements to keep youth awaiting trial in criminal court out of adult jails and lock-ups and to ensure sight and sound separation in the limited circumstances where they are held in adult facilities. This provision must be applied not later than 3 years after the date of enactment of the law.

Overall Delinquency Prevention and Juvenile Justice System Improvements:

- Recognizes the impact of exposure to violence and trauma on adolescent behavior and development: The bill includes a definition of ‘trauma-informed’ and encourage states to ensure that programs and practices designed to address the needs of system-involved youth are both evidence-based and trauma-informed.
- Strengthens commitment to educational progress for system-involved youth: The bill allows for easier transfer and application of education credits (full and partial) earned by system-involved youth across school systems in part by requiring that states receiving funding under the Act to collaborate with state educational agencies to ensure educational process is made for adjudicated juveniles. The bill also calls for individualized case plans to help youth reenter their communities, including education and job training assistance, and an assessment on the living arrangements to which the youth will be discharged.
- Provides comprehensive services and supports for youth: The bill promotes community-based alternatives to detention; encourage family engagement in design and delivery of treatment and services; and improve screening, diversion, assessment, and treatment for mental health and substance abuse needs.
- Strengthens incentives for investment in evidence-based practices: The bill strengthens provisions to promote interventions with a proven impact on reducing recidivism based on research that shows that community-based alternatives can have better outcomes for youth, protect public safety, and cost less.
- Improves conditions of confinement in juvenile facilities: The bill calls for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator to report annually on state data regarding the uses of isolation and restraints in juvenile detention and corrections facilities, and encourage training of facility staff to eliminate dangerous practices. The bill also calls for states to develop policies and procedures to eliminate the use of dangerous practices and unreasonable use of restraints and isolation through the use of alternative behavior management techniques.
- Ends the use of certain restraints on detained, pregnant juveniles during labor, delivery, and recovery (unless there is an immediate and serious threat of harm to self or others): The bill gives states two years to end the use of restraints on detained, pregnant juveniles; however, there is an exception to this requirement if “reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.”
- Addresses the needs of system-involved girls: The includes significant updates and improvements to address needs and circumstances around girls, including better screening of and alternatives to detention for girls who have been trafficked or experienced sexual violence, girls with disabilities, girls of color, including girls who are members of an Indian Tribe.
- Adds protections for Tribal youth: The bill includes improvements for Tribal youth, including a requirement with the OJJDP Administrator develop, in consultation with Indian Tribes, a policy for collaborating with representatives of Tribes on the implementation of the reauthorization not more than one year after the date of enactment; ensure Statewide Advisory Groups include Indian Tribal representation; and that OJJDP provides Tribal Delinquency Prevention and Response Programs that promote Indian Tribes’ ability to respond to and care for Tribal youth who come in contact with the law.

- Provides Judicial Training: The bill provides training and technical assistance to enhance the capacity of state and local courts, judges, and related judicial personnel to carry out the requirements of the Act and to improve the lives of justice-involved and at-risk youth.
- Promotes fairness: The bill supports state efforts to expand youth access to appropriate legal representation and to inform youth of opportunities to seal or expunge juvenile records once they have gotten their lives back on track.

Title V - Incentive Grants for Prison Reduction Through Opportunities Mentoring Intervention Support & Education (Youth PROMISE Grants):

- Strengthens delinquency prevention components under Title V: The bill incentivizes localities to create local policy boards to develop comprehensive prevention plans through competitive grants that must be matched by local dollars. It also expands uses to include updated evidence-based prevention activities, including mentoring.

Oversight & Accountability:

- Promotes transparency: The bill requires that state plans be posted on OJJDP’s website within 60 days of its approval and that OJJDP annually publicize a plan outlining program goals.
- Non-compliance penalty: The bills includes the same penalty for non-compliance. States found out of compliance with a core protection will lose 20% of its Title II formula grant. Of these monies, 50% will be reallocated to compliant states and 50% will be available to the Administrator to provide technical assistance to states on compliance issues.
- Increases accountability: The bill includes several provisions to ensure effective use of resources, to provide greater oversight of grant programs, and to ensure state compliance with federal standards, including a requirement a call for the Office of Inspector General in the Department of Justice to conduct performance audits to ensure effective and appropriate use of grants, and a prohibition on grant eligibility for nonprofits that hold money in off-shore accounts.

Funding Levels:

- Sets overall authorization levels for juvenile justice funding: The bill provides \$176 million for each fiscal year from 2019 through 2023, of which not more than \$96,053,401 can be used to carry out Title V each year.
- Authorization for Special Programs: The bill directs OJJDP to issue 11% of Title V funding for the Tribal Youth Program.
- Reauthorizes Runaway and Homeless Youth Act: The bill includes a two-year reauthorization of the Runaway and Homeless Youth Act for \$127.4 million each fiscal year from 2019 through 2020.

For additional information on the Juvenile Justice Reform Act of 2018, please see this [summary](#) created by the Coalition for Juvenile Justice (CJJ) and the National Criminal Justice Association. For more information on the data collection requirements under the bill, please see CJJ’s [summary](#).

To learn more about the JJDP reauthorization, visit <http://www.act4jj.org/>