

Youth Prisons: Developing Legislative & Budget Language for Closure

Building strong campaigns to close youth prisons hinges on many elements. From organizing, messaging, to successful legislative sessions—it takes time, patience, and resolve to reach the goal of abolition. The COVID-19 pandemic provided ample data and reasoning to close and reinvest in solutions closer to home. Youth First conducted a nationwide survey of state juvenile justice agencies to look at youth facility populations during a 5 month stretch of COVID-19. We found that youth incarceration declined following the national COVID lockdown. In fact, every state that reported data to Youth First reported that they incarcerated fewer young people in October 2020 than they did in March 2020.

Yet few policymakers embarked on deep youth justice transformation in the time of this crisis despite the risks and opportunities for change. Some of the reasoning for these failures for sustained transformation rested on the lack of perceived community resources, lack of understanding of what young people needed when back in their communities, and simple lack of vision for a world without youth prisons—even during a pandemic. With the numbers of youth in prisons at historic lows, now is the time to push for transformation.

As states move into the next legislative session, we hope to arm you with viable legislative language and strategies to continue to push for youth prison abolition and community reinvestment. Here, we focus on specific bill language for both general legislative efforts and specific budget efforts.

Recommended legislative and budget language for youth prison closure includes:

- (1) Closure Date
- (2) Implementation Plan & Timeline
- (3) Individual Youth Assessment and Transition Plan
- (4) Reinvestment to Community-Based Services
- (5) Noncarceral use of facility/property
- (6) Workforce and Community concerns
- (7) Oversight

(1) Require closure date which reflects a specific, realistic timeframe (e.g. 1-2 years)

When drafting legislative language to close youth prisons, the language should explicitly require the closure of the facility and specify a timeframe. Requiring a set timeline for closure forces action by the state. A timeline should provide enough time to plan out the proper closure steps and ensure that closure can happen in the current friendly administration.

Examples:

Louisiana legislation (2003)

Act 1225 Juvenile Justice Reform Act of 2003

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=819419>

Key provisions: “Closure of the Tallulah Youth Prison to Juveniles”: Mandates that no youth be held at the Swanson Correctional Center for Youth – Madison Parish Unit in Tallulah, Louisiana after December 31, 2004, unless the Governor declares a “public safety emergency” necessitating the use of the facility, for an additional period not to exceed 5 months. Nothing in the Act prohibits the next Governor from closing it sooner. Finally, the Act mandates that the DPSC provide a transition plan detailing aftercare services and placement of all youth in Tallulah, recommendations for how best to divert money currently spent on Tallulah to community-based alternatives and recommendations on the possible future uses of the facility.

DC legislation (2004):

<http://lims.dccouncil.us/Download/4144/B15-0537-ENGROSSMENT.pdf>

Key provisions: The Mayor shall develop and implement a comprehensive plan resulting in the closure of the existing Oak Hill Youth Center facility no later than 4 years after the effective date of this act and transfer operations to new facilities, which may one or more of which shall be located on the same property, consistent with the following criteria for a new rehabilitation and treatment model:

“(1) No new facility for committed youth shall house more than 40 committed children within the same building, however, a facility may contain more than one building; “(2) Plans for the operation of facilities shall incorporate best practices for the provision of rehabilitative and other services and the safety of children, and shall be consistent with the applicable standards of accreditation of the American Correctional Association; “(3) Individuals appointed by the Mayor shall provide on-site monitoring of the safety of children housed in any secure detention or commitment facility operated by the District of Columbia during all hours of operation; and “(4) Individuals responsible for monitoring the safety of children under paragraph (3) of this subsection shall notify the child’s parent or guardian and the child’s legal representative.

Maine proposed legislation (2021):

(2) Require an Implementation Plan and Timeline

The budget language should include provisions to require a plan and timeline to close/repurpose/reduce population, that involves key stakeholders such as youth and families most impacted, and resource the process so that it is staffed appropriately.

Example:

CT legislation (2016) - <https://www.cga.ct.gov/2016/TOB/h/2016HB-05642-R00-HB.htm>

Key provisions: Sec. 8. (NEW) (Effective from passage) (a) The Commissioner of Children and Families and the Juvenile Justice Policy Oversight Committee, established pursuant to section 46b-121n of the general statutes, as amended by this act, shall jointly develop a preliminary and a final plan for the closures of the Connecticut Juvenile Training School and the Pueblo Unit for girls, which closures shall not be later than July 1, 2018. Such plans shall (1) incorporate comments from national experts and local stakeholders, (2) include community-based secure and non-secure congregate care settings, supervision and programming based on nationally accepted best practices, (3) promote public safety, youth rehabilitation and the elimination of racial and ethnic disparity, and (4) ensure the optimal use of public resources.

(3) Individual Youth Assessment and Transition Plan

To ensure children receive appropriate services and programs in the community, the budget language should require an assessment of the needs of youth remaining in the facility and an individual plan for each youth. Case expeditors can be utilized to review each child's case and make appropriate recommendations for programs and services.

(4) Reinvestment to Community-based Services

The budget language should ensure that the savings from a closure(s) or reductions in incarcerated populations are redirected to invest in youth in their communities by:

Requiring the savings from the facility closure/repurpose/reduction be reinvested in the community alternatives identified by stakeholders and impacted communities. Establish dedicated fund for this purpose that cannot be used for anything else.

Creating oversight and implementation mechanisms that gives impacted community members decision-making authority about fund/local resource allocations

Utilizing zip codes of the impacted youth and other local data to drive investments

Examples:

Harris County, TX (2021 – in process)

The Reinvestment Fund is comprised of approximately \$2 million in funds initially earmarked for juvenile probation, as well as \$2 million from the county's General Fund. The Fund will invest in grassroots service providers based in neighborhoods most impacted by the juvenile justice system and employ staff who reflect the youth and families they serve. The Harris County Juvenile Probation Department, which has been a partner in this effort, is fully committed to this innovative approach.

<https://jad.harriscountytexas.gov/Press-and-Media/Press-Room/harris-county-commissioners-approve-first-of-its-kind-community-led-multi-million-dollar-youth-justice-community-reinvestment-fund>

CO bills (4 total)

<https://www.ccjrc.org/wp-content/uploads/2020/08/Aug-2020-Community-Reinvestment-in-COLORADO-Overview-final22441.pdf>

Four Community Reinvestment Initiatives in effect in Colorado that are providing funding for community-based reentry, crime prevention, underserved victim services, and harm reduction. All of these bills had bi-partisan sponsorship and no opposition. Three of these initiatives use a community-facing intermediary to manage the grant program and ensure that the money reaches deeply into communities most impacted and that community programs get the ongoing capacity building to help them be successful. The importance of the community-facing intermediary cannot be understated and is a defining component of our approach in Colorado.

CA Prop 47 ballot initiative (2014)

<https://www.kqed.org/news/11796149/voter-approved-criminal-justice-reform-expected-to-save-state-over-122-million>

Prop 47 reclassified certain nonviolent, non-serious drug and property felonies to misdemeanors and generated millions of dollars in state savings. California allocates over half of these savings for mental health and substance use services through a competitive grant program administered by the Board of State and Community Corrections (BSCC). In 2017, the BSCC approved \$103 million in Prop 47 funding for 23 local public agencies to implement behavioral health and diversion programs. Each agency is required to pass through at least 50% of its funding to community-based organizations (CBOs), thereby ensuring programs rely on community partnership and collaboration.

VA budget legislation (2016)

<https://budget.lis.virginia.gov/item/2016/1/HB30/Chapter/1/415/>

<http://budget.lis.virginia.gov/sessionreport/2016/1/1719/>

Includes language directing the department to develop and implement a transformation plan to reduce the number of juvenile offenders in state facilities and provide alternative placements and services that offer treatment and supervision consistent with the levels of risk and need as determined by the department's risk and needs assessment process. The language directs the department to reallocate any savings from the reduced cost of operating state facilities to support the transformation plan, including: increasing the number of local placement options, including community placement programs, independent living programs and group homes while ensuring the appropriate levels of educational, career readiness, rehabilitative, and mental health services.

KS legislation, SB 367 (2016)

http://www.kslegislature.org/li/b2015_16/measures/documents/sb367_enrolled.pdf

The bill creates the Kansas Juvenile Justice Improvement Fund, to be administered by KDOC. All expenditures from the Improvement Fund shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including juvenile intake and assessment, court services, and community corrections. On or before June 30 of each year, the Secretary must determine and certify to the Director of Accounts and Reports the amount in each account of the State General Fund of a state agency that the Secretary has determined is an actual or projected cost savings due to cost avoidance from decreased reliance on incarceration in a JCF or youth residential center (YRC) placement, with a baseline calculated on the cost of incarceration and placement in FY 2015. This certified amount shall then be transferred to the Improvement Fund.

Prioritization of moneys from the Fund shall be given to regions demonstrating a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives. During FY 2017 and FY 2018, the Secretary shall transfer an amount not to exceed \$8,000,000 from appropriated moneys, from any available special revenue fund, or from funds budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements. The Fund and any moneys transferred pursuant to this section may only be used for the purposes of the section, and the bill states the Legislature's intent that the Fund and Fund moneys remain intact and inviolate for the purposes set forth in this section.

New Jersey legislation (2020 - pending)

NJ Restorative Justice bill: https://www.njleg.state.nj.us/2020/Bills/A5000/4663_I1.PDF

Provisions on Youth Justice Transformation Fund starting on Page 8:

5. (New section) a. There is created in the Juvenile Justice 34 Commission, in but not of the Department of Law and Public Safety, a dedicated, non-lapsing, revolving fund to be known as the “Youth Justice Transformation Fund.” The fund shall be credited with the monies appropriated pursuant to subsection g. of this section, and any interest or other income earned on those monies. Monies in the account shall be allocated and exclusively used by the commission for the purposes of P.L. , c. (pending before the Legislature as this bill), including, but not limited to: (1) developing and implementing community-based programs, including prevention, diversion, intervention, and alternatives-to-incarceration programs; (2) repurposing or renovating commission facilities and other facilities into community centers or other resources that provide effective youth programming and services; and (3) other innovative programming, projects, or services designed to decrease the number of juveniles in the custody of the commission. b. No more than 10 percent of the monies in the fund shall be used for administrative purposes. c. Monies administered pursuant to the fund shall not replace any other funds distributed by the commission, including those administered through the State/Community Partnership Grant Program established pursuant to section 1 of P.L.1995, c.283 (C.52:17B-179). d. Priority in distributing monies in the fund shall be given to municipalities with a high rate of juveniles committed to the commission. e. Monies from the fund shall not be used for the construction of any commission or other facility. f. Within 30 days after the effective date of P.L. c. (C.) (pending before the Legislature as this bill), the commission shall set the terms and conditions of distribution of the fund monies, publish the terms and conditions on its official website, and schedule a public meeting in the north, central, and southern regions of the State to announce the fund. g. There is appropriated \$100,000,000 from the General Fund to the commission for deposit into the “Youth Justice Transformation Fund” for State Fiscal Year 2021 and each subsequent fiscal year. h. To determine if additional monies may be appropriated to supplement the fund, the commission shall conduct an audit to identify the total amount of all available federal and State department and agency funds intended to support juveniles involved at any point with the State’s juvenile justice system.

(5) Ensure the facility can never be used again to incarcerate anyone

There must be explicit language in the budget that would require the state to do one or more of the following:

Demolish the facility (include funds in the budget for this)

Repurpose the facility (include funds for the impacted community to use for something else e.g. industrial plant)

Bar the state from contracting with a private entity to operating the facility

Bar the state from ever locking up kids at the facility again (include in budget / legislative language)

Examples: *Urban Institute Report on Transforming Closed Youth Prisons*

<https://www.urban.org/research/publication/transforming-closed-youth-prisons>

(6) Address Workforce Transition, Community Concerns

To address concerns from the workforce at the youth prison and the surrounding community about the economic impact and job losses, the budget language should ensure workers are supported as part of the transition. States should provide dislocation support to the impacted workers, including worker relocation benefits, retraining, and job placement support.

Example: **Virginia budget language (2016):**

<http://budget.lis.virginia.gov/amendment/2016/1/HB30/Introduced/CR/415/1c/>

Page 350, after line 25, insert:

"5. If the Department of Juvenile Justice deems it necessary, due to facility population decline, efficient use of resources, and the need to further reduce recidivism, to close a state juvenile correctional center, the Department shall (i) work cooperatively with the affected localities to minimize the effect of the closure on those communities and their residents, and (ii) implement a general closure plan, preferably not less than 12 months from announcement of the closure, to create opportunities to place affected state employees in existing departmental vacancies, assist affected employees with placement in other state agencies, create training opportunities for affected employees to increase their qualifications for additional positions, and safely reduce the population of the facility facing closure, consistent with public safety."

(a) Plant closing resource: Specific steps to treat the closure in a similar fashion to a plant closing. Plant closing checklist: a guide to best practice.

<http://babel.hathitrust.org/cgi/pt?id=mdp.39015028443789;view=1up;seq=16>

(b) Ensure workers are supported as part of the transition by providing worker dislocation support to the impacted workers, including worker relocation benefits, retraining, and job placement support

Here are some of the pieces that would be important to consider and many may already be available through the state's department of labor:

Rapid Response Services for Employers, Employment & Training Administration (ETA) - U.S. Department of Labor <http://www.doleta.gov/layoff/employers.cfm>

State Rapid Response Coordinators, Employment & Training Administration (ETA) - U.S. Department of Labor http://www.doleta.gov/layoff/rapid_coord.cfm

(7) Oversight

The legislation should require an oversight mechanism to monitor progress of implementation plan and outcomes of the youth within the new continuum of care.

Examples:

New York Close to Home Legislation (2013)

http://ocfs.ny.gov/main/rehab/close_to_home/Enabling%20Legislation.pdf (page 8, section a and b)

Monitoring: (a) The initiative shall be subject to the state juvenile justice agency's ongoing oversight and monitoring including, but not limited to: case record reviews; staff, family, and client interviews; on-site inspections; review of data regarding provider performance, youth and staff safety, and quality of care, which must be provided to the state agency in order to carry out its responsibilities, in the form and manner and at such times as required by the agency; and continued licensing and monitoring of the authorized agencies providing services under the plan.

Ensuring Individualized Services within Continuum of Care: (b) The social services district shall provide each juvenile delinquent with an appropriate level of services designed to meet his or her individual needs and to enhance public safety and shall provide the state juvenile justice agency with specific information as required by the office, in the format and at such times as required by such agency, on the youth participating in the initiative and the programs serving such youth. Such information shall be provided to the agency on a monthly basis for the first twelve months immediately following the implementation of the programs for each level of care and shall be provided to such agency on a quarterly basis thereafter.

Louisiana legislation (2003)

Act 1225 Juvenile Justice Reform Act of 2003

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=819419>

Key Provision: The roles and responsibilities of the Juvenile Justice Reform Act Implementation Commission.

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