

Legislative Options for State Youth Justice Reform



YOUTH FIRST
PRISON IS NO PLACE FOR KIDS



On any given day, nearly 50,000 youth reside in youth prisons or other out of home placements due to their involvement in the juvenile justice system. Not surprisingly, youth of color are disproportionately represented at every stage of the justice system, including incarceration. One of the most harmful, ineffective and expensive forms of incarceration is the youth prison, the signature feature of nearly every state juvenile justice system. States devote the largest share of their juvenile justice resources to youth prisons at an estimated annual cost of over $5 billion per year. While youth incarceration has dramatically decreased over the past decade, almost all states still rely on these costly institutions and the harmful approach they embody. If youth prisons were closed, tens of millions of dollars could be freed up for community-based, non-residential alternatives to youth incarceration, and other youth-serving programs. In October 2016, the National Institutes of Justice, in partnership with the Annie E. Casey Foundation and the Harvard Kennedy School, published ***The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model***, which rejects the harmful, ineffective, and excessively expensive youth prison model in favor of investment in community-based alternatives that work.

As states enter new legislative sessions, below are recommended reforms that would increase public safety, decrease youth of color in prison, and realign funding to approaches that work.

Key Components for Reform

Closing Youth Prisons

- **Create legislation requiring the closure of a youth prison:** The legislative language should explicitly require the closure of the facility and specify a realistic timeframe by which such closure must be accomplished. If the intent is to downsize the facility, this must also be specified as a moratorium.

- **Zero out funding for youth prisons in agency budgets:** Pinched purses of state budgets provide an opportunity to zero out funding for the failed youth prison model.

- **Ensure that the building can no longer be used to house youth:** This can be accomplished through legislative or regulatory language.

- **Treat youth prison closure like a plant closure:** Obtain support and guidance from the state Department of Labor or local economic development agencies to assist with closure that promotes future jobs in other areas and find a create solution for the use of the abandoned prison facility.

Community Reinvestment

- **Advocate on behalf of budget realignment:** Through budgetary or legislative language ensure that all money saved from closing a youth prison is reinvested in community solutions and/or a continuum of care for youth involved in the juvenile justice system.

- **Create fiscal incentives for counties to keep youth involved in the juvenile justice system in their communities:** The state should reimburse the counties for funds they spend managing the adjudicated youth locally. Examples of these fiscal incentives include full appropriation to counties or courts to serve blocks of youth once sent to the state system and incentives to serve specific categories of youth who are currently incarcerated so that they can be served elsewhere.

- **Create a local continuum of care for youth involved in the delinquency system:** A continuum of care is an array of meaningful non-residential community based programs, supports, resources and services specifically

designed to meet the individual needs of young people and their families to build on their strengths and assets and keep them from committing crimes and entering detention or youth prisons. For more information and a step by step guide to creating a continuum, see ***Beyond Bars: Keeping Young People Safe at Home and Out of Youth Prisons***.

Closing the Front Door

- **Narrow the number of offenses that would increase a youth's chance of being adjudicated to a youth prison:** Advocate for a full removal of misdemeanor offenses that would allow a youth to enter a secure facility.

- **Stop the criminalization of behaviors caused by damaging environments for girls:** Decriminalize offenses common to girls living in traumatic social contexts to prevent girls from entering the system.

- **Reform mandatory and pro-arrest domestic violence laws:** Stop punishing girls for living in chaotic and violent homes.

- **Prohibit detention of girls for status offenses and eliminate the valid court order exception (VCO).**

- **Ensure that courts, prosecutors, and probation officers use a structured decision making tool that focuses on the least restrictive placements:** Learn how the courts and agencies make placement decisions and ensure that any tools used reduces the use of overly restrictive placements and do not increase racial and ethnic disparities in the system.

- **Create diversion programs through the prosecutor's office and police departments that eliminate commitment status for first time offenders:** Ensure that such diversion programs are expansive to include youth who commit violent crimes. Diversion can be an integral part of any jurisdiction's graduated continuum of options for youth already involved or at risk of becoming involved with the juvenile justice system.

- **Look for research opportunities to understand how certain marginalized populations enter the system:** Investigate the ways certain groups of youth (LGBTQ, girls, Native Americans) enter the system that may identify potential discriminatory trends and practices of arrest and incarceration.

Closing the Back Door

- **End the imposition of long, standardized conditions of probation from juvenile judges:** Probation departments should work with youth and families to develop individualized case plans that set expectations and goals. When youth don't meet agreed-upon expectations or fail to take steps outlined in their case plans, issuing a probation violation should be a last option, not the first.

- **Shorten or eliminate sentences for youth who violate conditions of probation:** Explicitly state that there is no possibility of a child being detained for non-violent violations and/or decrease the amount of time youth can be incarcerated for probation violations.

- **Shield young people's privacy:** Probation and court authorities should also adopt policies and practices to minimize the extent to which young people's arrest and/ or court records are circulated. Key steps include: limiting records access to individuals connected to the young person's case; automatically sealing records as soon as youth are discharged from court supervision; providing the opportunity (simply and at no cost) to seal or expunge records of juvenile arrests and adjudications; excluding juvenile records from all public records requests; prohibiting states and local authorities from sending juvenile records information to the FBI for inclusion in national offense databases.

Monitoring and Implementation Fidelity

- **Create an implementation plan and assure oversight of the implementation:** The legislative language should include provisions on the implementation of the closure, including a committee/task force, comprised of key stakeholders (such as youth and families most impacted) to assure appropriate oversight of the development and implementation of the plan.

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