

**Recommendations for the Implementation of Raising the Age
of Juvenile Jurisdiction to Include 17-Year-Olds in Louisiana**

As required by law, submitted to:

**Louisiana Commissioner of Administration- Jay Dardenne
Louisiana President of the Senate- John A. Alario, Jr.
Louisiana Speaker of the House of Representatives- Taylor F. Barras**

Submitted by:

The Louisiana Juvenile Jurisdiction Planning and Implementation Committee

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The Juvenile Jurisdiction Planning and Implementation Committee (Raise the Age Commission [RTA]) would like to thank Governor John Bel Edwards and members of the Louisiana Legislature for your unyielding support of SB 324 “Raise the Age” legislation. With your generous support, 17-year olds who enter the juvenile the justice system have better hope of rehabilitation and ultimately increased opportunities for success in their adult lives.

Respectfully submitted to the Louisiana Legislature

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INTRODUCTION

In June of 2016, Governor John Bel Edwards signed SB 324, the Juvenile Jurisdiction Planning and Implementation Act, aka “the Raise the Age (RTA) Act,” into law. This law ensures that when 17-year-olds come into conflict with the law, they will be served by the justice system best equipped to meet their needs and help them to become productive, law-abiding adults. The law will be implemented in two phases. In the first phase, which goes into effect on July 1, 2018, all 17-year olds charged with non-violent offenses will be considered juveniles. The second phase will become effective July 1, 2020. At that point, all 17 year olds will be considered as juveniles if they come into contact with the justice system, regardless of the alleged offense. While District Attorneys will maintain the discretion to prosecute youth accused of some heinous offenses as adults, this law provides Louisiana with an opportunity to improve outcomes for the vast majority of 17 year olds, while ensuring public safety and utilizing scarce resources most efficiently and effectively.

To ensure a smooth implementation process, the law also created the Juvenile Jurisdiction Planning and Implementation Committee. This committee was tasked with the authority and responsibility to develop a plan for full implementation of the provisions of the Act. This report is the first part of that plan, and includes recommendations for reform and system improvements that will enhance the juvenile justice system’s capacity to effectively incorporate seventeen year olds while ensuring that all system-involved youth continue to receive appropriate services and supervision.

As cited in the 2016 Report, A Legislated Study of Raising the Age of Juvenile Jurisdiction in Louisiana, the primary benefit of Raising the Age is that it provides 17-year-olds with the greatest opportunity for rehabilitation. Research shows that 17-year-olds are still developing and are therefore more likely to engage in risky, impulsive behavior that is more a reflection of their immaturity than their criminality, and that they are more susceptible to the negative influence of peers. Furthermore, the fact that 17-year-olds are still developing makes them more capable of rehabilitation. Youth processed through adult courts have higher recidivism rates than similar youth handled by juvenile court.

On-time implementation of this law will ensure that when 17-year-olds in Louisiana come into conflict with the law, that they will be served in the justice system that is already best equipped to meet their unique needs, and help them become productive, law-abiding adults. However, some changes are needed to ensure the system is ready to accommodate additional young people, without sacrificing the level of services and supervision for all youth. To this end, Louisiana can implement system-wide a set of complementary, research-based reforms that will not only improve services and outcomes for all youth in the juvenile justice system, but will create additional capacity in the system to help accommodate the 17-year-olds when the law goes into effect. With this goal in mind, the Committee has prepared the enclosed report. Recommendations include the associated fiscal obligations, where applicable, and the evidence-

informed programs and policies needed to safely transition 17-year old youth into the juvenile justice system.

In the 2003 Legislative Session, Act 1225 provided a statutory framework for creating an infrastructure to support juvenile justice reform in Louisiana. The authors of Act 1225 recognized that successful national models for juvenile justice reform were based on a systems approach and were dependent upon the investment in community-based approaches to keeping youth out of the deep end of the juvenile justice system. It specifically defined juvenile justice as the “system of public and private services in Louisiana that includes prevention, early identification, early intervention, child protection, law enforcement, prosecution, defense, adjudication, diversion and informal processing, probation, corrections, aftercare, transitional living, and other services provided to children and families who either are likely to be brought into a court with juvenile jurisdiction because of problems such as abuse, neglect or abandonment, mental illness, substance abuse, aspects of divorce and breakup of families, pre-delinquency, social irresponsibility or delinquent behavior, or spousal abuse involving children.” These system partners must collaborate and support policies and practices that direct youth to community-based programs designed for rehabilitation. The Committee’s recommendations reflect this framework, with the goal of fully achieving a juvenile justice system that meets the aspirations of Act 1225.

It is important to note that modest financial resources will be necessary for the initial implementation of the RTA legislation with high integrity and fidelity, especially given the cuts that the system has faced over the past several years. Cost savings are expected over the long term, and have been realized in other states that have raised the age of juvenile jurisdiction, but a modest initial investment to restore and, where necessary, expand services in the juvenile justice system is anticipated. FY2018 will be a period of preparation for the July 1, 2018 implementation of raising the age. Researchers, practitioners, and experts alike have agreed that adequate personnel and services are vital for a safe transition of 17-year olds from the criminal justice system to the juvenile justice system. This report includes an explanation of the anticipated costs, as well as an assessment of programs and policies needed for implementation based on national best practices that will ensure the system is ready to fulfill the goal of Act 501, to include 17-year-olds in Louisiana’s juvenile justice system.

PREVENTION

Programs and Policies to Safely Reduce the Number of Youth, Including 17-Year-Olds, Who Enter the Juvenile Justice System

Practice and research has consistently shown community supports to significantly impact reductions in crime and delinquency. In fact, dropping out of school may be one of the more preventable outcomes for youth in Louisiana when you consider the top five reasons for dropping out nationally, in order of significance: 1) grieving the loss of someone close; 2) became the regular caregiver in the home; 3) drug abuse; 4) jail; 5) gang involvement. The following section highlights several efforts aimed at not just preventing drop out, but also reducing the number of youth entering the justice system in the first place, which will ensure

system resources are focused primarily on youth who pose the greatest risk to public safety, and create added capacity to absorb the 17-year-old population.

Hi-Set/GED Attainment

A 2008 study of minority youth living in high-poverty, urban neighborhoods examined the difference between high school graduates, GED recipients, and dropouts. Researchers found that graduating with a high school diploma was more beneficial to youth than a GED, but youth with a GED had more benefits than dropouts. The benefits of obtaining a GED, both economic and social, make it an important credential for school dropouts, especially those who are economically disadvantaged. The study's findings argue for continued investment in adult basic education programs leading to GED attainment for low-income, inner city youth.

Still other research findings project that the economic cost to society is nearly \$260,000 in lower lifetime earnings for each dropout. This is further compounded by the expectation that high school dropouts also rely on greater public spending for public assistance, including health care and other government-funded programs. Earning a GED/Hi-Set may have even greater value for those youth commonly at risk of juvenile justice system involvement. Research has shown that the impact of receiving a GED on future earnings was greater for those who leave school with weak cognitive skills rather than those who leave with higher skill levels. This is likely due to the fact that those who leave school with lower cognitive ability are the least employable and the skills obtained through earning a GED make them significantly more desirable to employers. In general, increasing educational attainment reduces the likelihood of committing violent and property related crime and increases employability.

As 17-year-olds come into the juvenile justice system, it is important for all system stakeholders to keep this in mind. Efforts should be made to create mechanisms for youth to earn their diplomas whenever possible so that those with higher skill levels can reach their full potential. This should also apply to youth who are receiving their education in juvenile correctional facilities such as detention centers or OJJ secure care. The vast majority of these children return to their communities while they are still school-age and keeping them on a diploma track better ensures their seamless transition to their communities and their schools.

The School to Prison Pipeline

In an effort to decrease the number of young people who become lost in a cycle of arrest, detention and subsequent negative outcomes in life, increased attention is being given to a predictable trajectory whereby youth, including 17-year-olds, enter the justice system through what has become known as the "school to prison pipeline". The vigorous implementation of "zero tolerance" policies in elementary and high schools during the 1990's led to a drastic increase in the number of youth suspended, expelled, and arrested at school. Many of the behaviors that prompt school administrators and school-based police officers to respond with harsh punitive consequences are typical, and often normative, for many adolescents and could be

addressed with more constructive, supportive interventions that would benefit students rather than steer them into the “pipeline”.

School suspension and expulsion have been found to contribute to the likelihood that youth will end up in the justice system. Often, students are suspended or expelled from school as the result of “zero tolerance” protocol or in order to deter other students from behaving similarly without proper consideration of the circumstances surrounding the student’s behavior or the potential for serious, negative outcomes to the student’s future. School suspension has been linked to an increased likelihood that a student will drop out of school, which is correlated with incarceration as an adult. Research has shown that a person who does not earn a high school diploma is 3.5 times more likely to be incarcerated than someone who completes high school. Current U.S. estimates of males in state and federal prisons suggest that about 70% do not have a high school diploma, and it costs society about \$70 billion annually to hold and supervise them in corrections departments.

The risk of dropping out is even greater for youth who are arrested. One study (Sweeten, 2006) found that a first-time arrest during high school increases the chances of dropping out and that a first-time arrest with a court appearance is even more detrimental to educational outcomes. Further, court appearance was found to be more detrimental to the educational outcomes of youth who had been less involved in prior delinquent behavior than those with a history of delinquency. Policies that encourage student arrest and entry into the juvenile justice system have been proven to be counterproductive not only insofar as they decrease the likelihood that youth will graduate from high school but those youth are also less likely to be able to secure employment, go to college or join the military.

Taking steps to reduce the school to prison pipeline by reforming local and state level policies, as well as state statutes pertaining to school discipline and arrests in school, will reduce the number of youth unnecessarily pulled into the juvenile justice system, which will improve outcomes for youth and reduce strain on the system. Doing so in coordination with implementing Raise the Age will help create more capacity in the system to accommodate 17-year-olds.

Behavioral Health Services

Based on national studies, among older adolescents- including 17-year-olds, 72% will have witnessed violence in the home or community (that equals over 840,000 Louisiana youth); 70% will have been physically assaulted; 41% will have experienced some type of maltreatment by a caregiver; and 17% of females will have been sexually assaulted.¹ Studies show that 30% of these youth develop clinically significant trauma-related problems (that equals over 252,000 Louisiana youth).² Beyond trauma and its effects, it has also been well established that the majority (70%) of youth that come in contact with the juvenile justice system meet the criteria

¹ National Survey of Children’s Exposure to Violence II; Zinzow et al., 2009; Saunders & Adams, 2014; and, Jackson et al., 2013

² Saunders, 2015

for at least one mental health diagnosis, and 27% have a “serious” mental health condition that warrants ongoing treatment in order to maintain functioning at home, school, work, or with peers.³

Effective behavioral health intervention is critical to maximizing system outcomes, including successful completion of probation, early termination of probation when appropriate, and reducing recidivism. If more youth of all ages have access to services that are effectively addressing the behavioral health concerns related to their involvement in the system, youth will cycle off probation more quickly and there will be reduced demand for expensive residential placements, including secure care. Those youth who do end up in secure care will be less likely to return when they are released. These outcomes would, in effect, reduce the strain on juvenile justice system resources, and create more capacity within the system. It will also ensure that Louisiana gets the return on investment for bringing 17-year-olds into the juvenile system. Providing effective treatment to 17-year-olds will increase the likelihood that they will not recidivate, even beyond the difference we already see in recidivism rates among older adolescents in Louisiana’s juvenile system compared to the adult system.

Evidence-based practices and programs (EBPs) are standardized, replicable practices that are implemented with fidelity and have been researched and demonstrated positive outcomes in repeated studies. EBPs are moving the fields of juvenile justice and behavioral healthcare from the conclusion of the last century that little to nothing worked to being able to repeatedly and visibly demonstrate positive outcomes for youth and families. EBPs improve the quality of care provided to youth and their families. EBPs are critical to juvenile justice. They achieve improved public safety through reduced rates of re-arrest, improved family functioning and school performance; reduced rates of out-of-home placements such that youth spend fewer days in more costly and restrictive facilities; higher retention rates of participants; decreased drug use and symptoms of mental illness; and, cost effectiveness when compared to other interventions.

Louisiana has invested in the implementation and dissemination of several of these proven practices and continues to look for ways to incentivize providers to adopt these practices, including through the use of mainstream, sustainable funding such as Medicaid. For example, in 2006, Louisiana had only four community based Multi-systemic Therapy (MST) and no Functional Family Therapy (FFT) teams, reaching about forty-seven families annually, throughout the state.⁴ As of 2014, in Louisiana there were 55 MST and FFT teams serving over 3,000 youth and their families annually.⁵ There is evidence to support the notion that these behavioral health models play a major role in keeping these youth in communities and out of costly hospitalizations, and also aid in reducing crime and recidivism.

Louisiana has several of these programs operating at varying degrees of accessibility and could expand these practices significantly to deter more youth from the justice system. As mentioned, programs in Louisiana include FFT and MST, as well as Nurse Family Partnership, Life Skills Training, Aggression Replacement Training, Big Brothers Big Sisters, Cognitive Behavioral

³ Merikangas et al., 2010; and, Shufelt & Cocozza, 2006

⁴ Phillippi & Arteaga (2007).

⁵ Phillippi (2015)

Intervention for Trauma in Schools, Motivational Interviewing, Cognitive-Behavioral Treatment, and others.

To move from our current state of programming in Louisiana to a more effective and reliable intervention delivery system for our juvenile justice system, the following strategies are recommended: 1) Whenever possible, implement the best evidence-based programs, 2) assist smaller providers and rural areas in moving providers towards evidence-based practices where staffing patterns and/or budget restraints will not allow for the larger evidence-based programs, 3) require that funding of unproven programs include an evaluation component to prove effectiveness if receiving state funds, 4) incentivize providers to sustain and build capacity for EBPs with mainstream funding (e.g. Medicaid, state contracts, etc.), and 5) work with universities and state agencies to develop a workforce prepared to deliver EBPs.

Disproportionate Impact for Youth of Color

Youth of color, especially African American youth, are vastly overrepresented in the juvenile justice system. Research demonstrates that race plays a role in juvenile justice processing and sanctions. Not only are African American youth arrested and incarcerated at disproportionate rates compared to White/Caucasian youth, but research has shown that they are disciplined more frequently and harshly than white students. The rate at which public schools suspend African American students is almost three times higher than rates for white students. Furthermore, the use of surveillance, law enforcement, and zero tolerance policies are more frequently found in large urban school districts which tend to have larger populations of youth of color.

Youth with emotional and learning disabilities are also disproportionately affected by zero tolerance policies and frequently arrested and referred to the juvenile justice system. A 2011 study by the New York Civil Liberties Union found that youth with disabilities were 4 times more likely than their peers to be suspended from school. African American students are more likely than any others to be placed in special education programs for emotionally and mentally disabled students, thereby compounding their risk of suspensions, and eventually dropping out and entering the juvenile justice system. Involvement in the juvenile justice systems exacerbates challenges faced by poor, urban youth and leads to poorer outcomes in health, education and economic mobility. Any effort to reform the juvenile justice system in any manner, including implementation of Raise the Age, must include an intentional effort to eliminate racial disparities at all points of the system.

ARREST & DIVERSION

Law Enforcement Training and Diversion

Ensuring that law enforcement officers are properly trained on techniques specific to juveniles will be an important component of implementation, especially given that 17-year-olds have always been treated as adults in Louisiana, and there will need to be a shift in approach as well as logistics in law enforcement encounters with 17-year-olds. Proper training can also result in increased compliance among people stopped by police, reduce the likelihood of an incident

escalating to a dangerous situation, and improve relations between law enforcement and communities.

In Louisiana, there are several national models of training and interventions related to law enforcement level diversion. These include training for police related to adolescent development, crisis intervention training, and verbal de-escalation techniques to name a few. These have been piloted to varying degrees in Louisiana, and a fuller-scale implementation could be considered. For instance, Crisis Intervention Training-Youth (CIT-Y) is a training available to law enforcement officers who seek specific information on working with youth. It covers critical topics such as adolescent development, common psychiatric disorders among youth, crisis response techniques, and community-based options for youth. It is offered in an 8-hour standalone training or a thirteen hour train the trainer format (the latter targeting longer-term sustainability in states and departments). One such training is a product of the National Center for Mental Health and Juvenile Justice. Louisiana currently has mental health and law enforcement personnel trained and able to deliver this model.

The Adolescent Mental Health Training (AMHT) for School Resource Officers is another resource that can provide critical information on adolescent mental health to officers as well as other school-based disciplinary and treatment staff. This 12-hour course allows law enforcement participants and other professionals to practice skills that will help them in their daily interaction with youth. Valuable skills learned in the course include problem solving skills, de-escalating incidents, communicating, role modeling, and using guided decision-making. Similar to the CIT-Y, Louisiana presently has trained trainers that can disseminate this national model further.

Law enforcement can also provide the first opportunity to divert youth from unnecessary system intervention, which wastes resources and increases the likelihood of recidivism. Research shows that when youth become too deeply involved in the juvenile justice system for minor behavior problems, they become more likely to engage in continued delinquency in the future. This is true for any type of formal processing, even if the child is not incarcerated. One large, longitudinal study on the impact of the juvenile justice system found that youth who were placed on probation were 14 times more likely to be involved in the criminal justice system as adults, compared to youth who reported delinquent behavior but were not placed on probation – even when controlling for socio-economic and developmental factors. Another study out of the University of New Orleans compared youth who were formally processed with youth who were informally processed, and looked at the amount of self-reported delinquency and actual arrests after a six month follow up period. Despite starting off with similar levels of delinquency, the study found that formally processed youth reported almost twice as many delinquent behaviors at follow up, and official arrests were 23% higher for the formally processed group. Given all that we know, it is clear that public safety depends on a system that makes full use of all opportunities available to use alternatives to formal system processing, which includes diversion at the point of arrest.

Data from the 2016 legislated study of raising the age of juvenile jurisdiction in Louisiana⁶, documented that approximately 5,888 17-year-olds are arrested annually in Louisiana on adult charges. These numbers are based on current adult procedures and are projected to decline under juvenile jurisdictional guidelines, since the vast majority are shown to be nonviolent and misdemeanor arrests. These types of offenses afford opportunities for diversion, which can be done at the point of arrest. There are some models of police diversion already in place in Louisiana, such as Calcasieu Parish's Multi-Agency Resource Center, but there are also models from other states that Louisiana could adopt to improve outcomes and create additional capacity in the system to ensure smooth implementation of Raise the Age.

Case Example: Florida's Civil Citation Statute

Florida's civil citation statute offers law enforcement an alternative to arrests for offenses that represent youthful misbehavior as opposed to more serious delinquency. Young persons who are issued civil citations must take responsibility for their actions, but if they complete certain requirements, can avoid further legal action as well as a juvenile record that may follow the youth throughout life.

Program requirements may include:

- Community Service
- Intervention Services
- Other Sanctions or Services
 - School progressing monitoring
 - Restitution
 - Letter of apology
 - Pre-vocational skills training

Civil citation programs typically take about 30 to 120 days for youth to complete. If the youth fails to complete the program requirements, law enforcement completes the arrest process and make a referral to the prosecutor who may choose to prosecute the case in juvenile court.

Officers may issue a civil citation up to three times to a youth with no other prior delinquency history if he or she is accused of a misdemeanor offense. The law does permit civil citations on a case-by-case basis for misdemeanors involving firearms, offenses that are sexual in nature, or where gang activity is suspected, if it is in the best interest of the youth and public safety. Misdemeanor offenses that are eligible with approval of victim, family, and prosecutor include assault, battery, non-firearm weapons possession charges, and animal cruelty.

When the civil citation statute was first passed and implemented in 2011, youth were only ever eligible for one civil citation. However, the program was so successful that the statute was

⁶ Phillippi, S., G. Siegel, P. Scharf, R. Atkinson, E. McCann, & P. Arteaga (2016). A Legislated Study of Raising the Age of Juvenile Jurisdiction in Louisiana: The Future of 17-Year-Olds in the Louisiana Justice System. In response to Louisiana House Concurrent Resolution No. 73 of the 2015 Regular Session. Published by the Louisiana State University Institute for Public Health & Justice: New Orleans, LA. Available at: [http://lsuhsc.wpengine.com/wp-content/uploads/2016/07/RAISE THE AGE DRAFT 20160128Final.pdf](http://lsuhsc.wpengine.com/wp-content/uploads/2016/07/RAISE_THE_AGE_DRAFT_20160128Final.pdf)

amended in 2015 to allow up to three civil citations per youth. As for success, recidivism rates for youth who are issued a civil citation are extremely low, and significantly lower than for youth who are formally processed. A 2016 report on the civil citation program reported that the recidivism rate for civil citations was only five percent, while it was nine percent for post-arrest diversion programs. A previous report stated that the recidivism rate for probation cases was 17 percent, and 42 percent for residential programs.⁷

Civil citation also ensures that youth experience more immediate consequences of their behaviors and, if services are needed, they can be put in place much more quickly than through the traditional court process, where it can take weeks or even months for a case to proceed from arrest to disposition. Even when cases are referred for prosecutorial diversion, there can still be significant delay from the time of the arrest to the time when the child is enrolled in the program.

Finally, civil citation saves time and resources that are currently spent when youth are arrested and referred for formal court processing. The state of Florida created the civil citation program for juveniles through legislation passed in 2011, creating an opportunity to divert youth from formal court involvement at the point of arrest. Florida estimated that the 8,961 civil citations that were issued in FY 2014-2015 saved, at minimum, \$13.1 million that could be reinvested in efforts to prevent and address serious crime.⁸

Civil citation provides an option for diversion at the point of arrest, which would reduce the impact of Raise the Age on law enforcement and the court system if it were implemented in Louisiana. According to the legislated study on the impact of Raise the Age from the LSU Institute for Public Health and Justice, more than 60% of arrests of 17-year-olds in Louisiana are for misdemeanor offenses.⁹ Civil citation is an option that will effectively hold youth accountable for their actions while minimizing the system resources needed to do so. The program worked so well in Florida, the eligibility criteria was expanded after just four years. Louisiana should take advantage of these findings and anticipate similar outcomes.

Resource and Assessment Centers

Law enforcement officers are routinely called to respond to situations involving youth committing low-level offenses, fighting at home, or other family issues. These situations take them away from traditional patrol. Reluctant to leave youth and their families in a crisis situation, officers are often faced with difficult choices: to either ignore problem behavior or criminalize it, neither of which resolve the situation or lead to appropriate solutions.

In many instances, these youth may have behavioral health issues for which law enforcement in most jurisdictions have little training or support to safely and effectively respond. Resource and Assessment Centers provide police officers the opportunity to intervene in a manner that is both

⁷ The Children's Campaign (2016). *Stepping Up: Florida's Top Civil Citation Efforts*. Available online at <http://iamforkids.org/wp-content/uploads/2016/09/Study-FINAL-9-7-16-2.pdf>

⁸ Ibid.

⁹ IPHJ reported 1,561 felony arrests of 17-year-olds in 2013, out of a total of 4,004 arrests reported by law enforcement agencies in Louisiana

helpful and effective, connect youth to appropriate services that resolve crisis situations, and return to patrol in a timely manner.

Several communities in Louisiana, including Calcasieu Parish, Lafayette Parish, and Terrebonne Parish have created drop-in resource and assessment centers to serve as “diversion hubs” where police officers can bring young people who are engaged in low-level misbehavior (such as disorderly conduct, minor fighting, or property offenses). Typically, these centers employ trained professionals—social workers, mental health clinicians, and others—to assess the problematic behavior and circumstances and then connect youth and their families with services and support to address the issue without involving the police.

When police are already involved, resource centers make it possible for officers to address troubling behavior and return to patrol quickly, feeling confident that they have helped young people and families get support. To that end, stakeholders are focused on opening resource centers in locations that are convenient for law enforcement, but are also welcoming and accessible for families. Additionally, many centers are open around the clock, or at least during the afternoon and evening hours, when youth are out of school.

Case Example- The Multi-Agency Resource Center (MARC) in Lake Charles

In Calcasieu Parish, the Multi-Agency Resource Center (MARC) was created in 2011 as a drop-in center accessible to officers—encountering youth who need additional support and services—and parents and families of youth at risk of getting arrested. Based on the unique circumstances of each case, some end with a short talk with a counselor, while others involve a full assessment and planning process. The MARC’s initial outreach efforts focused on making police officers aware of the resource, but outreach efforts are now also directed at families. Between 2012 and 2015, the MARC saw a 150 percent increase in the number of family walk-ins without police referral. The MARC’s leadership believes that this increase demonstrates greater community awareness of the center as a resource that families can trust and use to support their youth through challenging situations without relying on police intervention.

District Attorney Diversion

Using data from the 2016 RTA study, it is projected that just under 6,000 17-year-olds may be arrested across the state, with the vast majority being for non-violent offenses, based on available adult arrest data. Given these numbers it is reasonable to anticipate that many 17-year-olds might be eligible for some form of diversion. The commission recommends that Louisiana District Attorneys apply guidelines and standards for juvenile diversionary programs to include 17-year-olds beginning in 2018. Commission members also propose that District Attorney Offices be incentivized to divert youth, including 17-year-olds, whenever feasible to reduce unnecessary system involvement, which should maximize resources, increase public safety, and improve outcomes for youth.

Case Example: Maximizing Diversion Resources

In an attempt to improve diversion and maximize resources, one Louisiana jurisdiction embarked on a process to increase the number of youth entering and successfully completing the pre-trial

diversion program. The planning process for this increased use of diversion articulated four goals:

- Increase the percentage of prosecutable referrals that are sent to the Pre-Trial Diversion Unit instead of pursuing formal processing;
- Expand capacity of the Pre-Trial Diversion Unit to take on more cases by reducing the amount of time youth spend in Diversion;
- Reduce likelihood that diverted cases will return to court; and
- Improve outcomes and more effectively address the reasons youth end up in Pre-Trial Diversion without net-widening.

The plan to achieve these goals focused primarily on restructuring the program to help youth move through diversion more quickly and with greater success. At the same time, the criteria for diversion eligibility was reviewed and revised, expanding diversion access to youth with prior delinquency history and youth charged with certain non-violent felony offenses.

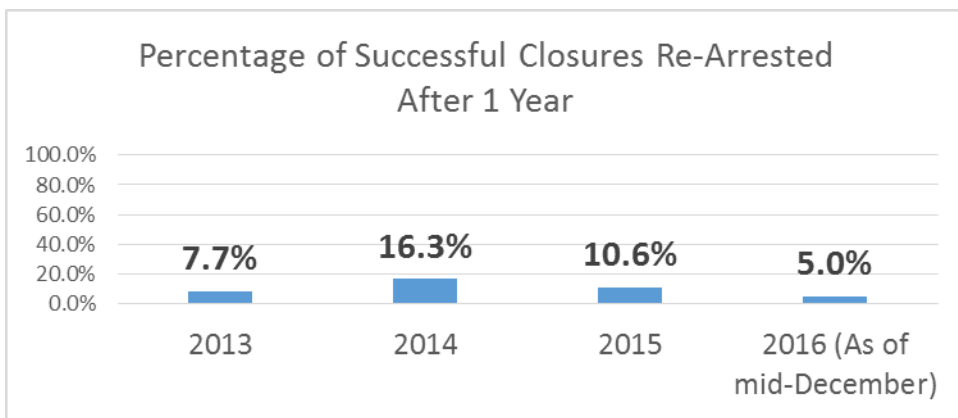
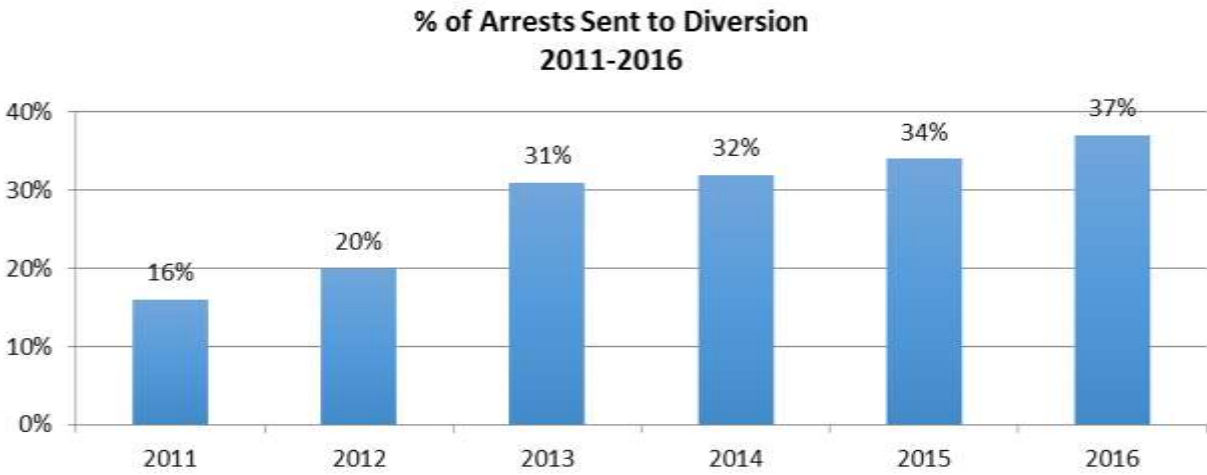
Prior to this restructuring, juvenile diversion was far more limited in the types of cases served, and it frequently lasted over a year. There was only one type of diversion available – a lengthy and sometimes unnecessarily intensive case management process. The excessive length of time youth spent in diversion meant that program slots did not turnover very frequently, reducing the number of youth that could be served over the course of a year. As part of the restructuring, this practice was replaced with a multi-faceted, tiered approach that could be tailored specifically to the needs of each youth. They created four diversion “tracks” that a young person could be assigned, depending on the nature of their specific case:

1. Abbreviated Diversion: Short-term (i.e., 1-2 days), in-house interventions focused on behavior that brought youth to system. *Ex: 1 day intake + 1 day shoplifting program*
2. Substance Use Track: Assessment and target level of need from low to high intensity. Solely for youth arrests on drug-related charges or youth for whom substance abuse is clearly the driving factor in their delinquent behavior.
3. Traditional Diversion: 3 to 6 months possible in-house and community based services.
4. Community Conferencing/Restorative Practices: Facilitated conversation with everyone impacted by the incident, concluding with an agreement between all parties to repair the harm caused by the event. Focus on victim voice and youth accountability.

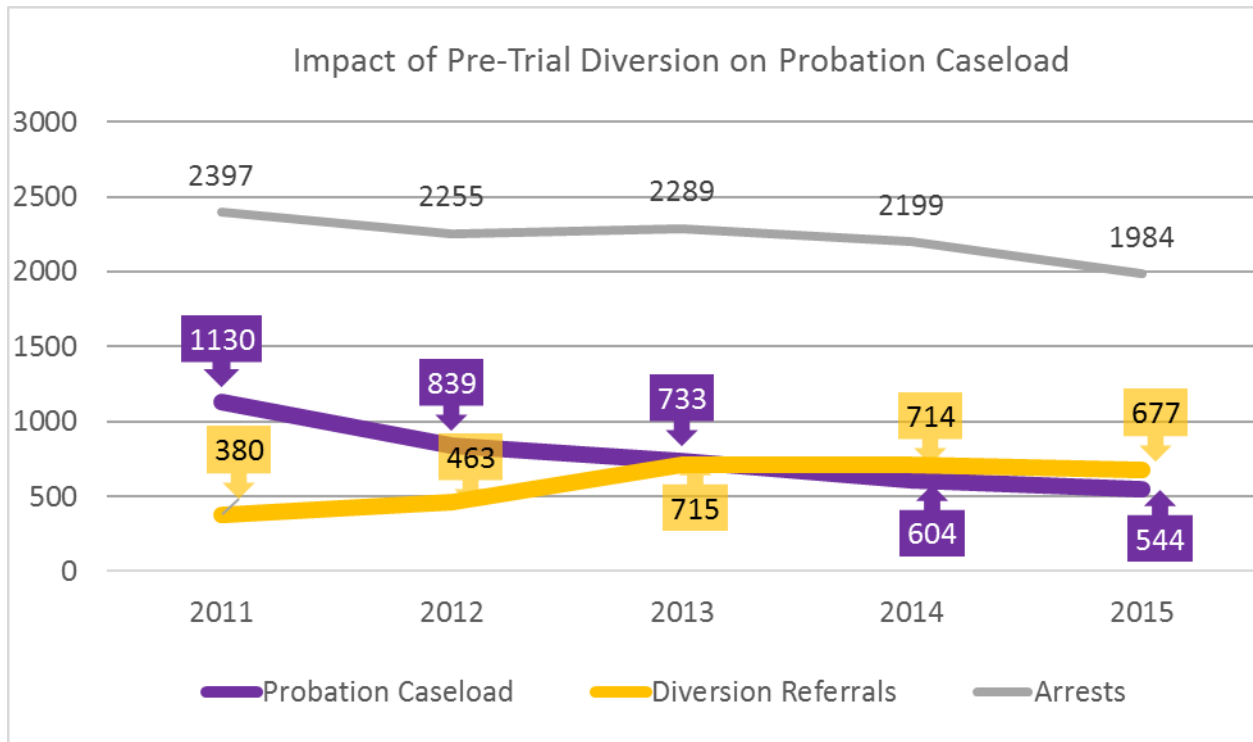
The results were immediate and striking. At the end of 2013, the number of youth successfully completing diversion had increased exponentially:



Since 2013, the percentage of cases referred to diversion have continued to increase, and the vast majority of youth that successfully complete probation are not re-arrested within the following year:



The increase in referrals to and successful completions of diversion have helped to reduce the number of youth that are placed on probation, to the point that the number of referrals to diversion have actually exceeded the number of probation cases:



This means that probation officers have smaller caseloads, so they are able to provide better case management and supervision. Additionally, there was reduced demand for the programs and services that are contracted specifically for youth on probation. As a result, these programs could become available for youth in diversion, and there are still savings from reduced program costs. Overall, the changes to diversion have had a significant and positive impact on the juvenile justice system:

- Interventions are in place approximately 4 months sooner for youth in diversion than for adjudicated youth.
- 73% of Diversion youth referred to evidence-based practices from probation did not matriculate into formal processing.
- Juvenile arrests have dropped 37% ('08→'15)
- Probation caseloads fell 52% ('11 →'15)
- Treatment costs dropped 16% ('11 →'15)

Although District Attorney Offices vary in their level of resources to devote to diversion, any Parish can conduct a review of how resources are currently being used in diversion and make changes to the process and what diversion looks like, to increase capacity and make more efficient use of whatever resources are available. Restructuring programming and moving youth through diversion more quickly will maximize capacity and allow jurisdictions to serve more youth without spending more money.

FORMAL JUVENILE JUSTICE SYSTEM INTERVENTION

Juvenile Courts

There is a need for training and continuing legal education for Judges with juvenile court jurisdiction through the Louisiana Judicial College. Statewide, there is disparity in knowledge regarding topics such as adolescent brain development, required hearings, practices and policies of OJJ, utilization of evidence-based risk assessment tools and successful diversion programs. Statewide, judges should be provided with an overview and knowledge on various pieces of important legislation such as Act 501, 499, and 617. Training should be provided across multiple disciplines, and include District Attorneys and Public Defenders.

Where appropriate, implementation of specialty courts, like juvenile drug courts, can be effective and should include 17-year-olds. Juvenile Drug Courts are in operation throughout Louisiana and were established to offer unique community-based supervision and interventions aimed at reducing drug use and high rates of recidivism associated with substance abuse. Recently, Louisiana released its Juvenile Drug Court standards. These standards, based on known best practices, are designed to improve drug court outcomes and constitute the minimum necessary requirements of Louisiana juvenile drug court programs. As with all programs, juvenile drug courts are only effective if they are implemented with fidelity, serving the population for whom drug courts are proven effective. As 17-year-olds move into the juvenile justice system, drug courts may serve as an alternative to incarceration for those youth with serious chemical dependency issues for whom other alternatives have not been effective. The commission recommends that admission criteria should be adjusted to include 17-year-olds.

Juvenile Detention

Currently, there are thirteen local Juvenile Detention Centers in the state of Louisiana, the majority of which have acceptance policies that restrict admission to the parishes in which they are located, and only a few facilities are able to accept youth that may reside in adjacent parishes. As a result, the majority of the state of Louisiana is not in close vicinity to a local facility. To date, there is limited accessibility for rural parishes resulting in youth being transported across parish lines for detention holds. This includes transportation at the time of detainment and transportation to and from court hearings. There is concern that Raise the Age will result in more youth that require detention in parishes that do not have easy access to a detention center. Additionally, detention centers are concerned about the potential for increased capacity, with the potential for overcrowding. Both concerns can be addressed by implementing detention reforms statewide to ensure that only youth who truly need to be detained, due to their risk of re-arrest or failure to appear, are transported to and held in secure detention.

Detention reform is not new to Louisiana. Several jurisdictions have successfully reduced their detention populations over the past decade through participation in the Juvenile Detention Alternatives Initiative (JDAI). Among other reforms, each of these jurisdictions developed and implemented a Risk Assessment Instrument (RAI). This instrument was created through a collaborative effort comprised of local facilities, Judges, District Attorneys, Public Defenders, local and state probation staff, and community representatives in each of the individual sites.

The RAI has provided the local parishes with an objective process that manages the admission of youth to the Juvenile Detention Centers to only youth that pose a public safety risk, and/or flight risk. Local facilities have demonstrated that a multitude of youth have been released back to parents/guardians with return rates, and/or failure to appear rates at less than 10%.

The use of risk assessment instruments (RAIs) have worked to lower detention placements objectively, with no known negative impact on public safety. Detention centers in Jefferson, Orleans, East Baton Rouge, Lake Charles, Alexandria, and Shreveport are all currently using these instruments with consistent, but varying degrees of success. It is recommended that the use of the instruments be required statewide in order to give law enforcement and detention centers better objective authority and oversight of detention decisions. Additionally, there should be a review of state statute for opportunities to minimize any unnecessary use of detention.

Many youth who are arrested and given a RAI are found to be low risk and able to be released to their parents on the condition that they appear in court when required. However, some youth may be more safely released with some alternative level of supervision while awaiting the next hearings. Alternatives to Detention include, but are not limited to, the following: Community Coaching, Electronic Monitoring, Evening Reporting Centers, Shelter Care Facilities, Day Reporting Centers, Home Detention, and/or Intensive Supervision. In rural areas, where detention options can be a distance, electronic monitoring and shelter care options could serve as a sufficient alternative to detention even for higher risk youth, given the level of security involved. It is also important that youth who are released to Alternative to Detention programs be considered as if they are in custody, and the mandated timelines for hearings should be consistent for this group of youth and the youth detained in secure facilities. Youth who are deemed eligible for release should be returned to their parent/custodian, and processed through the justice system as if they were released to their families at initial contact.

PROBATION & PAROLE

The Louisiana Office of Juvenile Justice (OJJ) is responsible for youth assigned by the local courts to their custody for both probation and parole services. In addition, five local jurisdictions (Rapides, Jefferson, Calcasieu, East Baton Rouge and Caddo parishes) offer locally run probation services.

Utilizing the projections from the raise the age study, an additional 294 nonviolent 17-year-olds per year will need community-based supervision statewide starting July 1, 2018. There is currently no published cost for probation services provided on a local level. OJJ can calculate an estimate of the cost of serving these additional youth based on caseload and average length of stay on probation. At this time, OJJ will need to hire an additional 7 Probation and Parole Officers (PPOs) and 1 Probation and Parole Supervisors to manage the increased caseload. OJJ has requested funds in FY18 to begin the recruiting and hiring process of these PPOs prior to July 1, 2018. It is anticipated that these staff must be hired in the 4th quarter of the FY2018 year. All OJJ staff must complete a 5-week preservice training prior to supervising youth.

Local Probation Departments across the state will certainly be impacted to some degree as well, and thus have begun the process of projecting possible impacts, and some have determined that

additional funding for Probation Officer positions and other support staff will be necessary. These Departments are working closely with their local Children and Youth Planning Boards to provide alternatives and opportunities for youth that are currently under supervision, and the additional youth that will be absorbed into the system when the law goes into effect.

It is also important to recognize that probation can be critical in reducing the potential impact of 17-year-olds entering the juvenile justice system, and ensuring generally that youth are not unnecessarily placed into expensive residential programs, including secure care. As previously mentioned in the sections on diversion, limiting unnecessary contact with the system can both improve public safety outcomes and create more capacity within the system. Low risk youth that are not diverted should have the opportunity for Deferred Disposition Agreements and unsupervised probation. Supervising low risk youth unnecessarily increases the level of system involvement, and wastes manpower that should be focused on youth who pose a greater risk to public safety. This also reduces the likelihood that low risk youth will end up deeper in the system as a result of technical violations of probation.

Violations of probation are often a primary reason youth end up in secure detention, as well as non-secure and secure care. It is critical that system stakeholders take steps to ensure that probation can continue to serve as an effective alternative to incarceration, rather than a driver of incarceration. Court ordered conditions of probation should be developmentally appropriate, achievable, and easy to understand. There is a growing collection of research on the efficacy of court orders, which is revealing that many youth do not understand the content of their court orders and that common conditions of probation often result in over-criminalization, thus causing probation to serve as a driver of incarceration rather than an alternative to it.¹⁰

Additionally, research on probation shows that it is most effective when it is targeted to the specific risks and needs of the individual, and is responsive to the individual's circumstances. It stands to reason that the risk, needs, responsivity principle should apply not only to how probation is delivered, but also the amount of time the individual spends on probation: probation should not last longer than is necessary to achieve the goals that are in line with the individual's risks and needs. Research supports the early termination of probation when appropriate, according to the Center for Effective Public Policy (CEPP): "Researchers determined that the offenders in the early termination groups, regardless of risk level, had lower rates of recidivism than their full-term counterparts." More research on the most effective "dosage" of probation is needed, but CEPP recognizes that, like many interventions, there is a risk of "diminishing returns, treatment fatigue, or dilution of program effectiveness."

¹⁰ Doherty, F. (2016). *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*. Georgetown Law Journal. 104, 292-364.

¹⁰ National Juvenile Defender Center. (2016). *Promoting Positive Youth Development: The Critical Need to Reform Youth Probation Orders*. Available online at: <http://njdc.info/wp-content/uploads/2016/12/Promoting-Positive-Development-Issue-Brief.pdf>

SECURE & NON-SECURE/RESIDENTIAL PLACEMENT

Using data from the 2016 *A Legislated Study of Raising the Age of Juvenile Jurisdiction in Louisiana*,¹¹ it is projected that 67 additional youth will need secure care and 20 will be in need of non-secure care annually. The following describes the changes required in the juvenile justice system to accommodate these youth.

The OJJ is responsible for youth assigned by local courts to its custody. OJJ offers two levels of custody.

- 1. Secure Care.** Secure Care is the deepest end of OJJ's continuum of care dedicated to youth in most need of treatment and pose the greatest risk to public safety. OJJ currently operates three secure care facilities for males, Swanson Center for Youth in Monroe, Swanson Center for Youth in Columbia, and Bridge City Center for Youth. OJJ contracts with Ware Youth Center in Coshatta to provide an intensive residential program for females.
- 2. Non-Secure Care or Residential Placement.** Non Secure Care is a less restrictive means of providing custody for youth in need of treatment and out of home placement, but do not pose a large threat to public safety. All non-secure care settings are run by nonprofits who contract with OJJ. OJJ currently contracts with approximately 16 providers of residential services across the state.

OJJ has projected that in the fiscal year starting July 1, 2018 (FY19), when 17-year-olds charged with nonviolent crimes will begin being served in the juvenile justice system, approximately \$200,000 in funds will be needed to provide non-secure residential services to an additional 20 youth that will need this level of care.¹² Currently, OJJ's residential contracts will not provide sufficient placements to cover the need for these additional beds. Taking into account the average length of stay (ALOS) for non-secure residential placement, it has been determined that the inclusion of 17-year-old, nonviolent offenders would require a need for an additional 13 beds. The challenges are threefold. First, there is a current waitlist for residential placement. OJJ's 2016 efforts to move custody youth to residential care rather than secure care has resulted in a waiting list for placement. Second, there is only one provider offering residential placements (transitional living) for youth 17-years-old and older, and there is a constant waiting list for this service. The services in transitional living vary greatly from offerings suited to 15- and 16-year-olds. Third, there is a possible licensing conflict between placing 17- and 18-year-olds in group homes which have been licensed to treat younger youth. In FY2018, OJJ will need the budget authority to develop, advertise, select and execute contracts through a Request for Proposals for this service so that these services are available July 1, 2018. Deputy Secretary James Bueche and Undersecretary Geary Williams will be addressing this task with OJJ staff.

The need for additional services in the secure care custody level will not come until July 1, 2020 when 17-year-olds charged with violent offenses will be included in the juvenile justice system.

¹¹ See supra note 1

¹² Calculation based on the average length of stay for non-secure youth and the FY2015 average rate for non-secure.

OJJ estimates that, starting July 1, 2020 (FY21), an additional \$3,095,994.24 will be needed annually to serve the approximately 67 additional youth projected to be served in secure care. When taking the ALOS for youth in secure care into account, this equates to a need for an additional 59 beds per year for 17-year-olds.

The Commission will be monitoring the utilization of OJJ's secure care beds in the period leading up to FY21. At this time, OJJ is operating 297 secure care beds for males. OJJ is requesting operating funds to open a 4th secure care facility in Bunkie, LA in FY18. The opening of the Acadiana Center for Youth (ACY) will allow OJJ to lower the number of youth at Swanson Center for Youth in Monroe and Bridge City Center for Youth to populations that will be more conducive to therapeutic rehabilitation. This will move Louisiana closer to fully realizing the therapeutic model of secure care set in place by reformers over 10 years ago. The model is based on a network of small, regionally located facilities that are not over 72 beds and have dorms of no more than 12 youth. Data provided by the OJJDP annual census of juvenile facilities shows that large facilities (over 100 youth) are more dangerous than their smaller counterparts. In addition, it is more difficult to offer therapeutic services in large facilities.

It has been noted that legislation calling for additional court reviews of custody youth enacted in the 2016 Legislative Session could have an impact on the non-secure and secure care population over the next few years. The legislation was effective August 1, 2016. At this time, the OJJ is not able to determine whether these changes have directly impacted the custody population; however, the daily census of youth in secure care has fallen by eight percent since August 2016 and 22% since March 2016. OJJ will continue to monitor the number of youth served in custody on a quarterly basis and report these numbers to the Commission so that planning for the July 1, 2020 implementation will not result in overcrowding of secure care facilities leading to safety concerns and diminished opportunities for rehabilitation.

Research has shown that within a year of re-enrolling in school after spending time in juvenile detention, up to seventy- five percent of formerly incarcerated youth end up dropping out of school (JPI, 2011). Within four years, less than fifteen percent will finish their high-school education (JPI, 2011). Thus, to support OJJ and state efforts for improved alternative education for youth in OJJ care, the Louisiana Department of Education (LDOE) is convening a study group of key external stakeholders representing local school systems, student and family advocacy organizations, student behavior and discipline experts, and juvenile justice stakeholders in order to identify quality indicators of effective alternative education and recommend accountability measures appropriate for such schools. The LDOE study group will provide input and recommendations, by August 1, 2017, regarding processes and procedures to support the offering of quality programs at Office of Juvenile Justice (OJJ) schools in Louisiana, as well as the transition of students both to and from these programs.

RECOMMENDATIONS

1. Create Programs and Policies to Safely Reduce the Number of Youth, Including 17 Year Olds, Entering the Juvenile Justice System.

- a. Increase opportunities for education and employability.
 - i. Identify and implement quality indicators for alternative education programs.
 - ii. Invest resources in quality, accountable alternative education programs with demonstrated success.
- b. Continue to invest in adult basic education programs leading to GED/Hi-Set attainment for low-income youth.
- c. Continue to expand opportunities for youth to earn diplomas.
- d. Continue to reform local and state level policies and statutes related to school discipline to reduce unnecessary suspensions, expulsions and school-based arrests.
- e. Increase access to evidence-based behavioral health services.
 - i. Whenever possible, implement the best evidence-based programs.
 - ii. Assist smaller providers and rural areas in moving providers towards evidence-based practices where staffing patterns and/or budget restraints will not allow for the larger evidence-based programs.
 - iii. Require that funding of unproven programs include an evaluation component to prove effectiveness if receiving state funds.
 - iv. Incentivize providers to sustain and build capacity for evidence-based programs with mainstream funding streams.
 - v. Work with universities and state agencies to develop a workforce trained in and prepared to deliver evidence-based services and programs.
- f. Identify racial disparities at all points in the juvenile justice system and develop policies and reforms to reduce and, ultimately, eliminate them.

2. Create and Expand Opportunities for Diversion for 17 year olds in the juvenile justice system.

- a. Create opportunities for police diversion at point of arrest.
 - i. Consider opportunities for statutory reform to allow law enforcement to use civil citation as an alternative to arrest for offenses that represent youthful misbehavior as opposed to more serious delinquency.
 - ii. Expand the use of Resource and Assessment Centers in local communities
- b. Apply guidelines and standards for district attorney juvenile diversionary programs to 17 year olds effective July 1, 2018.
- c. Incentivize district attorney use of diversion.
- d. Seek additional federal, state and local funding to support diversion.
- e. Expand the availability and use of informal adjustments and deferred disposition agreements.
- f. Restructure programming and move youth diversion more quickly to maximize capacity and effectiveness in an age appropriate manner to allow jurisdictions to serve additional youth without spending more money.

- 3. Develop and implement continued legal education for judges with juvenile court jurisdiction that addresses issues that are unique to juveniles and the juvenile justice system.**
- 4. Expand the use of evidence-based specialty courts in the juvenile justice system that maintain fidelity to best practices and standards.**
- 5. Minimize the unnecessary use of detention to safely create capacity for 17 year olds.**
 - a. Develop and implement risk assessment tools statewide.
 - b. Expand the availability and use of alternatives to detention, where appropriate.
- 6. Adequately fund the Office of Juvenile Justice to ensure a safe transition for 17 year olds.**
 - a. Allocate an additional \$400,000 to OJJ's budget to
 - i. Hire 7 probation officers and 1 supervisor
 - ii. Contract with residential facilities and independent living providers to provide housing and daily living skills services
- 7. Mandate that any savings realized by this reform must be reinvested in the Juvenile Justice system**