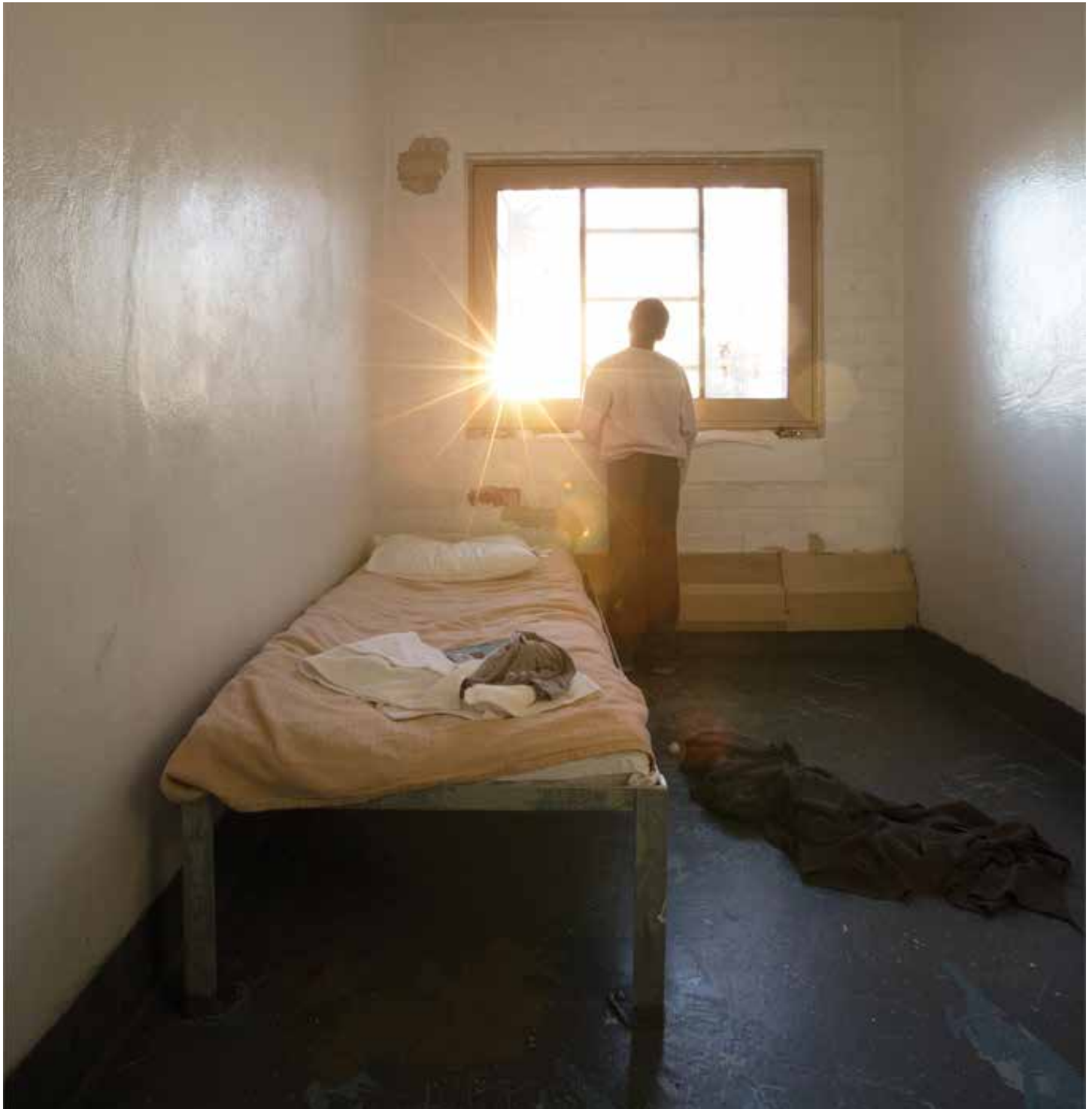




Principles of Effective Juvenile Justice Policy

Juvenile Justice

NATIONAL CONFERENCE *of* STATE LEGISLATURES | JAN 2018



Principles of Effective Juvenile Justice Policy

PREPARED BY ANNE TEIGEN

The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation's 50 states, its commonwealths and territories.

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- Ensure state legislatures a strong, cohesive voice in the federal system

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About the Project and Work Group

The NCSL Juvenile Justice Principles Work Group project was developed under an NCSL partnership with The Pew Charitable Trusts public safety performance project. The work group project responds to the challenge lawmakers face of constructing juvenile justice systems that are both fiscally responsible and improve outcomes on many important fronts: protecting and enhancing public safety, holding youth accountable, helping youth develop the skills they need to succeed, preserving and strengthening families, and promoting fairness.

The NCSL Criminal Justice Program assembled the Juvenile Justice Principles Work Group in early 2017. The bipartisan, 15-member group includes officers of NCSL's Law and Criminal Justice Committee and other legislators who are recognized as leaders on these issues. The group spent 11 months identifying principles for effective juvenile justice policymaking that are rooted in research, reflect bipartisan or nonpartisan values, and help states invest in proven methods to put justice-involved youth back on the right track, while keeping communities safe. After developing the principles, the work group explained and illustrated them with examples of key issues and approaches.

The issues addressed in these Principles reflect the important role of state legislatures in enacting policies that avoid unnecessary involvement of youth in the justice system and support evidence-based interventions that reduce recidivism and protect public safety. While working group members and other lawmakers recognize that confinement may be necessary for youth who commit the most serious crimes and pose the greatest threat to public safety, a major interest of the group was sustaining and reinforcing the current trends of falling juvenile crime and out-of-home placement rates.

Many concepts addressed in the principles emerged from research on effective approaches in addressing juvenile delinquency to achieve better outcomes for youth and communities. Mindful that juvenile justice policies impact various levels and branches of government and the communities they serve, the principles also reflect the value lawmakers place on involving stakeholders in policy development and the importance of interbranch and intergovernmental collaboration, information exchange, transparency and evaluation.

The work of this group, and the report produced, capture fundamental principles for juvenile justice policy. It is the intent of NCSL and this work group that the principles and examples presented here will help guide and inform many aspects of juvenile justice policy now and well into the future.



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Principles of Effective Juvenile Justice Policy

1. Juvenile justice policies should be based on data and research about youth development and delinquency, and effective responses to prevent reoffending and promote improved outcomes for youth, communities and families.

- Use state and local data to identify and diagnose a jurisdiction's specific challenges.
- Develop appropriate solutions using the best available scientific evidence from across the nation.

2. Funding should be prioritized for juvenile justice programs, policies and practices that are backed by research and evidence demonstrating effectiveness.

- Consider eliminating ineffective interventions and reinvesting the savings into programs that reduce reoffending and improve outcomes for youth.
- Create innovation funds to develop the evidence base for promising programs.
- Match youth with specific services that provide the level of intensity and length of service that will be most effective.

3. Juvenile justice policies and stakeholders should avoid the unnecessary involvement of youth in the juvenile justice system.

- Encourage alternatives that divert appropriate youth from formal court processing.
- Find ways to address youths' risks and needs outside the court system and involve them in diversion opportunities only as long as necessary.
- Prioritize strategies that task child-serving systems other than the juvenile justice system to meet youths' needs for matters that do not impact public safety.
- Schools, law enforcement, courts and other stakeholders should communicate about the appropriate roles of law enforcement officers and consider limiting their involvement to serious matters of safety.

4. The age and scope of juvenile court jurisdiction should take into account research and evidence about youth development.

- Set the minimum age of juvenile court jurisdiction to an age at which the average youth is able to understand consequences, be held responsible, and change behavior with appropriate interventions.
- Determine the maximum age of juvenile court jurisdiction, the age of extended jurisdiction, and the scope of transfer to the adult system in accordance with research on adolescent brain development, behavioral change and the effects on public safety.

5. Objective assessment tools should be used to inform decisions at various stages of the juvenile justice process so that interventions are responsive to the risks, needs and strengths of youth.

- Fund and validate assessment tools tailored for specific youth populations in order to better inform juvenile justice policy decision-making.
- Fine-tune such tools to avoid disparate treatment or overrepresentation of particular groups of youth.

6. Juvenile justice policies should promote fairness and protect youths' due process rights.

- Dedicate sufficient resources to indigent juvenile defenders to provide high-quality legal representation in delinquency proceedings, and provide for timely hearings at all stages of the justice process.
- Promote access to justice by communicating legal rights, responsibilities and consequences in developmentally appropriate and culturally competent language.
- Ensure that rules and expectations for youth are reasonable and that there are clear paths for exiting the juvenile justice system.

7. Juvenile justice policies should strive to keep youth in the community, employ evidence-based methods to promote positive youth development, and build on the strengths of youth and their families.

- Establish rules that prevent out-of-home placement except for the highest-risk youth who cannot safely be treated and held accountable in the community.
- Limit time in out-of-home placement to no longer than what research indicates is effective to reduce recidivism.
- Structure probation to reduce recidivism and promote youth success, including limiting length of stay, tailoring conditions of supervision and engaging families.

8. Conditions in residential facilities and other programs should be humane, supportive of rehabilitation, developmentally appropriate and “trauma-informed,” incorporating practices that understand, recognize and respond to trauma.

- Establish standards for humane conditions, actively monitor both state-run and contracted residential facilities, and ensure that standards are met.
- Allocate funds to ensure that youths’ risks and needs are appropriately addressed when they do need to be confined.

9. Juvenile justice policies should support youths’ healthy transition to adulthood and reduce barriers to rehabilitation, including the collateral consequences of being involved in the justice system.

- Consider the ability of youth and their families to pay for the costs associated with system involvement and eliminate fines and fees wherever possible.
- Recognize and limit the effects of collateral consequences—such as obstacles to higher education, housing, employment (including in certain licensed professions) and military service—through appropriate confidentiality protections, expungement, record-sealing and other policies.
- Support youth development with re-entry services that seek to transition juveniles out of the system toward becoming healthy adult members of society.

10. Juvenile justice policies should eliminate unfair and disparate treatment, and ensure that justice systems meet the needs of overrepresented and other special populations of youth.

- Consider policies and practices that foster data collection, transparency, education and accountability regarding disparate treatment and overrepresentation, and develop and implement appropriate remedies.
- Ensure that juvenile justice systems and staff are equipped, skilled and educated to meet the diverse needs of youth and families in culturally responsive and linguistically competent ways.

11. System-involved youth, families, crime victims and survivors impacted by the juvenile justice system should play a central role in informing the development of juvenile justice policy and finding solutions to hold youth accountable in age-appropriate ways.

- Implement policies that provide restorative responses to crime that seek to address the needs of the victim, community and responsible youth.
- Structure and provide access to resources so that justice-involved youth who have experienced trauma or victimization can access victims’ services.

12. Cross-branch oversight mechanisms should hold government systems accountable, monitor youth outcomes, encourage system improvements and invest in effective justice system practices.

- Equip relevant agencies and stakeholders with opportunities, training and resources to ensure effective implementation.
- Invest in data systems, training and other infrastructure that promote transparency and continuous quality improvement in juvenile justice systems.
- Structure oversight bodies to enable regular communication among stakeholders, provide access to high-quality data and analysis, and include performance review.
- Include individuals in oversight bodies who can bridge the gap between the development of state policy and its implementation.



The Principles at Work

Principle 1

Juvenile justice policies should be based on data and research about youth development and delinquency, and effective responses to prevent reoffending and promote improved outcomes for youth, communities and families.

In the past decade, a growing body of research has contributed to a greater understanding of youth development and effective responses to youth delinquency among lawmakers and members of the juvenile justice field. From identifying the risks and needs associated with delinquency to evaluating promising practices employed by the justice system, research can serve as a guidepost for lawmakers seeking to create effective juvenile justice policies that will improve outcomes for youth and the community.

Research, for example, can inform lawmakers about the ways in which the juvenile justice system can promote public safety. In the seminal “Pathways to Desistance” study,¹ researchers found that most young people cease their involvement in crime merely with the passage of time, including those who commit serious offenses. Research also shows that institutional placement for juveniles does not necessarily achieve greater reductions in recidivism than community supervision,² and that diversion can in some instances reduce reoffending more than traditional juvenile justice system processing.³ Other studies show that appropriately deployed community-based supervision can reduce recidivism for most justice-involved youth,⁴ and longer periods of juvenile incarceration may have little to no marginal benefit.⁵ Since central goals of the juvenile justice system are to prevent reoffending and promote improved outcomes, relevant data and research should be considered cornerstones of the policymaking process.

■ Use state and local data to identify and diagnose a jurisdiction’s specific challenges.

Several states are using site-specific data to help identify and diagnose challenges in their juvenile justice systems. The data allow states to better understand the nature of delinquency in their jurisdictions and implement policy grounded in those specific circumstances.

New Jersey began [examining juvenile detention data](#)⁶ in 2004, when the state became a site for the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI). Until that point, staff at local detention centers manually compiled information, such as the number of youth housed in facilities and their demographic information, and then faxed it monthly to the state juvenile justice commission. With only static numbers, no one at the state level could discern lengths of stay or the changing composition of the youth detained. As one agency official put it, “If you have 16 kids today and 16 kids tomorrow, there’s no way to know whether they were the same 16. It wasn’t really that helpful in determining who was in detention or why.”⁷

“Perhaps the most important lesson learned from these analyses is that the vast majority of juvenile offenders grow out of antisocial activity as they make the transition to adulthood; most juvenile offending is, in fact, limited to adolescence...”

—*Pathways to Desistance study, page 9.*

“One important implication for practitioners is that interventions for juvenile offenders should be aimed explicitly at facilitating the development of psychosocial maturity and that special care should be taken to avoid exposing young offenders to environments that might inadvertently derail this developmental process...”

—*Pathways to Desistance study, page 9.*

As part of JDAI, five pilot counties compiled a one-day snapshot in 2004 that showed how many youth were detained, the reasons for detention (nature of charges and/or rule violations, failures to appear), youths' status (pretrial vs. pending placement), demographic breakdowns and lengths of stay. With this data, local steering committees found inefficiencies in some counties' case processing that led to young people remaining in detention for two weeks or more, even after being assigned a detention alternative. Counties addressed these problems in distinct ways: Monmouth County created a new procedure that allowed young people to be placed directly into detention alternatives without first having to pass through secure detention, while Essex County hired a "case expeditor" to help move cases through the system more quickly.

The data also revealed that over 20 percent of detention admissions resulted from technical violations of probation, not from new offenses. In response, Hudson County formalized a system of alternative responses for some probation violations and began holding conferences with young people and their parents before imposing detention. Other counties focused on developing new alternatives to detention, such as evening reporting centers, which supervise youth during after-school and evening hours, while they live in their own homes. Since that time, New Jersey has deepened its commitment to data-driven juvenile justice reform, establishing a staff of detention specialists and other structures to support such county-level reforms.

Utah took a statewide approach to improve the collection and use of juvenile justice data by passing [House Bill 239](#)⁸ in 2017. The sweeping measure was produced by the interbranch Utah Juvenile Justice Working Group, a 19-member task force appointed by state leadership to study state data. The working group received technical assistance from The Pew Charitable Trusts public safety performance project, which supplied additional researchers to help gather and analyze data. The group [found](#)⁹ that the majority of referrals to the juvenile justice system were for misdemeanor offenses, and more than 80 percent of youth entering the court system for the first time presented a low risk of reoffending. Yet a high proportion of these youth were being placed out of their homes, and Utah judges had no statutory standards to guide their dispositions. To address this problem, House Bill 239 expanded effective precourt interventions, focused pre-adjudication detention on higher-risk youth, and developed statewide local detention alternatives. The data enabled state leaders to develop, and ultimately pass, legislation that was responsive to the particular issues facing the Utah juvenile system.

■ **Develop appropriate solutions using the best available scientific evidence from across the nation.**

In order to ensure that research informs policy at the agency and court levels, some state legislatures have mandated reviews of existing practices and sought to bring them in line with the best evidence. In Virginia, for instance, the state's [2016 budget bill](#)¹⁰ directed the Department of Juvenile Justice to "develop a transformation plan to provide more effective and efficient services for juveniles, using data-based decision-making, that improves outcomes and safely reduces the number of juveniles housed in state-operated juvenile correctional centers, consistent with public safety." A department review found that while the use of large, secure facilities was decreasing nationally, the use of [these facilities](#) in Virginia had increased. In developing its [transformation plan](#),¹¹ the department sought evidence from across the country to evaluate policy options. Its plans to "Reduce, Reform and Replace" call for building a continuum of evidence-based services, placement alternatives, and smaller treatment centers while increasing diversion and use of evidence-based skills and tools among its workers.

Pennsylvania has created and funded a center specifically responsible for turning research into best practices in responding to juvenile delinquency. The Pennsylvania Commission on Crime and Delinquency (PCCD) and Department of Human Services fund the Evidence-based Prevention and Intervention Support Center (EPISCenter), a collaborative partnership between the PCCD and the Prevention Research Center at Penn State University's College of Health and Human Development. The [EPISCenter](#) "aims to promote the greater use of prevention and intervention programs that have proven their effectiveness in preventing and reducing delinquency in rigorous scientific evaluations." It does so by focusing on interventions that have shown results over multiple studies and a sustained period of time.¹² The state provides grants to local communities to introduce and implement these programs, and the center engages in outreach, facilitates peer networking to encourage knowledge sharing, and provides technical assistance for implementation.¹³

Principle 2

Funding should be prioritized for juvenile justice programs, policies and practices that are backed by research and evidence demonstrating effectiveness.

Although early juvenile justice systems were grounded in rehabilitative models, the late 1980s and early 1990s saw a national shift to an approach that often relied on removing youth from their homes as a response to delinquency. Today, many studies have found that out-of-home placement, even in non-secure group homes, does not reduce the likelihood of reoffending among justice-involved youth compared to similar youth who are not removed from their homes.¹⁴ Studies have also uncovered statistically significant negative consequences of juvenile incarceration that carry into adulthood, including alcohol problems, welfare reliance and adult incarceration.¹⁵ Armed with research, lawmakers are exploring ways to fund juvenile justice programs, policies and practices that effectively protect public safety, reduce recidivism and support a young person's successful maturation into adulthood.

- **Consider eliminating ineffective interventions and reinvesting the savings into programs that reduce reoffending and improve outcomes for youth.**

States are increasingly using data (See Principle No. 1) to reduce ineffective and costly interventions and reinvesting the money saved into more effective programs. For example, in 2015, a bipartisan, inter-branch juvenile justice work group in Kansas conducted a comprehensive analysis of the state's juvenile justice system. The analysis [found](#)¹⁶ that juveniles were spending more time under supervision, cycling through a greater number of facilities and remaining in out-of-home placements longer than they had a decade earlier. The group also found that youth removed from their families and communities and placed in group homes often did not receive appropriate treatment. Lower-level youth offenders accounted for a large share of both residential beds and probation services, even though group home beds cost about \$50,000 a year, and beds in secure facilities cost approximately \$89,000. The group discovered that over two-thirds (more than \$53 million) of the Kansas Department of Corrections' budget was spent on out-of-home placements, while less than a quarter was spent on community supervision, despite the fact that probation is significantly less costly—10 times less expensive than secure placement—and [evidence](#)¹⁷ suggests it is more effective at reducing recidivism.

The work group's analysis laid the foundation for [Senate Bill 367](#)¹⁸ in 2016. The comprehensive bill was projected to save \$72 million over 6 years, but in addition, lawmakers allocated \$2 million to expand evidence-based community programming for juvenile justice youth statewide, prior to any savings from the reform being realized. The law also contains provisions to reduce out-of-home placements and requires the savings from those reductions to be invested in evidence-based options at every stage of the juvenile justice system. The legislation prioritizes programs that focus on the risks and needs most associated with each youth's offending behavior, including cognitive behavioral and family therapy, substance abuse and sex offender therapy, where appropriate.

Results of the Principles at Work in Kansas

Kansas Senate Bill 367 is showing early signs of success.¹⁹ The number of youth held in detention statewide fell from 123 in July 2016 to 89 in March 2017, and during the same period, the group home population dropped from 145 to 83. In 2017, the Kansas Department of Corrections closed one of its two juvenile correctional facilities.

The savings realized by reducing the number of youth held in detention and group homes allowed the state to shift \$12 million to community-based services. Among other investments, this money has made possible a rollout of functional family therapy (FFT) in every county in the state. Family-based programming like FFT is backed by strong evidence of effectiveness. A meta-analysis revealed that young people participating in family-based programs had a 16 percentage-point reduction in the likelihood of reoffending compared to control groups that received no family-based treatment.²⁰

Reinvesting savings from ineffective interventions can be difficult for states facing tight budgets and competing interests. To address this, [Hawaii](#)²¹ included a legislative safeguard in its comprehensive juvenile justice reform package in 2015. It prohibits a portion of the appropriations dedicated to the youth corrections facility from lapsing and diverts those funds to the state's Office of Youth Services.

■ Create innovation funds to develop the evidence base for promising programs.

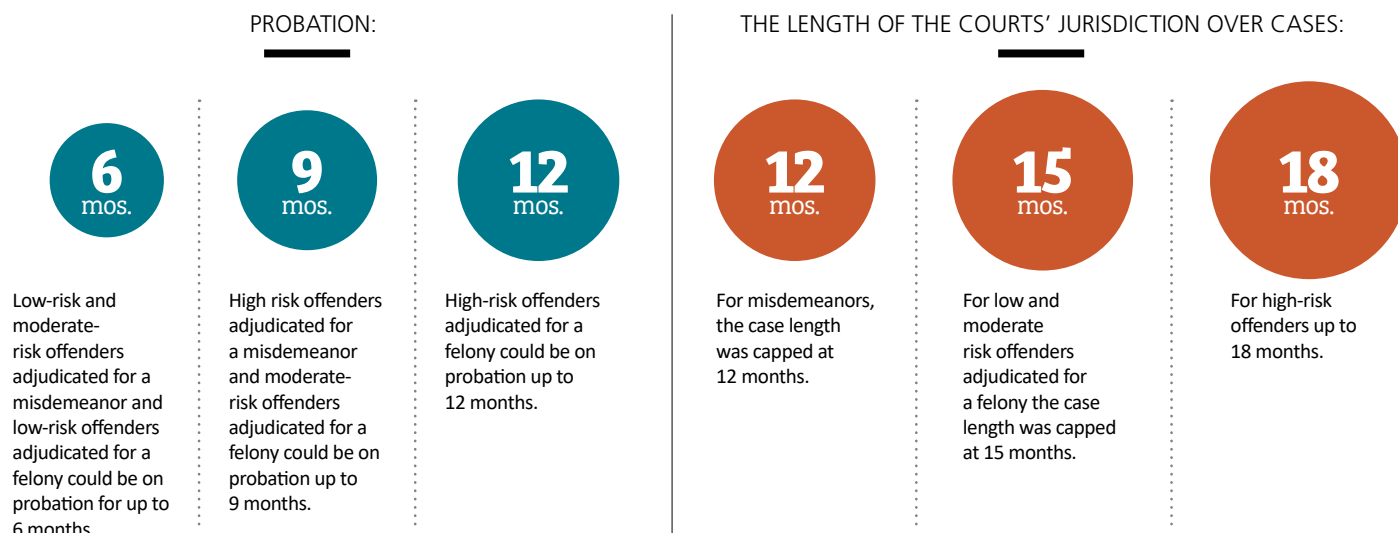
States can foster the development of promising programs to address juvenile delinquency with innovation funds. In Tennessee, state statute prohibits agencies, like the department of children's services, from spending state funds on any juvenile justice program unless the program is evidence-based.²² The law directs the department to "continue the ongoing research and evaluation of sound, theory-based and research-based programs with the goal of identifying and expanding the number and type of available evidence-based programs." The law also permits the department to fund pilot programs.²³

■ Match youth with specific services that provide the level of intensity and length of service delivery that will be most effective.

One way to align the goals of community safety, better outcomes for youth and fiscal responsibility is to provide young people with the level of intensity and length of service that will be most effective. In examining state data, the Kansas juvenile justice work group determined²⁴ that some practices did not align with research about effective intervention. For instance, a large share of out-of-home placement space was used for youth adjudicated for low-level offenses. The overall proportion of misdemeanants in residential placements began to increase in 2004, and by 2014 accounted for roughly two-thirds of the youth in non-secure group homes and one-third of those in secure facilities. As a solution, Senate Bill 367 clearly defined eligibility for out-of-home placement by requiring the court to satisfy specific criteria. Now, to incarcerate a young person in a juvenile correctional facility or place him or her in a group home, the court must find, in the written record, that the youth poses a significant risk of harm to another person or property. The court must then make sure the young person is eligible to be placed under a newly revised scheme that considers the seriousness of the offense, criminal history and results of a risk assessment. Courts may not order out-of-home placement for youth who have been adjudicated for misdemeanors, probation and after-care violations, and many felonies. Group homes in Kansas are, for the most part, being phased out, except for 50 beds statewide that can be used for younger juveniles who meet the strict eligibility criteria for placement.

The work group also found that the state had no laws or policies guiding the length of service delivery in important areas. Senate Bill 367 thus created limits on the length of probation and overall case length based on the severity of the offense and the youth's risk of reoffending.

Kansas Statutory Limits on Length of Probation and Overall Case Length



Principle 3

Juvenile justice policies and stakeholders should avoid the unnecessary involvement of youth in the juvenile justice system.

Involvement in the juvenile justice system can have unintended adverse consequences for youth. Secure confinement, for example, can limit meaningful rehabilitation, expose youth to others who are more experienced with criminal behavior,²⁵ and reduce the likelihood that a youth will graduate from high school.²⁶ Diverting youth where appropriate can limit adverse consequences and reduce reoffending more than traditional court processing,²⁷ including for medium- and high-risk youth.²⁸ Diversion can also enable jurisdictions to realign fiscal resources to support evidence-based community alternatives.

■ Encourage alternatives that divert appropriate youth from formal court processing.

Diversion programs typically allow a youth to complete certain requirements in lieu of being formally charged with an offense, or in exchange for the original charges being dismissed or reduced. These mechanisms can correct problematic behaviors without involving the justice system, and can improve outcomes for youth. A meta-analysis of studies of 73 pre- and post-charge diversion programs found that “diversion is more effective in reducing recidivism than conventional judicial interventions.”²⁹ While the common goal among diversion programs is to minimize or avoid unnecessary involvement in the juvenile justice system, these programs vary widely. Programs can differ in the youth they reach, the point in the process at which youth are diverted, the type of conditions or interventions that are included, and what happens if a youth successfully completes, or fails, the diversion program. States have undertaken various strategies to increase opportunities for diversion and outline conditions for their application.

Kentucky’s 2014 [comprehensive juvenile justice legislation](#), based on recommendations from a bipartisan, interbranch task force, created an enhanced diversion program for status and low-level offenders with little to no history of prior offenses. Before these cases are referred to a county attorney, court-designated workers using evidence-based assessment tools make referrals to appropriate services. (For more on assessment tools, see Principle No. 5.) After making referrals, court-designated workers are responsible for working with youth and families to ensure accountability and help diverted youth overcome barriers to completing program requirements and services.

The law prevents prosecutors from overriding a decision to allow a youth with no prior history and a misdemeanor charge to be handled in this pre-court process. This provision was added after task force members learned that young people in 43 percent of misdemeanor cases and 29 percent of status offense cases filed in court had been eligible for diversion, but came to court because the county attorney or judge overrode the diversion decision.³⁰ The law still allows a judge to override the diversion decision.

West Virginia in 2015 passed [Senate Bill 393](#),³¹ a wide-reaching juvenile justice reform bill that, in part, expands diversion programs. The law allows truancy diversion specialists, such as school-based probation officers and social workers, to work with schools, youth and families to address problem behavior before the truancy results in a court appearance. The law also establishes a two-step precourt diversion process similar to Kentucky’s. Young people who are sent to court for either a status offense or certain low-level misdemeanors must be referred by a caseworker to community services, and those service providers must contact the youth or their families within 72 hours. If the youth does not complete the diversion program, the case must be reviewed by a multidisciplinary team, instead of going straight to court. This process diverts many low-level offenders from formal court involvement, while still retaining the traditional court process for youth who do not complete the diversion program.

■ Find ways to address youths’ risks and needs outside the court system and involve them in diversion opportunities only as long as necessary.

One program that addresses young people’s risks and needs outside of the court system is South Bronx Community Connections (SBCC), a program of New York City nonprofit [Community Connections for](#)

Youth. The [initiative](#) diverts youth from formal court involvement by connecting them to a network of supportive adults and activities in their neighborhoods, and encouraging their engagement in neighborhood improvement projects like community gardens. It also facilitates family involvement through outreach and parental coaching and support. An independent evaluation from the John Jay College of Criminal Justice found that youth who participated in the SBCC program were one-third less likely to be rearrested than similarly situated peers.³² The program's mandate with each youth lasts only 60 days, although youth have an opportunity for continued, voluntary engagement after that period expires.³³

■ **Prioritize strategies that task child-serving systems other than the juvenile justice system to meet youths' needs for matters that do not impact public safety.**

Studies³⁴ have shown that treating young people in the community, using non-justice personnel, can reduce future involvement with the juvenile justice system. Some jurisdictions, like Utah and Tennessee, have enacted laws and policies that direct child-serving systems other than the justice system—including those responsible for child welfare and health and human services—to address the risks and needs of young people.

Approximately two-thirds of youth in the juvenile justice system have a diagnosable mental health and/or substance use disorder,³⁵ and behavioral health problems can often lead to, or be expressed as, offending behavior. Utah's House Bill 239 provided funding for statewide expansion of early interventions, such as Mobile Crisis Outreach Teams. In Salt Lake County, these teams provide round-the-clock, face-to-face response for behavioral health crises at no cost for youths and adults, as well as ongoing support once the crisis has passed, such as referrals to community-based treatment providers.³⁶ They provide consultation and support not only to individuals, but also to families, schools, treatment providers and first responders who may be unfamiliar with symptoms of mental illness and helpful responses. For those outside of major urban centers, the SafeUT Crisis Text and Tip Line is a statewide service that provides real-time crisis intervention for youth via text message or phone calls. Licensed clinicians provide supportive or crisis counseling, suicide prevention and referral services 24/7. This service can fulfill some behavioral health needs of its youth who might otherwise end up in the juvenile justice system.

Tennessee [created a new disposition](#)³⁷ option for young curfew violators in 2015 legislation. Previously, when a child violated government-imposed curfew, officers had three options: take the child home to a parent or guardian if available, issue a summons for the family to appear in juvenile court, or detain the child immediately. New legislation added a fourth option: allowing officers to take young curfew violators to a designated curfew center. The legislation allows minors found after curfew to await pick-up from a parent or guardian in a safe location rather than entering confinement.

- **Schools, law enforcement, courts and other stakeholders should communicate about the appropriate roles of law enforcement officers and consider limiting their involvement to serious matters of safety.**

School disciplinary infractions can develop into juvenile justice processing when the roles and responsibilities of schools, law enforcement and courts lack clarity, or school systems rely excessively on law enforcement and the justice system to resolve minor behavioral problems, rather than serious matters of public safety. A study of 1 million Texas students conducted by the Council of State Governments Justice Center found that students who were suspended or expelled for a discretionary violation were almost three times as likely to be in contact with the juvenile justice system the following year, compared to those who had no school disciplinary actions.³⁸ United States Department of Education [statistics](#)³⁹ reveal that during the 2011-2012 school year, approximately 92,000 students were arrested at school nationally.

Florida and Kansas provide examples of how schools, law enforcement, courts and others child-serving entities can define and limit the role of law enforcement. In Broward County, Florida, juvenile justice agency leaders, law enforcement and the school board adopted a [cooperative agreement](#)⁴⁰ designed to limit the types of school referrals to juvenile court. The agreement, signed in 2013, established new guidelines for handling non-violent misdemeanor offenses on school campuses, outlining when law enforcement involvement is necessary and when problems should instead be handled through the school.

In Kansas, Senate Bill 367 included provisions to reduce school referrals. The legislation mandates that school-based law enforcement officers and school administrators receive joint training for “responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.” The training must include information on “adolescent development, risk and needs assessments, mental health, diversity, youth crisis intervention, substance abuse prevention, trauma-informed responses; and other evidence-based practices in school policing to mitigate student juvenile justice exposure.”⁴¹ The law also requires that each school district develop and adopt memoranda of understanding, like the one in Broward County, to minimize referrals of school misconduct to law enforcement and the courts. As a result, schools and school resource officers are tasked with focusing on educational concerns and school behavior, while courts can focus on matters of public safety.

What the Public Thinks

Nearly 90 percent of American voters want schools to take more responsibility for youth who commit low-level offenses at school and only involve the juvenile justice system in extreme cases.⁴²



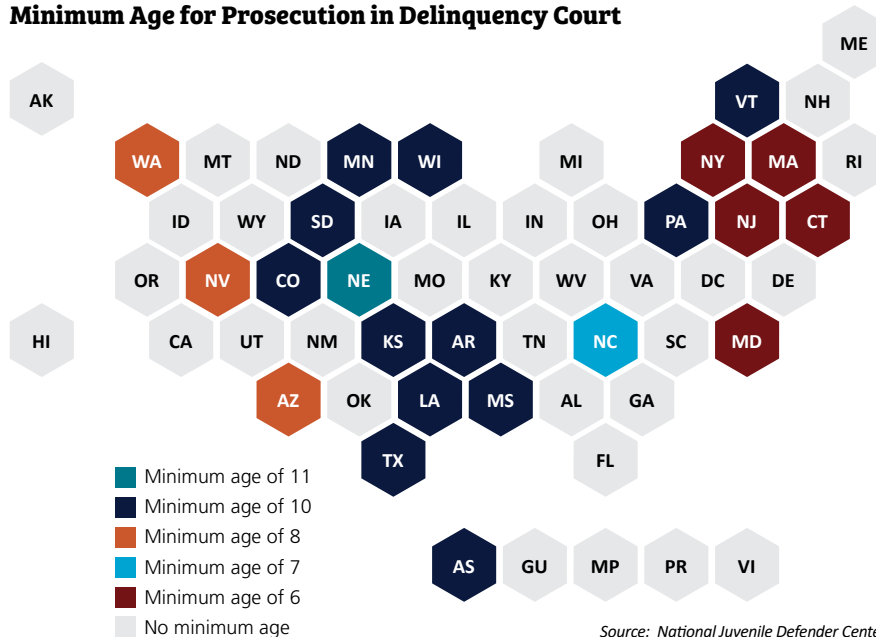
Principle 4

The age and scope of juvenile court jurisdiction should take into account research and evidence about youth development.

State juvenile courts with delinquency jurisdiction handle cases in which youth are accused of actions that would be criminal offenses if committed by adults. All states, by statute, set a maximum age for juvenile court jurisdiction over youth charged with a law violation based on age at the time of the offense, arrest or referral to court. In 45 states, for most offenses, the maximum age of juvenile court jurisdiction is 17, meaning that the juvenile court has jurisdiction until the youth's 18th birthday. In five states—Georgia, Michigan, Missouri, Texas and Wisconsin—the line is drawn at age 16, meaning that the court has jurisdiction until the youth's 17th birthday. Fewer than half the states set a minimum age of juvenile court jurisdiction. All states, however, have waiver or transfer laws that allow or require youth to be prosecuted as adults for more serious offenses, even when they are under age 18.

In the past decade, states have increasingly modified the age of juvenile court jurisdiction and transfer laws.⁴³ The change in approach has been spurred by a growing body of [research](#) that recognizes the relationship between delinquency and youths' psychosocial immaturity, as well as Supreme Court case law that finds these characteristics of adolescence render young people less culpable for their actions.⁴⁴ Research has shown that understanding the implications of one's actions is an ability that evolves during the slow process of brain development, which is not complete for young people. It also indicates that the ability to control impulses, consider consequences and alternative points of view, and take responsibility for one's actions is still developing in adolescents.⁴⁵

Minimum Age for Prosecution in Delinquency Court



- Set the minimum age of juvenile court jurisdiction to an age at which the average youth is able to understand consequences, be held responsible, and change behavior with appropriate interventions.

Twenty-one states, [by statute](#), set a minimum age of juvenile court jurisdiction. Ten states and one territory—American Samoa, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Pennsylvania, South Dakota, Texas, Vermont and Wisconsin—set the minimum at age 10. Case law in Minnesota sets a minimum age of 10 for delinquency adjudications. In Arizona, Nevada and Washington, the minimum age is 8; in Con-

necticut, Maryland, Massachusetts, New York and North Dakota, it is 7; and North Carolina's minimum age is 6.⁴⁶ In 2016, Nebraska passed legislation establishing the minimum age at 11. In 29 states, there is no statutory minimum, which means there is nothing legally preventing a state from prosecuting a child at any age.

■ **Determine the maximum age of juvenile court jurisdiction, the age of extended jurisdiction and the scope of transfer to the adult system in accordance with research on adolescent brain development, behavioral change, and the effects on public safety.**

Between 2009 and 2017, lawmakers in six states raised the upper age of juvenile court jurisdiction. Connecticut, Massachusetts, Illinois, New Hampshire, [Louisiana](#)⁴⁷ and [South Carolina](#)⁴⁸ raised the age from 16 to 18. South Carolina's provision to raise the age passed into law, but is subject to funding and has not been fully implemented. Louisiana's law takes effect for youth charged with most offenses in July 2018, while those charged with violent offenses remain in the adult system until July 2020. In 2017, New York⁴⁹ and [North Carolina](#)⁵⁰ raised the age of juvenile court jurisdiction to include most people under the age of 18. New York's law will not take effect until October 2018, and prosecutors can still petition for hearings to transfer youth to the adult system for the most serious crimes. North Carolina's "raise the age" law will not go into effect until 2019, and provides that Class G felonies—including arson, burglary, possession of a firearm by a felon and some drug crimes—will still originate in adult court.

Lawmakers have also looked to research to amend policies regulating the transfer of youth to adult court. In addition to the youth development science described previously, there is evidence of the impact on youth when they are legally treated like adults: One study found that youth sent to the adult criminal justice system are 34 percent more likely to be rearrested for violent crimes than comparable youth who remain in the juvenile justice system.⁵¹ Additionally, according to the Office of Juvenile Justice Delinquency and Prevention, "six large-scale studies have found higher recidivism rates among juveniles convicted for violent offenses in criminal court when compared with similar offenders tried in juvenile court."⁵²

[Colorado](#) in 2012 amended its law to require the cases of youth ages 15 and younger to originate in the juvenile court system, no matter the charges. Judges must decide whether 16- and 17-year-old defendants charged in adult court will be transferred to juvenile court after weighing the seriousness of the offense, the probability of rehabilitation and other factors. The law also prohibits prosecutors from directly filing adult charges against a juvenile accused of low- and mid-level felonies.

Similarly, Nebraska and Illinois passed legislation that incrementally limits the scope of transfer of juveniles to adult court. [Nebraska's](#) 2013 law requires that all cases in which a youth 17 or younger is accused of committing a misdemeanor must originate in the juvenile court. The law also requires all youth under 14 accused of committing a felony, and those under 18 accused of felony drug offenses, to have their cases originate in the juvenile court. [Illinois'](#) 2015 law⁵³ eliminates the automatic adult prosecution of 15-year-olds for certain violent crimes. The legislation also requires tracking data on juveniles transferred to the adult system and reporting the information to the legislature.

California's [Senate Bill 382](#), passed in 2015, requires prosecutors to present detailed and developmentally relevant evidence when moving to have a case transferred to criminal court. Specifically, when presenting evidence about the young person's criminal sophistication, the statute provides that the court "may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication." The court must also weigh the young person's potential to grow and mature. California went further in 2016 with the voters' passage of Proposition 57, which eliminated the ability of prosecutors to file youth charges directly into adult criminal court and mandated hearings before a juvenile court judge for any requested transfer.⁵⁴

As demonstrated by states such as California, Colorado, Illinois and Nebraska, there are various models for limiting the scope of transfer to the adult system in accordance with research on adolescent brain development, behavioral change, and public safety impact.

Principle 5

Objective assessment tools should be used to inform decisions at various stages of the juvenile justice process so that interventions are responsive to the risks, needs and strengths of youth.

Juvenile justice professionals must make decisions about how best to respond to youth at various stages of the system, each of which has implications for a young person's life and, at times, for community safety. In recent years, research has identified factors related to the risk of reoffending for juveniles and the needs, such as mental health services, counseling or family support services, that if addressed can help prevent potential future criminal activity. These factors have been organized into [risk and needs assessment tools](#),⁵⁵ which, when used correctly, can help decision-makers identify the most appropriate types of services or supervision for each young person, and target interventions to ultimately reduce recidivism.⁵⁶ Other types of assessment tools can help intake officers make initial decisions whether to detain a youth or provide initial screenings to identify youth who need mental health assessments.

■ **Fund and validate assessment tools tailored for specific youth populations and stages of use in order to better inform juvenile justice policy decision-making.**

Several states have enacted legislation incorporating validated assessment tools to better inform decision-making across the juvenile justice continuum. For these tools to have the expected beneficial effects and limit the risk of error, they must be tailored to the appropriate decision-making stage in the juvenile justice process; for example, whether to conduct a mental health evaluation or which services to recommend as part of probation. They must also be validated, or proven to accurately predict the likelihood of certain outcomes, such as whether a young person will commit another offense after adjudication. These tools should also be deployed in a way that is consistent with the research. For example, risk and needs assessment tools are proven to be effective at distinguishing youth who are more likely to reoffend and identifying factors that can be targeted to make reoffending less likely. However, there is no current research indicating that these tools can determine which youth should be placed out of home and which should remain in the community, or predict the severity of potential future offenses.

[Thirty-eight states](#)⁵⁷ have implemented a single risk and needs assessment tool statewide to guide juvenile probation practice. Hawaii enacted [legislation](#)⁵⁸ in 2014 providing for a statewide standardized tool to conduct risk and needs assessments for juvenile probation, and requiring its validation every five years. Supervision levels, the frequency of contact with probation officers and the court, and referrals to treatment and programs are made in concert with the results of the assessment. Similarly, Utah's 2017 legislation, [House Bill 239](#), requires a young person, after adjudication, to undergo a risk screening or a validated risk and needs assessment, the results of which are used to inform case planning and disposition decisions. The law also requires that any substance abuse treatment ordered by the court be based on a validated risk and needs assessment.

States have also required that juvenile detention decisions be based on objective factors that are compiled in a detention assessment instrument. For example, New Mexico law prohibits detention unless a detention risk instrument is completed.⁵⁹ The law also requires the state agency to develop and collect data on the instrument, and to report to the Legislature about the data collected.⁶⁰

Another objective instrument used in the juvenile justice context is a mental health screening instrument. The most common tool currently in use is the MAYSI-II, which is a brief screening that can be administered by staff who are not trained in mental health to determine whether further assessment by a mental health professional is necessary.⁶¹ Many states require the use of such tools in administrative policy. In [Louisiana](#),⁶² after a child is admitted to a secure facility, a validated mental health screening must be conducted to identify those who may need prompt mental health services, and the person administering the screening tool must be retrained annually in its administration and how to use the results.

■ **Fine-tune such tools to avoid disparate treatment or overrepresentation of particular groups of youth.**

One of the attributes of a well-designed risk assessment instrument is that it will work equally well for all youth, regardless of race, ethnicity, gender or other similar factors. Effective tools can minimize bias by standardizing how agencies determine a youth's risk to public safety and plan for case management. Where risk and needs assessments are not examined to identify differential ability to predict reoffending among different groups of youth, there is a risk that they will increase racial and ethnic disparities, or other forms of disparities, in the juvenile justice system.⁶³ (See racial and ethnic disparities in Principle #10.) According to the authors of "[Risk Assessment in Juvenile Justice: A Guidebook to Implementation](#)," most of the more widely used, validated risk assessment tools have been studied to examine their predictive validity for white, African-American/black and Latino youth.⁶⁴

Kansas' [Senate Bill 367](#) requires the state oversight council to conduct "an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status." Ensuring that these kind of assessment tools are well-designed and fine-tuned is important for their effectiveness.

Principle 6

Juvenile justice policies should promote fairness and protect youths' due process rights.

The landmark 1967 Supreme Court decision, *In Re Gault*⁶⁵, involved a 15-year-old sentenced by a juvenile court to serve six years in a state industrial school for making a prank phone call. Overturning the lower court's decision, the Court held that children facing prosecution in juvenile court have the same due process rights as adults, including the right to remain silent, the right to notice of the charges, the right to an attorney and the right to a full hearing on the merits of the case. However, more than 50 years after the Gault decision, gaps in procedural due process protections for young people remain. For example, in many states, lawyers are not guaranteed for every child during police interrogation, and a majority of states allow children to waive their right to a lawyer, even if they are unclear about what that means.⁶⁶ Still, state lawmakers have made strides toward enhancing fairness and protecting due process in the juvenile justice system over the past decade.

- **Dedicate sufficient resources to indigent juvenile defenders to provide high-quality legal representation in delinquency proceedings, and provide for timely hearings at all stages of the justice process.**

Juvenile defenders play a unique and important role in the juvenile justice system because they are the only court actors responsible for giving voice to the “expressed interests” of the child, rather than the perceived “best interests” of the child or other concerns, such as public safety, victim restoration and youth accountability.⁶⁷ The role of the juvenile defender is to insist on fair and lawful juvenile court proceedings, guarantee that the child's voice is heard at every stage of the process, and safeguard the child's due process and equal protection rights.⁶⁸

While some young people may have resources to hire a private defense attorney, many rely on indigent defenders. Some states have strong statutory language establishing that youth are automatically eligible for an attorney based on their status as children, regardless of financial status. For example, Delaware's code⁶⁹ provides that “any person under the age of 18 arrested or charged with a crime or act of delinquency [is] automatically eligible for representation by the Office of Defense Services.” North Carolina⁷⁰ gives a juvenile within the jurisdiction of the juvenile court the right to be represented by counsel in all proceedings. The law also requires that “all juveniles be conclusively presumed to be indigent, and it is not necessary for the court to receive an affidavit of indigency.”

California, Illinois and Nebraska are three recent examples of states that have passed legislation to ensure youths' access to high-quality legal representation at various stages of the juvenile justice process. California enacted [Assembly Bill 703](#)⁷¹ in 2015, setting standards for juvenile defense counsel. Senate Bill 190, passed in 2017, repeals certain juvenile court costs previously charged to families, including county-assessed fees for a publicly funded juvenile defender. Illinois expanded young people's right to counsel in police interrogations in 2016 through [Senate Bill 2370](#),⁷² requiring that youth under 15 charged with murder or sex offenses be represented by counsel throughout the entire custodial interrogation. It also requires that a simplified version of Miranda warnings be given to minors under the age of 18, and that all custodial interrogations of minors charged with any felony offense or misdemeanor sex offense be videotaped. In 2017, Nebraska's Supreme Court [adopted practice guidelines](#) for defense and prosecuting attorneys in juvenile court to ensure uniformity and high-quality legal representation.

While providing adequate funding for indigent defense remains a challenge in many jurisdictions,⁷³ some states have committed resources to high-quality legal representation for justice-involved youth. In 2006, South Carolina appropriated \$7.3 million in additional funding for indigent defense in fiscal year 2007-2008 to [establish a statewide indigent defense system](#).⁷⁴ The unified indigent defense system created public defender positions for each of the state's circuits and established them as state or county employees, rather than independent contractors. The Indigent Defense Commission also established standards

of operation for every circuit defender office to provide better accountability, quality assurance, cost effectiveness and workload management.

Timely court proceedings are also central to the fair and effective functioning of the juvenile justice system. For example, in 2009, the District of Columbia set standards and requirements to ensure the timely processing of juvenile cases. The D.C. Council had determined that youth held in detention had speedy trial rights not afforded to youth in shelter care (a non-secure group home), resulting in longer waits for hearings. Sometimes youth were held in detention pending space in shelter care, creating a situation where youth ordered to shelter care spent more time in detention than those ordered to detention.⁷⁵ To create parity, the council passed Bill 17-431, which required that courts hold fact-finding hearings on youth ordered to shelter care within 30 days of the youth's initial hearing, subject to limited opportunities for extensions.⁷⁶

■ **Promote access to justice by communicating legal rights, responsibilities and consequences in developmentally appropriate and culturally competent language.**

The abstract language and complex terminology frequently used in the courtroom can be difficult to understand even for adults, and interacting with authority figures such as judges and attorneys can be intimidating for youth. As a result, young people may have difficulty understanding what is happening in their juvenile delinquency cases. Promoting access to justice for youth includes ensuring that they comprehend their options and rights throughout the process.

When a judge or other court personnel explains court proceedings, rules or legal requirements in a set of formal instructions, it is called a **colloquy**. Juveniles may not understand these instructions, which can lead to confusion, frustration and noncompliance with court orders.⁷⁷ In response, the Washington State Judicial Colloquies Project developed model colloquies at a 6th-grade reading comprehension level. The model colloquies are given at two points in a juvenile's court involvement: (1) the initial appearance hearing, where the juvenile is given instructions and conditions regarding release, and (2) the disposition hearing, where the juvenile is given instructions if placed on probation. As a result of using these model colloquies, comprehension for juveniles increased from 35 percent to 90 percent.⁷⁸ The drafters also developed instructional guides so that other jurisdictions could make similar adjustments. Illinois, for instance, developed "youth-appropriate" Miranda warnings for custodial interrogations of juveniles.⁷⁹

Youth often want to resolve their cases quickly due to anxiety, immaturity, or pressure from the courts or their family. Sometimes they waive their rights to counsel without fully understanding what a defense attorney's role is or what rights or defenses they may be giving up.⁸¹ To address this concern, some states require that children always consult with an attorney before waiving their right to counsel, regardless of the severity of the charge. For example, in Florida, youth may only waive the right to counsel after they have had the opportunity to speak with an attorney who has explained their rights to counsel and other factors that could affect them.⁸² Nebraska's law requires a waiver of right to counsel be made in open court, and the judge must find that the waiver was made "intelligently, voluntarily, and understandingly." In determining this, the court must consider, among other things, the complexity of the proceedings, the age, intelligence and education of the young person, as well as his or her emotional stability. Counsel cannot be waived in Nebraska if the young person is under age 14, for a detention hearing, in a dispositional hearing where out-of-home-placement is sought, or if there is a motion to transfer the case out of juvenile court.⁸³

Example of youth-appropriate Miranda warnings from King County, Washington⁸⁰

1. You have the right to remain silent, which means that you don't have to say anything.
2. It's OK if you don't want to talk to me.
3. If you do want to talk to me, I can tell the juvenile court judge or adult court judge and probation officer what you tell me.
4. You have the right to talk to a free lawyer right now. That free lawyer works for you and is available at any time—even late at night. That lawyer does not tell anyone what you tell them. That free lawyer helps you decide if it's a good idea to answer questions. That free lawyer can be with you if you want to talk with me.
5. If you start to answer my questions, you can change your mind and stop at any time. I won't ask you any more questions.

■ **Ensure that rules and expectations for youth are reasonable and that there is a clear path for exiting the juvenile justice system.**

Promoting fairness in the system involves holding youth accountable for their conduct, while also making clear what youth must do to exit the system. Recognizing this concern, in 2017 the National Council of Juvenile and Family Court Judges adopted its “Resolution Regarding Juvenile Probation and Adolescent Development.”⁸⁴ The resolution recommends that conditions imposed by the court be attainable for young people, and authorities imposing them should be clear about what it will take for a youth to comply in order to complete probation or required programming.

Kansas’ 2016 Senate Bill 367 requires a unified case plan be developed and maintained even if the supervising or custodial entity changes. In Utah, if a young person violates the conditions of supervision, the Division of Juvenile Justice Services must use a structured decision-making tool to respond to the violation before bringing the youth in for a revocation hearing—unless the violation is of certain protective orders or constitutes a new delinquency offense, in which case it may be filed directly with the court.⁸⁵



Principle 7

Juvenile justice policies should strive to keep youth in the community, employ evidence-based methods to promote positive youth development, and build on the strengths of youth and their families.

Research illustrates that community-based solutions can be more effective than out-of-home placement to reduce recidivism, keep the public safe and put justice-involved youth back on the right track. States can prioritize these kinds of effective approaches through policies that limit out-of-home placement and focus probationary responses on promoting youth success. Preparing youth to succeed in their communities and reducing recidivism are achievable and interrelated goals.

- **Establish rules that prevent out-of-home placement except for the highest risk and most serious offending youth who cannot safely be treated and held accountable in the community.**

A growing body of research indicates that out-of-home placements do not produce better outcomes for many young people—and that in some instances, they can be counterproductive to reducing recidivism and, in some cases, even dangerous for youth. A [longitudinal study](#)⁸⁶ of youth who committed serious offenses in Arizona and Pennsylvania found that youth placed in out-of-home facilities and those put on probation showed little difference in recidivism rates. A study from [Texas](#)⁸⁷ illustrated that young people completing community-based treatment programs or probation had lower rearrest rates than those with similar criminal histories and demographic characteristics who were released from state facilities. In 2013, [Cook County, Illinois studied](#)⁸⁸ long-term recidivism and education outcomes and found that youth who experienced confinement were more likely to drop out of high school and be incarcerated as adults than comparable youth who were not confined. Further, a [report](#)⁸⁹ from the Office of Juvenile Justice and Delinquency Prevention revealed that in some instances, out-of-home placement can be dangerous. More than half of all youth report theft or violence while in placement, and one in 10 youth in state-owned or operated facilities report sexual victimization.

Georgia enacted legislation that prevents out-of-home placement for lower-level offenses, and reserves it for higher-risk youth, who judges determine cannot be held accountable in the community. In 2012, the Special Council on Criminal Justice Reform for Georgians [found](#)⁹⁰ that almost one in four juveniles in out-of-home facilities had been adjudicated for a low-level offense, including misdemeanors and status offenses. After examining the budget, the council found that nearly two-thirds of the Georgia Department of Juvenile Justice's \$300 million budget went to out-of-home placement at a cost of \$91,000 per bed per year in the state's secure facilities.

In response, in 2013, the legislature enacted a sweeping juvenile justice overhaul, [House Bill 242](#),⁹¹ which included major changes to the Designated Felony Act (a 1980 law that required all juveniles with adjudications for certain serious offenses, or designated felonies, to serve at least one year in custody). Over the years, the list of designated felonies had grown from 11 to 29 and included some less serious offenses like “smash and grab” burglary. Despite the growth in the number of designated felonies, the percentage of youth adjudicated of those crimes and identified as high-risk remained low.

Consequently, House Bill 242 created a two-class system within the Designated Felony Act based on severity. The system takes into account both offense severity and risk level in determining whether a youth should receive out-of-home placement. It also eliminates the mandatory minimum for time spent in confinement in favor of judicial discretion and caps dispositions for certain felonies. Further, the law prohibits out-of-home placement for status offenses and all misdemeanors, unless the youth's offense history includes four prior adjudications, including one felony. The bill also appropriated \$5 million to fund the Juvenile Reinvestment Grant Program, which supports community and evidence-based programs for lower-level justice-involved youth.

In addition to Georgia, a number of other states, including [Hawaii](#)⁹² and Texas,⁹³ also ban commitments to secure facilities for misdemeanor offenses.

■ **Limit time in out-of-home placement to no longer than what research indicates is effective to reduce recidivism.**

Research demonstrates that longer lengths of stay in out-of-home placement do not necessarily produce better public safety outcomes for young people. A study of youth in Maricopa County, Arizona, and Philadelphia County, Pennsylvania, found that after three to six months in placement, longer stays did not reduce recidivism, even among youth adjudicated for serious offenses.⁹⁵ In addition, a study by the [University of Cincinnati](#)⁹⁶ found that after controlling for demographics and risk levels, juveniles placed in state facilities for longer periods had higher rates of reincarceration than those held for shorter periods.

In 2017, [Utah](#)⁹⁷ passed legislation to limit the time a youth can spend in out-of-home placement to six months, unless charged with certain violent felonies, such as murder, aggravated sexual assault or aggravated kidnapping. The law allows the placement limit to be extended only if termination would interrupt necessary treatment or the young person commits a new offense. Georgia⁹⁸ reduced the maximum term that a young person can spend in any out-of-home placement for less serious felony offenses from five years to 18 months. Kansas⁹⁹ and Kentucky,¹⁰⁰ discussed elsewhere in this publication, also included limits on length of stay in their juvenile justice reform legislation.

■ **Structure probation to reduce recidivism and promote youth success, including limiting length of stay, tailoring conditions of supervision, and engaging families.**

In most states, probation is the most common disposition for adjudicated youth, and probation violations and revocations are major drivers of detention and placement.¹⁰¹ In some jurisdictions, juvenile probation has been operated on a surveillance model, similar to the adult system, where individuals are allowed to remain in the community under certain conditions, such as curfew, drug tests or community service, with strict supervision and punishment for noncompliance. A few jurisdictions, like [Pierce County, Washington](#),¹⁰² have initiated a juvenile probation paradigm shift that focuses less on monitoring and compliance and more on behavioral change, personal growth, and community and family partnerships. Through a Probation Transformation grant from the Annie E. Casey Foundation, the Pierce County Probation Unit drastically reduced the use of punishments for probation violations and instead acted on research on best practices in community supervision by motivating young probationers with goal-oriented rewards and community activities. Additionally, the unit uses a local family support organization called [A Common Voice](#)¹⁰³ to provide onsite parent and peer support in the court lobby for families awaiting hearings. The Pierce County court has also convened a family council, comprised of family members and young adults with experience in the juvenile justice system, to give advice to juvenile court staff on the effectiveness of existing programs and policies.

Alongside a modified approach to community supervision, some jurisdictions are limiting the length of probation as well. Utah codified probation length-of-stay limits in [House Bill 239](#), creating presumptive limits of three to six months, depending on the type of probation. Utah's law also includes a provision that supervision for young people upon release from secure placement may not exceed four months.¹⁰⁴ Limiting length of stay on probation reduces the likelihood that youth will remain on probation so long that sustained compliance with all the requirements becomes too difficult.

Results of the Principles at Work in Georgia

In the years following the enactment of Georgia's House Bill 242, the state's juvenile residential population fell 35 percent, and the state closed three facilities. Lawmakers reinvested \$30 million of the savings into community programs, which gave judges and probation departments across the state greater access to evidence-based options for youths adjudicated as delinquent. In 2016, 1,723 juveniles underwent evidence-based interventions supported through the new grants, with nearly two-thirds successfully completing their programs.⁹⁴

Principle 8

Conditions in residential facilities and other programs should be humane, supportive of rehabilitation, developmentally appropriate and “trauma-informed,” incorporating practices that understand, recognize and respond to trauma.

When it is necessary for youth to be admitted into residential facilities, conditions should be humane and support rehabilitation. Some state legislatures have supported improving conditions of confinement by establishing new standards for facility licensing and creating systems to monitor compliance. Others have focused on creating remedies for specific concerns, such as solitary confinement.

■ **Establish standards for humane conditions, actively monitor both state-run and contracted residential facilities, and ensure that standards are met.**

The conditions of facilities for justice-involved youth should be regulated by clear standards and regularly monitored. The Annie E. Casey Foundation’s [Juvenile Detention Facility Assessment](#) practice guide¹⁰⁵ lays out publicly available, detailed and comprehensive standards for juvenile residential facilities. The guide establishes standards in eight areas, using the mnemonic C.H.A.P.T.E.R.S., which stands for classification and intake; health and mental health care; access to counsel, the courts and family; programming, education, exercise and recreation; training and supervision of institutional staff; environment, sanitation, overcrowding and searches; restraints, room confinement, due process and grievances; and safety for confined youth, staff and visitors. In recent years, states have adopted similar standards to ensure youth are housed in safe and humane conditions while in residential facilities. Louisiana, for example, established statewide standards¹⁰⁶ for juvenile detention facilities in 2010, and all facilities were required to be licensed by 2013. The [standards](#)¹⁰⁷ encompass dozens of areas of facility functioning, conditions and staff performance, including:

- training requirements for staff (on topics such as sexual misconduct prevention, adolescent development, the needs of youth with behavioral disorders and intellectual disabilities, and working with LGBTQ youth),
- staff-to-youth ratio requirements,
- standards for the physical environment (including dining areas, sleeping areas, bathrooms, exercise areas, visitation areas and laundry facilities), and
- a list of prohibited practices, including the use of pepper spray and restraint chairs.

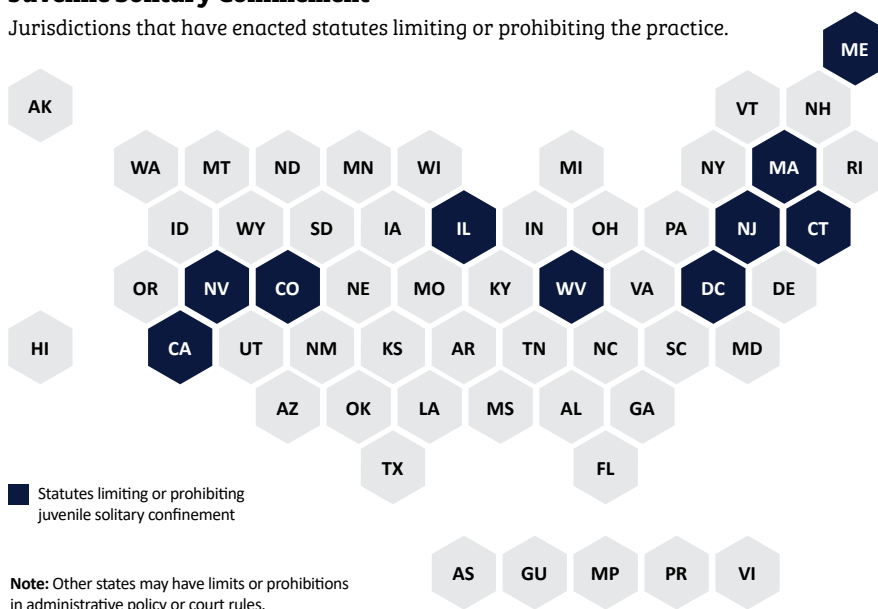
More recently, after several juvenile facilities in the state were either investigated by the U.S. Department of Justice or involved in litigation, [Mississippi](#)¹⁰⁸ enacted the Juvenile Detention Licensing Act in 2016.¹⁰⁹ The law requires that juvenile detention facilities be licensed every two years to ensure they meet minimum standards. It also requires the Juvenile Facilities Monitoring Unit to adopt [standards](#)¹¹⁰ recommended by the legislature established Juvenile Detention and Alternatives Task Force. The monitoring unit was given the authority to set the standards outside of statute to make it easier to improve them in the future.

Louisiana and Mississippi’s licensing standards both include provisions for inspections because actively monitoring the facilities was seen as paramount to ensuring that conditions are humane and supportive of rehabilitation, developmentally appropriate and trauma-informed. The Maryland Legislature created the [Juvenile Justice Monitoring Unit](#) (JJMU), an independent state agency housed in the Office of the Maryland Attorney General, to conduct unannounced visits to detention and placement facilities “to guard against abuses and ensure that youth receive appropriate treatment and services.” It also submits [quarterly reports](#)¹¹¹ to the governor, members of the General Assembly, the secretary of Juvenile Services, and members of the State Advisory Board for Juvenile Services.

A practice in some residential facilities that has come under increasing scrutiny is the use of solitary

Juvenile Solitary Confinement

Jurisdictions that have enacted statutes limiting or prohibiting the practice.



Solitary Confinement

According to the American Academy of Child and Adolescent Psychiatry, “The potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore, the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.”¹¹²

confinement. Also known as room confinement, seclusion, isolation or segregation, it can include physical and social isolation in a cell for 22 to 24 hours a day. Proponents assert that isolation may be necessary for discipline and institutional security.

As concern about the dangers grows, youth facility personnel are increasingly reassessing the need for its use. The [Council for Juvenile Correctional Administrators](#),¹¹³ comprised of youth corrections administrators from across the country, denounces the use of punitive solitary confinement. It has issued a toolkit and recommendations for reducing its use to instances when youth pose a danger to themselves or others and must be temporarily separated from others for safety reasons as a last resort.¹¹⁴

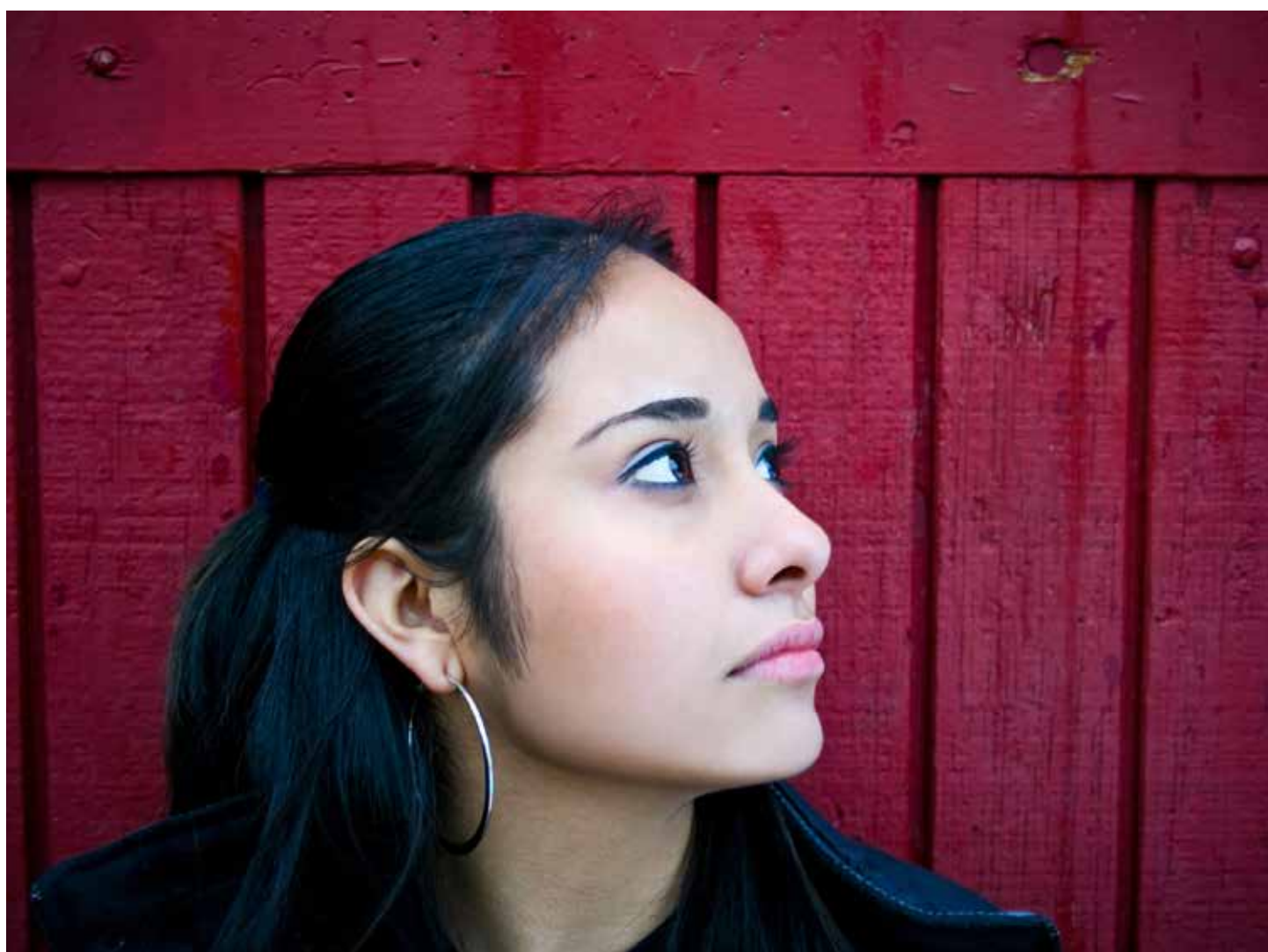
Most states currently allow youth to be held in isolation under specified circumstances, but eight¹¹⁵ states and the District of Columbia have enacted statutes that limit or prohibit solitary confinement (others have limited its use through administrative code or other means). Colorado’s House Bill 1328,¹¹⁶ passed in 2016, permits using solitary confinement only in an emergency, defined as a “serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.” A qualified mental health professional and the director of the Division of Youth Corrections must approve solitary confinement of a youth beyond four hours, and a court must issue an order to keep a youth in solitary confinement past eight hours. The bill also requires the division to document its use of solitary confinement and create a working group of experts and community stakeholders to examine the practice.¹¹⁷

Other efforts to make facilities developmentally appropriate and supportive for all youth include caring for those who have suffered trauma. Trauma-informed care is a treatment framework that involves understanding, recognizing and responding to the effects of all types of trauma.¹¹⁸ It is especially important for justice-involved youth, who often report high levels of trauma.¹¹⁹ (See Principle No. 11) In Florida, the [Department of Juvenile Justice](#)¹²⁰ (DJJ) worked with the National Association of State Mental Health Program Directors to establish a statewide Trauma-Informed Care Workgroup, which has helped develop

training for new juvenile probation officers and direct care staff in facilities. Additionally, a “soft room” was created at Florida’s Marion Regional Juvenile Detention Center. According to the group, “The atmosphere of the room is immediately calming and is a positive environment to talk with youth and get them to calm down. Staff are able to utilize a variety of calming strategies such as music, games, journaling, and talking with the child. It is also a place for DJJ youth to visit with their children in an environment that is not traumatic for children of incarcerated children.”¹²¹

■ **Allocate funds to ensure that youths’ risks and needs are appropriately addressed when they do need to be confined.**

As referenced in Principle No. 7, out-of-home placement should only be used for the highest-risk youth who cannot safely be treated and held accountable in the community. Yet when it is determined that a young person must be sent to an out-of-home facility, resources should be made available to address the youth’s risks and needs. In [Bernalillo County, New Mexico](#),¹²² the county reallocated funds resulting from staff departures toward recruiting licensed mental health and substance abuse professionals in order to formally assess the detained youths’ needs and develop treatment plans. To ensure continuity of care for youth after release, the county also established a licensed, free-standing mental health clinic adjacent to the facility. Kentucky, in its 2014 reform, included provisions¹²³ that require dedicated funding for evidence-based programs like Aggression Replacement Training, which serves moderate- and high-risk youth who are in secure residential facilities. The 10-week, 30-hour intervention, administered in small groups, teaches social behavior, anger control and moral reasoning.



Principle 9

Juvenile justice policies should support youths' healthy transition to adulthood and reduce barriers to rehabilitation, including the collateral consequences of being involved in the justice system.

Lawmakers have an opportunity to promote youth success by reducing the obstacles youth face in the process of rehabilitation and the transition to adulthood. Many collateral consequences await youth and their families even after they complete their involvement with the juvenile justice system. Depending on the jurisdiction and offense, these obstacles can include requirements to report juvenile justice involvement when applying for military service, possible loss of public housing, difficulties in obtaining employment and education opportunities, and debt from excessive fines and fees.¹²⁴

- **Consider the ability of youth and their families to pay for the costs associated with system involvement and eliminate fines and fees wherever possible.**

Legal financial obligations can accrue for justice-involved youth and their families from the moment of arrest, expand the duration of a delinquency case, and compound long past its conclusion. In a [thorough examination](#)¹²⁵ of the financial burdens on individuals and families, the Juvenile Law Center found that costs, fees, fines or restitution are imposed in every state, and the inability to pay legal fees often results in further involvement in the juvenile justice system. For example, in many states, inability to pay legal financial obligations resulted in difficulty getting records expunged, the imposition of civil judgments, cases remaining open longer, or youth being sent to out-of-home placement or staying longer than they would have otherwise. Excessive fines and fees can also heighten stress for families already struggling financially, and contribute to racial and economic disparities.

Some states have taken incremental steps to mitigate the negative effects caused by financial legal obligations by streamlining processes to reduce these costs, offering modifications for indigent youth and allowing for judicial discretion when imposing court costs. In 2015, [Washington's "Year Act"](#)¹²⁶ eliminated numerous juvenile diversion fees, court costs, appellate costs, collection fees for juvenile obligations, adjudication fees, restitution interest charges and certain fines. It also provided a mechanism to adjust restitution costs based on ability to pay, including by substituting community service for restitution if an individual cannot pay.

[Utah's 2017 legislation](#)¹²⁷ limits fines for minors under age 16 to \$180 and community service to 24 hours. The law also caps fines for minors ages 16 and over at \$270 and 36 hours of service. Additionally, if the court converts fines, fees or restitution to community service hours, the rate "shall be no less than the minimum wage." Courts are also prohibited from transferring unpaid fines, fees, surcharges and restitution to the Office of State Debt Collection. Once a youth reaches 21, the juvenile court no longer has jurisdiction over the individual, and thus, cannot issue an order for unpaid fines, fees or restitution.

- **Recognize and limit the effects of collateral consequences—such as obstacles to higher education, housing, employment and military service—through appropriate confidentiality protections, expungement, record-sealing and other policies.**

Approximately 750,000 people under the age of 18 were arrested in the United States in 2014.¹²⁸ The moment these young people encounter the police, records are created outlining their alleged behavior. As children move further into the justice system, their records expand to reflect adjudications, out-of-home placements, probationary terms and any violations of those requirements. While laws impose some degree of confidentiality on juvenile court records, some permitted uses of these records may affect youth years after they leave the juvenile justice system. These hardships can include difficulty obtaining education, employment, housing, and other opportunities, potentially limiting a youth's ability to make a successful transition to adulthood.

In North Carolina, court rules¹²⁹ require defense counsel to advise youth of legal collateral consequences that are triggered, including the potential for deportation and other immigration consequences, future sentence enhancements, and restrictions on motor vehicle and other licensing. In states like [California](#),¹³⁰ [Illinois](#)¹³¹ and [Pennsylvania](#),¹³² juvenile defense organizations created publications that provide detailed, state-specific information on the potential ways a juvenile case can affect a young person's future educational, vocational and financial aspirations.

State lawmakers are recognizing and limiting the effects of collateral consequences through expanding confidentiality protections, expungement and record-sealing policies. All states have some sort of procedure that allows juveniles to petition to either seal or expunge their records in certain cases. However, these procedures can be confusing, cumbersome and costly, and in many instances, the young person is never notified if, when or how the record can be expunged. In some states, a juvenile has no power to initiate the process because sealing or expungement can only occur at the direction of the prosecutor or judge.¹³³

Colorado [passed a law in 2017](#)¹³⁴ making it easier for young people to expunge their records. The law requires courts to immediately expunge juvenile records upon dismissing a case, a not guilty verdict, or after a juvenile completes a sentence for a petty offense or misdemeanor, as long as the crime does not require victim notification and is not a sex or domestic violence offense. The court must also notify the juvenile of the right to expungement and allows only certain records to be made public after a child is charged as an adult. Finally, it eliminates the requirement that school officials be notified of minor offenses.

[At least 15 other states](#)—Alaska, Arkansas, California, Florida, Illinois, Montana, Maryland, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, South Carolina, Texas and Virginia—have laws that automatically seal or expunge juvenile records in certain circumstances. These laws vary widely in terms of when and which records are automatically sealed or expunged. In Montana, youth court records are sealed and youth probation records are destroyed on the juvenile's 18th birthday. Illinois' [law](#)¹³⁵ requires the Department of State Police to automatically expunge law enforcement records when juveniles reach age 18, if the crime committed was a low-level offense, and the young person has not been arrested in the last six months. In Alaska, official court records of some juvenile proceedings are automatically sealed within 30 days of the individual's 18th birthday, but law enforcement records, like arrest records, remain unsealed. New Mexico law, on the other hand, requires that court and law enforcement records for youth be automatically sealed when the case is discharged.

■ **Support youth development with re-entry services that seek to transition juveniles out of the system toward becoming healthy adult members of society.**

Whether a young person is held for a short time in a group home or incarcerated for a lengthy stay in a large secure confinement facility, the youth will eventually return to his or her community. Re-entry services that seek to transition juveniles out of the system and reintegrate them into society are an important part of many juvenile justice policies.

Hawaii law¹³⁶ requires comprehensive re-entry plans for each child committed to state youth correctional facilities. The plans must be developed in collaboration with the youth's parent or guardian, and include treatment and services identified by a risk and needs assessment, individualized goals for successful re-entry, and a plan for coordinating with agencies that can provide relevant services. In Oregon, the Youth Authority's ["New Beginnings"](#)¹³⁷ program offers scholarships for detained youth with no other resources to take online college classes, filling a gap some youth face due to exclusion from federal Pell grant eligibility. In 2017, the legislature clarified and expanded the amount of time the Youth Authority can provide re-entry and support services to young people after they are released from youth correctional facilities.¹³⁸

Re-entering school after an out-of-home placement can be a particular challenge for youth because of possible delays in transferring education records, re-enrollment complications, differences in credit transfers between school districts and the justice system, and reluctance by school staff to welcome back returning youth. However, research illustrates that when students are re-enrolled in school and performing well, they are less likely to reoffend, more likely to be successful in college and careers, and experience greater economic stability.¹³⁹

State agencies are working to address these challenges. For example, the New Jersey Department of Education and Juvenile Justice Commission (JJC) formed the “Partnership to Support Our Shared Youth”¹⁴⁰ to formalize a collaboration between the education and juvenile justice systems at the state level and support youth and families in the re-entry process. The JJC established a timeline in which 10 days prior to a youth’s release from custody, the parent or guardian is contacted to confirm release and reminded to contact the school about enrollment. Five days prior to release, the JJC will contact the family again to confirm the school has been notified about enrollment. If this has not occurred, staff will meet with the school and parent or guardian. One day after the young person’s release, JJC staff will verify that the youth is attending school as scheduled.

State law¹⁴¹ in Maine requires advance planning for youth re-entering school. Each school district must have a policy on reintegration and the school superintendent must convene a “reintegration team” consisting of the school principal, a parent or guardian, teacher and guidance counselor. The team must meet within 10 days of being notified that a student will be re-entering the school from a juvenile facility to create a plan for the student’s re-enrollment and education.



Principle 10

Juvenile justice policies should eliminate unfair and disparate treatment, and ensure that justice systems meet the needs of overrepresented and other special populations of youth.

Youth of color are disproportionately represented in comparison with white youth at every stage in the nation's juvenile justice system.¹⁴² Disparities exist across racial and ethnic groups, with the starkest contrasts between black and white children. (The Office of Juvenile Justice and Delinquency Prevention does not publish arrest data separately for Latino youth.) As of 2013, black youth were 129 percent more likely to be arrested than white youth when compared with their representation in the general population—an increase from 2003, when that likelihood was 85 percent. Disproportionate inequalities persist, not just in the number of arrests, but deeper into the juvenile justice system as well. According to the Sentencing Project's analysis of 2013 data comparing youth commitment rates with youth representation in the U.S. population, "black juveniles were more than four times as likely to be committed as white juveniles, American Indian juveniles were more than three times as likely, and Hispanic juveniles were 61 percent more likely."¹⁴³ This data has prompted questions about the equality of treatment of youth by police, prosecutors, judges and other justice system personnel.

- **Consider policies and practices that foster data collection, transparency, education and accountability regarding disparate treatment and disproportionate contact, and develop and implement appropriate remedies.**

The federal [Juvenile Justice and Delinquency Prevention Act](#)¹⁴⁴ (JJDP) requires states to address disproportionate minority contact (DMC)—which today is referred to by many as racial and ethnic disparities (RED)—at all stages of the juvenile justice system in order to receive federal funding. Addressing racial and ethnic disparities requires gathering accurate data to identify disproportionate representation and focusing on strategies that address disparities at targeted decision points. Some jurisdictions have begun to improve the collection and use of data at both the state and local levels, and some have also built infrastructures that support reforms.

States such as California,¹⁴⁵ Illinois and Mississippi¹⁴⁶ require the standardized collection of data on the ethnicity and race of individuals arrested or committed to their departments of juvenile justice. Illinois' law, for example,¹⁴⁷ requires such data to be collected for every juvenile arrested, upon admittance to and transfer from the Department of Juvenile Justice, and upon transfer from the Department of Juvenile Justice to the Department of Corrections. In California, legislators formed the State Assembly's Select Committee on the Status of Boys and Men of Color to examine how the justice system affects youth of color as part of a statewide initiative to examine community safety and barriers affecting young people.¹⁴⁸

Beyond collecting data and information, some states have enacted legislation to foster transparency in policymaking. Laws in Connecticut, Iowa and Oregon require a "racial impact statement" to accompany legislation to screen for provisions that might result in the unequal targeting or treatment of youth of color. [Oregon's law](#),¹⁴⁹ enacted in 2013, requires the state Criminal Justice Commission to submit a racial and ethnic impact statement for proposed legislation if requested by at least one member of the legislature from each major party. These statements must highlight any disproportionate or unique effects of proposed legislation on minority populations, and the commission must disclose methodologies and assumptions used in preparing the estimate. Racial impact statements must also be provided by anyone applying for a grant from a state agency. Provisions in [South Dakota's 2015 comprehensive juvenile justice reform](#)¹⁵⁰ require the Department of Tribal Relations, in coordination with other state agencies and stakeholders, to make policy recommendations to improve outcomes for Native American youth in the system.

States have also made data available to localities and provided training and technical assistance for interventions targeting disparities. For example, Pennsylvania modified its Juvenile Court Management System (JCMS), a state-operated data management system used by county courts and probation departments, to

track racial and ethnic disparities.¹⁵¹ [Maryland's Department of Juvenile Services](#) has an office of system reform that supports and provides technical assistance for county-level reforms to reduce racial and ethnic disparities.

Girls in the justice system can also experience disparate treatment. Adolescent girls in the juvenile justice system frequently have a history of emotional, physical and sexual abuse. Many enter the system because they are running away from violence or abuse.¹⁵² A University of Texas study on girls in confinement found that their scores on the mental health needs measure were 25 percent higher than those of boys. The study also found that girls were detained, on average, five days longer in pretrial detention than boys, despite being charged with less serious offenses.¹⁵³ In Maryland, a [Baltimore Sun investigation](#)¹⁵⁴ revealed that girls were disproportionately placed out of home for low-level offenses, and that girls receive harsher punishments, face longer detention periods, and have fewer education, treatment and reintegration options. Maryland lawmakers responded by unanimously passing [House Bill 721](#), which requires the Department of Juvenile Services to provide girls with a range of high-quality services, including diversion programs, community detention services and re-entry programs to address their specific needs.

LGBTQ Youth Overrepresented in Justice System

Lesbian, gay, bisexual, transgender and questioning (LGBTQ) and gender-nonconforming youth are significantly overrepresented in the justice system. While most population-based surveys estimate that LGBTQ youth comprise 7 to 8 percent of the youth population, approximately 20 percent of youth in detention self-report being LGBTQ, and 85 percent of that group are youth of color.¹⁵⁵ Research on the needs and outcomes of these youth finds they are at high risk of abuse and victimization in juvenile justice facilities, and often face more serious consequences for lower-level conduct than their peers.¹⁵⁶

The Massachusetts Department of Youth Services developed an intake assessment protocol for LGBTQ youth at detention facilities. It requires staff to ask the youth how they identify by gender. A youth who identifies as a transgender or intersex youth shall be placed in a location consistent with the stated gender identity, absent a safety-based objection made in consultation with the regional director. Such safety-based objection must have a specific, documented credible basis and shall not be based solely on a gender identity.¹⁵⁷

■ **Ensure that juvenile justice systems and staff are equipped, skilled and educated to meet the diverse needs of youth and families in culturally responsive and linguistically competent ways.**

States are looking at ways to ensure juvenile justice systems and staff are equipped with skills and education to meet the diverse needs of youth and families in their communities. Appropriate translation or language supports, for instance, can be essential to ensuring that youth or families with limited English proficiency understand their interactions with the juvenile justice system.

Engaging in culturally and linguistically competent approaches often begins well before a case reaches the courthouse. Pennsylvania, for instance, created a training curriculum for new law enforcement cadets on racial and ethnic disparities in the juvenile justice system. The [Philadelphia Minority Youth Law Enforcement Curriculum](#) “addresses adolescent development, youth culture, and youth coping strategies, and brings youth-police dialogue into the training experience. The training helps officers distinguish between normal adolescent behavior and criminal conduct, and helps them understand the environmental and developmental bases for adolescent behavior.” Since its inception in 2007, the curriculum has been expanded to other police departments.¹⁵⁸ [Maryland](#)¹⁵⁹ requires its Police Training Commission to develop a cultural competency training curriculum for law enforcement officers assigned to public schools to teach them to effectively communicate with individuals, organizations and institutions in the area where the school is located. The training also encourages exposure to people within the community and services that help prevent juvenile arrests.

In addition, the Missouri Office of State Courts Administrator has issued Training Standards for Juvenile Justice Professionals that recognize and include cultural competence as a fundamental skill for professionals working in the juvenile justice system.¹⁶⁰



Principle 11

System-involved youth, families, and crime victims and survivors impacted by the juvenile justice system should play a central role in informing the development of juvenile justice policy and finding solutions to hold youth accountable in age-appropriate ways.

The juvenile justice system should respond to the law-violating behaviors of youth in a manner that protects the community, holds youth accountable and improves a youth's ability to live responsibly in the community. Victims, survivors, families and guardians—and youths themselves—should be involved in crafting solutions to hold young people accountable.

- **Implement policies that provide restorative responses to crime that seek to address the needs of the victim, community and responsible youth.**

In the juvenile justice system, restorative justice can address the needs of the victim, community and responsible youth through practices that hold the youth accountable and repair the harm caused. Restorative justice models give people who have been harmed the opportunity to be heard, ask questions and seek restoration; allow those responsible for crimes to apologize and make amends; and involve family members and the community in discussions around accountability, reparations and rehabilitation.¹⁶¹ In 2015, the Office of Juvenile Justice and Delinquency Prevention and George Mason University conducted a study that *evaluated*¹⁶² the effectiveness of these programs and practices. The analysis found that restorative justice programs moderately reduced future delinquent behavior and increased victim satisfaction and perceptions of fairness in the justice system. The research also revealed that certain types of restorative justice programs—including victim-offender conferencing, family group conferencing, and arbitration and mediation programs—helped reduce delinquent behaviors. Several states—including Hawaii, Minnesota, Pennsylvania, West Virginia, Utah and Vermont—enacted legislation to incorporate restorative justice practices in the juvenile justice system. For example, West Virginia¹⁶³ allows children charged with status and nonviolent misdemeanors to be diverted to a program that emphasizes dialogue and repairing the harm against the victim and community. In Vermont,¹⁶⁴ when a young person is unable to pay restitution at the time of disposition, the court may refer the case to a restorative justice program.

Colorado has a particularly developed set of restorative justice responses codified in legislation. The state's first restorative justice bill,¹⁶⁵ enacted in 2007, created a state-level Restorative Justice Coordinating Council and strongly encouraged local juvenile justice planning committees to consider these programs. A 2008 bill¹⁶⁶ added restorative justice practices to juvenile diversion and as sentencing and probation options. The bill also requires that judges make youth and their parents or guardians aware that victim-offender conferences may be part of the sentence.

Restorative Justice in Statute: Colorado

Colorado has adopted restorative justice practices, defined in statute¹⁶⁷ as: "... practices that emphasize repairing the harm caused to victims and the community by offenses. Restorative justice practices include victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices. Restorative justice practices are facilitated meetings (facilitated by trained facilitators adhering to the Code of Conduct and Facilitator Standards) attended voluntarily by the victim or victim's representatives, the victim's supporters, the offender, and the offender's supporters and may include community members (and other stakeholders). By engaging the parties to the offense in voluntary dialogue, restorative justice practices provide an opportunity for the offender to accept responsibility for the harm caused to the victim and community, promote victim healing, and enable the participants to agree on consequences to repair the harm, to the extent possible, including but not limited to apologies, (meaningful) community service, reparation, restoration, and counseling. Restorative justice practices may be used in addition to any other conditions, consequences, or sentence imposed by the court. (or may be used as a pre-file option by law enforcement or their approved partners.)"

Colorado [expanded its restorative justice program](#)¹⁶⁸ again in 2013 by establishing a prefiling pilot program, allowing district attorneys to offer youth with no prior juvenile history accused of low-level crimes the opportunity to participate in a restorative justice program. Victims, youth and law enforcement may also request that restorative justice be pursued in a case. If the young person successfully completes the program, no charges are filed. Counties participating in the program must report to the Division of Criminal Justice the number and demographics of juveniles who met the program criteria, did and did not participate, reached and completed the program's "reparation agreements," as well as rearrest rates and the results of victim and youth satisfaction surveys. [That data](#) is used to maintain a database of existing restorative justice programs, and can be reviewed to ensure that restorative options are made available equally. A [2015 analysis](#)¹⁶⁹ found that the costs varied across the counties but remained low, from \$503 to \$1,251 per juvenile.

In 2015, the pilot program was expanded to allow those charged with petty and municipal charges to participate. According to an independent study, of the 474 participants, 433 had successfully completed their restorative justice contracts and no charges were filed, and high satisfaction levels were reported by victims, participating juveniles and community members.¹⁷⁰

■ **Structure and provide access to resources so that justice-involved youth who have experienced trauma or victimization can access victims' services.**

[Research shows](#) that a relationship exists between violent victimization of juveniles and violent offending by the same juveniles.¹⁷¹ Additionally, justice-involved youth report high levels of victimization and exposure to trauma.¹⁷² As a result, the federal government and states are providing access to resources for justice-involved youth who have experienced trauma. The Crime Victims Fund, established by the federal government in the Victims of Crime Act (VOCA) of 1984, is a critical source of federal funding to help states develop programs to assist crime victims. In 2016, the federal Office of Victims of Crime released new guidelines for using VOCA dollars to serve more youth who have been exposed to violence. Total funding has increased substantially, and states including Massachusetts, Ohio and Texas have taken advantage of the increase to provide services for youth victims.¹⁷³

States have also made strides in developing legislation and policy that aid juvenile sex trafficking victims, many of whom end up in the justice system. Recognizing that child sexual exploitation involves abusing and coercing youth, states have enacted laws in recent years protecting and providing resources to these youth, and treating them not as offenders, but instead as victims. Kentucky,¹⁷⁴ Montana,¹⁷⁵ Nebraska,¹⁷⁶ North Dakota¹⁷⁷ and Oklahoma¹⁷⁸ require that youth victims of trafficking either receive immunity from prosecution or are not charged at all and directed to services. North Dakota goes further, extending immunity to other crimes tied to trafficking, including misdemeanor forgery and theft, credit offenses and controlled substance crimes, in addition to prostitution. Twenty-two states have created special funds by statute to provide services for sex trafficking victims. For example, [Arkansas' Safe Harbor Fund for Sexually Exploited Children](#) provides "services and treatment, such as securing residential housing, health services, and social services for sexually exploited children." Fourteen states require an agency or commission to develop a plan for providing services to trafficking survivors; others include such programs in statute. In Texas,¹⁷⁹ a commission is responsible for maintaining a searchable database of assistance programs, including mental health services, and must conduct outreach to ensure that victims, judges, prosecutors and law enforcement personnel are aware of the services.

Principle 12

Cross-branch oversight mechanisms should hold government systems accountable, monitor youth outcomes, encourage system improvements and invest in effective justice system practices.

Given the dozens of government agencies, service-providing organizations and stakeholders that may be responsible for different aspects of the juvenile justice system in a single state, cross-branch oversight mechanisms are important to ensure that laws are implemented effectively. Every state has a [State Advisory Group](#) pursuant to the federal [Juvenile Justice and Delinquency Prevention Act](#) that is responsible for monitoring and supporting compliance with federal law. In addition, many states have established state oversight bodies to guide the progress of juvenile justice system reforms, evaluate whether the system is achieving desired outcomes regarding public safety and fiscal responsibility, and to respond to identified problems.

■ Equip relevant agencies and stakeholders with opportunities, training and resources to ensure effective implementation.

Juvenile justice policies reach not only into the courts, but also into other agencies, such as departments of juvenile justice, child protection, education, mental health, developmental disability and child services. State legislative responsibility for juvenile justice often includes facilitating collaboration and equipping agencies and stakeholders with adequate resources and training for effective implementation.

In 2015, South Dakota passed Senate Bill 73, which made significant changes to the state's juvenile justice system. To prevent those accused of low-level offenses from moving deeper into the system, SB 73 created a [citation process](#) whereby law enforcement officers write citations (similar to traffic tickets) as an alternative to arrest and adjudication. The civil citations are issued for petty theft, intentional damage to property amounting to less than \$400, purchasing or consuming alcohol, or truancy.

Another provision in South Dakota's law established a presumptive limit on the length of juvenile probation and required graduated responses—a structured system of incentives and sanctions designed to give probation officers flexibility in responding to youth behavior and promote youth success on probation. Sanctions respond to the seriousness of a specific probation violation and the risk level assigned to a youth, while incentives focus on encouraging and recognizing progress made toward short- and long-term goals.¹⁸⁰ To implement these policies, state leaders created a graduated response matrix, and probation officers were trained on using graduated responses with their clients. The result of this carefully implemented policy was a 62-percent reduction in the number of probation violations between 2014 and 2016.¹⁸¹

■ Invest in data systems and other infrastructure that promote transparency and continuous quality improvement in juvenile justice systems.

Data systems and infrastructure to promote transparency and ongoing quality improvement can be established to acquire and make available data that is useful for policymakers. In Maryland, for instance, the Department of Juvenile Services publishes [annual data resource guides](#)¹⁸² with information by county on intake, alternatives to detention, lengths of stay in detention, community-based programs and recidivism.

Washington state has prioritized research services and support to give meaning to its data. The Legislature created the Washington State Institute for Public Policy (WSIPP) in 1983 to conduct practical, non-partisan research. WSIPP is regularly tasked with research projects to monitor and evaluate the juvenile justice system.¹⁸³ In 2012, when the Legislature passed [House Bill 2536](#),¹⁸⁴ it directed WSIPP to develop and maintain an inventory of evidence-based, research-based, and promising practices and services in the areas of mental health, child welfare and juvenile justice. All of WSIPP's research is available to the public on its website.

- **Structure oversight bodies to enable regular communication among stakeholders, provide access to high quality data and analysis, and include performance review.**

The mandate, purview and expectations that are prescribed for juvenile justice system oversight bodies shape their activities and influence. Kansas' juvenile justice oversight committee, for example, is responsible for ensuring that the comprehensive reforms laid out in Senate Bill 367 create change in the system as a whole, rather than incremental improvements limited to specific agencies or parts of the system. The bill requires in part that the Kansas Department of Corrections and the oversight committee work together to explore methods of exchanging confidential data across all areas of the juvenile justice system.¹⁸⁵ Once a data exchange system is chosen, all state and local programs responsible for the care of youth in the Kansas justice system must cooperate in developing and using the system.

- **Include individuals in oversight bodies who can bridge the gap between the development of state policy and its implementation.**

As the result of many months of data analysis and policy evaluation by a bipartisan, inter-branch task force, Kentucky passed comprehensive juvenile justice reform legislation in 2014. It included policies to reduce the out-of-home youth population and dedicate the savings to evidence-based programming (like precourt diversion), that incorporates a multidisciplinary review team, case management and referrals to services. The law, Senate Bill 200, also established an oversight council to track implementation of the legislation, review performance data and make recommendations for changes or improvements. The law requires the council members to include directors from the Justice and Public Safety Cabinet, the Department of Behavioral Health, the Department of Education and the Administrative Office of the Courts, the chairs of both the Senate and House judiciary committees, five at-large members chosen by the governor and others representing law enforcement, county attorneys, judges, education groups and community organizations. Since these high-level members can make decisions for their respective groups, they can bridge the gap between state policy as developed and envisioned, and its implementation.

In April 2016, the [council was presented with data](#) on committed youth and youth on probation by county and race, which revealed that Jefferson County had a disproportionate number of dispositions for black youth. The Department of Juvenile Justice commissioner noted that "the data presented today on final dispositions by race clearly indicates that, since SB 200 has been fully implemented, judicial discretion and probations given to white youth far exceed that given to youth of color and that data should be presented at judicial training" to inform judges of the issue.¹⁸⁶ The chair of the oversight council introduced [legislation](#)¹⁸⁷ in 2017 to improve data collection and analysis of disproportionate minority contact in the state's juvenile justice system. These events demonstrate the purpose of the council, which is to "monitor the effectiveness of the policies and make recommendations based on the findings."¹⁸⁸

Quotes from Our Co-Chairs

“This report is the result of committed state leaders working together in a bipartisan fashion to create a roadmap of best practices for our nation’s future. These juvenile justice principles are particularly important because research shows that an individual’s brain isn’t fully developed until age 25 and that children are particularly vulnerable to counterproductive juvenile justice policies. Juvenile courts should be considered the ‘courts of second chances,’ which prioritize rehabilitation over punishment for punishment’s sake. The bipartisan group that developed this report has excelled in passing policies to protect and rehabilitate children who become involved in the system. I am confident our work will help others do the same.”

—Senator Patty Pansing Brooks, Nebraska

“Frederick Douglass once said, ‘It is easier to build strong children than to repair broken men.’ Reforming juvenile justice systems across the nation gives legislators from all backgrounds an incredible opportunity to achieve precisely that result, making a lasting, positive impact in communities nationwide. We believe these principles will guide policy work that will change the trajectory for youth for generations to come.”

—Senator Whitney Westerfield, Kentucky

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Glossary of Terms

Adjudication	A court judgment or decision regarding whether a youth was legally responsible for an offense. The juvenile equivalent of a criminal conviction.
Case	Any proceeding, action, cause, suit, lawsuit or controversy initiated through the court system by filing a complaint, petition or indictment.
Civil judgment	A final court decision in a dispute between two parties. A court may order that unpaid fees, fines and restitution in the juvenile justice system (sometimes called financial legal obligations) become civil judgments enforceable against the youth, parent or guardian. This kind of judgment is a debt that can trigger referral to collections agencies, the withholding of tax refunds and other consequences.
Cognitive behavioral therapy	A form of psychotherapy that has been used in the juvenile justice context to address youth violence, criminality, substance use, risky sexual behaviors and school failure through a problem-solving approach.
Collateral consequences	Outcomes experienced by young people who have been involved in the court system, other than the specific sanctions and requirements imposed by the court. Examples include a change in a youth's immigration status, the possibility of being denied acceptance for military service, enhanced penalties if sentenced later for a criminal matter, and reduced prospects for employment.
Community-based alternatives	Programs that serve youth who remain in their homes and communities, rather than in out-of-home settings. Alternatives to detention (pre-adjudication) include third-party monitoring, home detention, reporting centers, and other programs designed to ensure that youth return to court for scheduled hearings while maintaining community safety. Alternatives to out-of-home placement (post-adjudication) may include probation, restorative community programs, substance abuse treatment and other rehabilitative services.
Community-based supervision	A program in which a youth involved in the juvenile system is supervised while living in the home of a parent, guardian, custodian or other fit person, as a condition of probation or as an alternative to detention.
Custodial interrogation	Police questioning of an individual suspected of a criminal offense where that person's freedom of movement is limited by the police.
Delinquency	Conduct by a juvenile that is subject to prosecution and would be criminal if committed by an adult.
Detention facility	A housing facility that provides secure custody for youth awaiting court disposition.

Disposition	The juvenile equivalent of sentencing—a decision made by a judge determining the requirements a youth must fulfill when found to have committed an offense. Possible requirements could include probation, completing one or more conditions or programs, community service, and/or commitment to a secure or non-secure facility.
Disproportionate contact	A rate of contact with the juvenile justice system for youth in certain populations—usually minority groups— that is significantly different than the rate of contact for whites or other groups.
Diversion	Decisions, programs or services to steer youth away, under certain circumstances, from formal processing in the juvenile justice system.
Evidence-based practices	Programs and approaches that have been documented to be effective through rigorous scientific evaluation.
Expungement	A court process that erases court records that meet certain criteria, so that the records do not stand in the way of obtaining employment, housing or other services. In some jurisdictions, expungement is automatic; in most, however, someone with a juvenile court record must petition the court to erase that record.
Felony	The more serious of two categories of criminal offenses (see misdemeanor, below).
Functional Family Therapy (FFT)	A treatment model that has been used in the juvenile justice context. FFT concentrates on decreasing risk factors and increasing protective factors, within and outside of the family, that impact youth.
Graduated responses	A structured system of incentives and sanctions for probation officers and courts to use to respond to youth behavior and designed to motivate youth to succeed on probation.
Indigent	Lacking financial resources. In the legal context, a person who is indigent may be unable to pay for a defense attorney, court costs or other fees. Youth who are accused of committing delinquent acts are guaranteed the right to an attorney by the Sixth Amendment to the United States Constitution, which means that indigent youth are entitled to a cost-free, court-appointed attorney.
Misdemeanor	The less serious of two categories of criminal offenses (see felony, above).
Non-secure facility/ Non-secure group home	A building that houses youth involved in the justice system but does not lock them in.
Out-of-home placement	A court-ordered disposition to a setting other than in the home of a parent, relative or guardian. Such settings could include a foster family home, group home, non-secure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff-secure facility, secure facility or detention facility.
Overrepresentation	The involvement of certain groups of youth in the juvenile justice system at a rate that is higher than their representation in the overall youth population.

Probation	A form of community supervision, which may include reporting to a supervisory officer, participating in behavior-change programming, paying victim restitution, drug testing or other conditions. Failure to follow these conditions can result in a probation violation, which may result in additional conditions, incarceration, or other sanctions or incentives to modify behavior.
Recidivism	Subsequent criminal involvement of individuals with prior involvement in the justice system; may be calculated over various time spans and use various metrics, such as re-arrest, re-adjudication, conviction or other measures.
Record-sealing	A court process that limits public access to a court file. Specific laws vary by state, but often, record-sealing depends on age, when the offense was committed, the type of offense, and any subsequent arrests or convictions.
Re-entry	The process of facilitating a youth's return from out-of-home placement to the community.
Referral	A charge of a status (see status offense, below) or delinquent offense that is sent to the court but not yet filed. Depending on state law and local rule or practice, referrals may be addressed informally or proceed through formal court processing and become a case.
Secure confinement	A facility that confines youth and restricts and controls their movements and activities with physical barriers such as locks or perimeter fences.
Solitary confinement	The seclusion of youth in a room, cell or other space, isolated from human contact socially and physically, often for 22 to 24 hours a day.
Status offense	Conduct that would not be a crime if committed by an adult, but for which juveniles may be adjudicated, including truancy, curfew violations, incorrigibility, running away, and underage possession and/or consumption of alcohol or tobacco.
Technical violation	A violation of a probation condition that is not by itself a criminal offense, such as failing to attend a meeting with a mandated treatment service provider.
Transfer/Waiver	The legal procedure that determines whether juvenile court will retain jurisdiction over a youth's case or whether the matter will be sent to adult criminal court.
Transfer and waiver laws	Laws that explain when judges or prosecutors can send juvenile cases to adult criminal court. Some states also mandate that youth charged with certain offenses will be automatically tried in adult court.
Trauma-informed care	Policies and programs that screen youth for trauma exposure; use evidence-based assessment and treatment of trauma-related symptoms; make relevant resources available to children, families and service providers; and maintain an environment that recognizes and decreases effects of trauma.
Risk and needs assessment tools	Standardized tools that help practitioners collect and synthesize information about a youth to estimate that youth's risks of recidivism and identify other factors that, if treated and changed, can reduce the youth's likelihood of reoffending. They are also used when creating plans for appropriate treatment or services.

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**IN HONOR AND REMEMBRANCE OF
REPRESENTATIVE CRAIG TIESZEN**

BORN: OCTOBER 24, 1949 DIED: NOVEMBER 23, 2017

South Dakota Representative (and former Senator) Craig Tieszen was the co-chair of NCSL's Law, Criminal Justice and Public Safety committee, a member of NCSL's Immigration and the States Task Force and a member of the Juvenile Justice Principles Work Group that created this report. He was a stalwart champion of justice, an extraordinary public servant and a cherished colleague and friend. We continue to value his immense and varied contributions to NCSL, the state of South Dakota and the city of Rapid City, where he served on the force for 32 years and retired as police chief.

He was a hero in life and died in a kayaking accident trying to save his brother-in-law from drowning. He will be missed and we hope this report serves to honor him in perpetuity.

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