

May 23, 2022

Juvenile Law Center's Testimony for the Judiciary Committee Hearing on the Juvenile Justice Reforms

Dear Committee Members,

Thank you for this hearing on the important recommendations suggested by the bipartisan Juvenile Justice Task Force. These recommendations are a vital step toward making Pennsylvania's juvenile legal system a safer and fairer place for youth.

We deeply appreciate your careful consideration of the recommendations, but the hearing is missing a vital component: the many voices of the true experts on these issues, youth from our Commonwealth. Throughout the Task Force and legislative process, the absence of the true experts on these issues—youth—has been a consistent thread. Youth with lived experience can speak to how the juvenile legal system functions in practice, its limitations, and more importantly, the impact it has on them and their families. We work and interface with youth daily who have invaluable insights and can share their recommendations for juvenile justice reform grounded in their own expertise.

We urge the Judiciary Committee to hold another hearing on these recommendations where youth and families most affected by this system are exclusively able to testify. Given the lack of youth presence at the current hearing, many youth have submitted written testimony and we encourage you to give special consideration to those letters. No longer should youth be excluded from the discussions on reforms that will impact them the most.

For 45 years, Juvenile Law Center has fought for rights, dignity, equity, and opportunity for youth. We work to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. We stand with youth to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity. We are also a member of Care, Not Control, a youth-led campaign working to end youth incarceration in Pennsylvania.

From Kids for Cash, to Wordsworth, to Glen Mills, to Devereaux, and most recently the Delaware County Juvenile Justice Center, Pennsylvania has repeatedly failed to protect its youth. These failures led to Governor Wolf's appointment of the bipartisan Juvenile Justice Task Force leading to the reforms this legislature is considering today. The data uncovered throughout the Task Force process only underscored the severity of the problems affecting the juvenile legal system. Key takeaways were: (1) youth are brought into the system for minor offenses; (2) Pennsylvania prioritizes out-of-home placement instead of serving youth in their communities where they are safer and better able to be supported to thrive; (3) diversion is underutilized despite having an 80% completion rate; and most importantly, (4) there are racial disparities at every stage of the system with Black and Brown youth being more likely to be arrested, less likely to receive diversion, less likely to receive probation, more likely to receive detention, more likely to be sent to placement and spend more time at placement once there.

After studying the data related to Pennsylvania's juvenile legal system, the Task Force broke into subgroups and proposed 35 recommendations for reform of all areas and stages of the system. We urge the legislature to enact all of the recommendations into law.

We appreciate that several of the Task Force recommendations have already been introduced as legislation. We write here to urge the legislature; (1) strengthen some of the proposed legislation; and (2) introduce new legislation on key issues including:

- a. Recommendation 9 limiting direct file;**
- b. Recommendation 15 limiting out-of-home placement;**
- c. Recommendation 14 limiting the use of pre-adjudication detention;**
- d. Recommendation 8 raising the minimum age of juvenile court jurisdiction;**
- e. Recommendation 13 increasing the use of pre-petition diversion; and**
- f. Recommendation 10 eliminating fines and fees.**

For more information on any of the issues discussed below, please contact Malik Pickett at mpickett@jlc.org. Juvenile Law Center and Care, Not Control are happy to help draft legislation, or comment on existing legislative language for any of the juvenile justice provisions.

Introduced Legislation

SB 1226-Standardized Expungement

Individuals with juvenile records face enormous consequences including barriers to obtaining employment, housing, public benefits, and post-secondary educational opportunities. These negative consequences have a disparate impact on Black and Brown youth who are far more likely to be arrested and incarcerated than white youth.¹ We support the legislation that has been introduced to encompass Recommendation 21.²

Juvenile Law Center Proposal: The legislation reduces the waiting period for expunging misdemeanors from five years to two years. We recommend that the same should be done for felonies. Misdemeanor offense records for youth are not publicly available and do not usually show up on background checks. However, most felony records are publicly available and appear on background checks, creating significant hurdles for youth that are no longer under court supervision and looking for jobs, housing, etc. For this legislation to have an appreciable impact on the lives of youth in Pennsylvania, the waiting period for expungement of felonies should be shortened.

Additionally, we support the move toward automatic expungement procedures present in the legislation but question the proposed structure of requiring chief juvenile probation officers in counties to notify the courts to initiate expungement procedures. This process requires the creation of new technology to administer. A better process would be to utilize the existing 2018 Clean Slate record sealing process where the Administrative Office of the Courts runs a monthly algorithm that identifies cases eligible for expungement. A similar process should be used in the juvenile system to effectuate expungements for youth.

SB 1227-Amending Goals of Human Services Code

This legislation amends the purpose clause of the Human Services Code and does not substantively impact youth rights within the juvenile or adult legal system.³ To ensure an adequate focus on providing needed services to youth in their homes and families, we recommend an additional provision encouraging the development of services and programming to prevent entry into placement and to support young people in their homes and communities.

We also encourage additional language to clarify that interventions in both systems should be developmentally appropriate; equitable along lines of race and ethnicity, gender, economic status, LGBTQ identity, and disability; and trauma-informed.

SB 1228-Frequency of Disposition Review Hearings

In Pennsylvania, youth are sent to placements for an indeterminate amount of time but are subject to review hearings in which judges can release youth from incarceration. SB 1228 increases the frequency of disposition review hearings from every nine months to every three months.⁴

Juvenile Law Center Proposal: We support increasing the frequency of disposition review hearings, but in our experience disposition review hearings are pro forma or skipped entirely and will not have an appreciable impact. Judges will still have the same discretion to keep youth in incarceration, so youth will continue to remain incarcerated unnecessarily when they could be released. To impact meaningful change, we need to reduce the universe of youth that are even sent to placement. For proposals on that, please see our analysis under Recommendations 8, 13, 15.

SB 1229-Indigent Youth Defense Funding

Strong legal representation is crucial for system-involved children. Youth need qualified and zealous attorneys who will advocate on their behalf, demand fair treatment, and hold systems accountable. We witnessed the impact that a lack of counsel can have in the Kids For Cash scandal where youth were routinely appearing before judges without counsel and quickly being sent to placement. Pennsylvania is one of the only states that relies exclusively on local county funding for indigent defense services. Using this system continues to reinforce justice by geography and fails to provide effective representation to all youth. SB 1229 provides that counties should be reimbursed at 50% for indigent youth defense funding.

Juvenile Law Center Proposal: We agree that Pennsylvania needs to reform its indigent youth defense funding, but the legislation does not sufficiently impact the current system as it only reimburses counties for indigent youth defense funding. We advocate establishing a state-based funding stream for juvenile defense, such as a statewide office and budget, to ensure adherence to state and national standards of juvenile representation. We also advocate ensuring that compensation rates for these attorneys are adequate to support zealous advocacy supported by full investigation and social work support so there is parity between defense and prosecution.

Bills Not Yet Introduced

Recommendation 9-Limiting Direct File

In Pennsylvania, there are two approaches to charging youth in adult court: direct file through a statutory exclusion from the juvenile justice system, or transfer from the juvenile to the adult system through the transfer process. Under the direct file process, youth who meet certain statutory criteria are automatically excluded from juvenile court jurisdiction and tried in adult court. Under the transfer process, youth 14 or older who are charged with a felony can be transferred from juvenile court to adult court pending a transfer hearing.

Youth charged in the adult system experience severe harms because that system is developmentally inappropriate for youth. Youth in adult facilities are often held in solitary

confinement and are five times more likely to commit suicide than are youth in juvenile facilities.¹ Youth in the adult facilities also experience developmental disruption. Adult facilities lack the academic, vocational, and social skill building education that youth need. Instead youth learn and see reinforced norms of domination, exploitation, and retaliation.² Additionally, youth experience substandard educational services in adult facilities which set youth further behind in reaching their educational and employment goals.³

Youth treated as adults also struggle with mental health. One study found that youth in adult prisons have higher rates of psychiatric symptoms than youth housed in youth facilities.⁴ Another study found that youth charged in adult court who received a prison sentence had significantly greater odds than those who received a less restrictive sentence to have a psychiatric disorder (74 percent and 57 percent, respectively).⁵

Involvement in the adult criminal justice system also hampers youth rehabilitation while undermining public safety. Youth prosecuted as adults are a third more likely to commit another, more violent crime than youth treated in the juvenile system.⁶ Youth prosecuted as adults also face numerous collateral consequences including an adult criminal record which negatively impact employment, higher education, housing options, military involvement, and voting rights.⁷

Juvenile Law Center Proposal: We support Senator Bartolotta’s co-sponsorship memo eliminating the direct file process. It is important to note, that eliminating direct file does not prevent a youth from being charged in adult court through the transfer process; it would just require a hearing to be held first.

Given the research on the harms that youth experience in the adult system and because the adult system is developmentally inappropriate for youth, we advocate that Pennsylvania eliminate both the direct file and transfer processes. Eliminating transfer by any process will ensure that youth are served in the juvenile legal system, which was specifically designed for them. Those working in the juvenile legal system have experience working with youth, and the system has more

¹ Campaign for Youth Just., Children in Adult Courts, Jails, and Prisons: Basic Facts 1 (Mar. 23, 2020), http://www.campaignforyouthjustice.org/images/factsheets/BASIC_FACTS_032320.pdf.

² James C. Howell, Barry C. Feld, Daniel P. Mears, David P. Farrington, Rolf Loeber, David Petechuk, Bulletin 5: Young Offenders and an Effective Response in the Juvenile and Adult Justice Systems: What Happens, What Should Happen, and What We Need to Know (Study Group on the Transitions between Juvenile Delinquency and Adult Crime), 2013, at 11, available at: <https://www.ojp.gov/pdffiles1/nij/grants/242935.pdf>.

³ Mahari Simmonds, Education behind Bars: Can Young People Be Taught in Adult Justice System?, JUV. JUST. INFO. EXCHANGE (Jan. 2, 2019), <https://jjie.org/2019/01/02/education-behind-bars-can-young-people-be-taught-in-adultjustice-system/>.

⁴ Murrie et al., Psychiatric symptoms among juveniles incarcerated in adult prison *Psychiatric Services* 60(8): 1092, 1094 (2009).

⁵ Jason J. Washburn et al., Psychiatric Disorders Among Detained Youths: A Comparison of Youths Processed in Juvenile Court and Adult Criminal Court, 59 *PSYCHIATRIC SERVICES* 965, 970 (2008).

⁶ Campaign for Youth Just., supra, at 1 (citing Robert Hahn et al., Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services, Ctr. for Disease Control & Prevention (2007), <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>).

⁷ Campaign for Youth Just., Children in Adult Courts, Jails, and Prisons: Basic Facts 1 (Mar. 23, 2020), http://www.campaignforyouthjustice.org/images/factsheets/BASIC_FACTS_032320.pdf.

appropriate services for youth. Underscoring the harms of this system, a youth formerly incarcerated as an adult stated: “I did come out of prison a different person — but I **did not** come out a better person. I came out more angry, more physically and mentally unhealthy, and more lost than I had ever been.”

Recommendation 15-Out-of-Home Placement

Senators Camera Bartolotta and Anthony Williams have introduced a co-sponsorship memorandum to encompass Recommendation 15 of the Task Force report which proposes to limit when youth can be removed from their home and sent to out-of-home placement.⁵ The Task Force heard testimony, and the research and data show that placements are harmful to youth, interfere with positive transitions into adulthood, are ineffective, and are used inequitably in Pennsylvania. The stories of youth at Glen Mills, Wordsworth, and most recently the Delaware County Juvenile Justice Center illustrate the inhumane treatment our youth receive at these facilities. Youth are routinely subject to aggression from staff, lack of privacy, discrimination, and seclusion and restraint. During a Care, Not Control Townhall held in December of 2020, Jihid Maye testified to the physical abuse he suffered at a placement facility to which he was sent, and Ishale Watson explained his experiences with discrimination in placement as an LGBTQIA youth. The experiences of youth in the harmful conditions present within placement facilities have also been discussed Broken Bridges Report, a report by Advocates for Youth Justice (formerly called Juveniles for Justice).

Additionally, youth are usually sent to placements far away from their families, leaving them isolated and vulnerable. Adolescence and young adulthood are a vital time for brain development, and removing youth from their communities, families, and other caring adults and restricting their ability to have age-appropriate experiences and opportunities during this time can delay, limit, or otherwise inhibit their normal development.⁶

Dr. Edward Mulvey, PhD testified before the Task Force that out-of-home placement, including longer lengths of stay do not reduce recidivism.⁷ Further, out-of-home placements are typically much more expensive than community-based care.⁸ The data the Task Force reviewed also underscores how inequitably placement is used: most youth are sent to out-of-home placement for non-felony, non-person offenses.⁹ Since 2009 the most serious offense for at least two-thirds of youth entering the juvenile justice system has been either a misdemeanor or contempt from Magisterial District Court for failing to pay a fine.¹⁰ Equally egregiously, the data shows significant racial disparities in placement decisions. Black youth account for 38% of written allegations, but 47% of placement decisions.¹¹ Hispanic males account for 10% of written allegations, and 13% of placement dispositions.¹² White males, in contrast, account for 34% of written allegations, but only 28% of placement dispositions.¹³

Juvenile Law Center proposal: We agree with the premise of this recommendation to limit the use of placement to certain offenses. However, this recommendation is too reliant on court discretion and risk assessment tools to achieve that goal. Judicial discretion and risk assessment tools have allowed for the racial disparities and inequalities currently present in youth placement. We advocate for strengthening the language of this recommendation by codifying specific exclusions to limit the universe of youth that can be sent to placement. We suggest prohibiting placement for the following categories of youth:

- a. Any youth under the age of 14

- b. Any youth on a written allegation of a misdemeanor offense or nonviolent felony
- c. Youth who are charged with a status offense, probation violation, or non-payment of fines, fees, or restitution
- d. Youth who are pregnant or are parents of children born in the past year.

This proposal will significantly limit the use of placement, while also maintaining the goal of public safety. We also suggest that the recommendation be amended to clarify that youth adjudicated of sex offenses are not removed from their homes unless there is a finding that the youth is a high-risk to reoffend. Recidivism rates are actually lower for sex offenses than they are for other offenses as youth generally mature out of those behaviors. In Pennsylvania, the low recidivism rate of juvenile sex offenders is exceptionally pronounced: between 2007 and 2012, less than 2% of youth adjudicated delinquent of rape, involuntary deviate sexual intercourse, or aggravated indecent assault, excluding inchoate offenses, were subsequently adjudicated delinquent for similar offenses.¹⁴ Lastly, we advocate that the language specifically prohibit placement for technical probation violations as those minor violations are a major driver of out-of-home placements.

Recommendation 14- Pre-Adjudication Detention

Senators Camera Bartolotta and Anthony Williams have introduced a co-sponsorship memorandum to encompass Recommendation 14 which limits the circumstances for which pre-adjudication detention can be used.¹⁵ Like placements, detention settings impose serious harm on youth. We therefore advocate for reducing the use of detention. While detained, youth are removed from their homes and communities which are their primary support systems.¹⁶ Studies show that youth in detention have higher rates of depression, anxiety, and other mental health conditions.¹⁷ Youth in detention also lose access to educational opportunities and are more likely to disengage from school and become system-involved in the future.¹⁸ In Pennsylvania, when detention is ordered, youth are detained for an average of 17 days, and in 25% of those instances, youth are held longer than 24 days.¹⁹ The data illustrates that racial disparities are present in the detention context much like the other areas of our juvenile justice system.²⁰ The Task Force data uncovered that Black youth made up 62% of pre-adjudication detention admissions while only making up 38% of written allegations.²¹ In contrast, white youth only made up 20% of detention admissions, despite comprising 45% of written allegations.²²

Juvenile Law Center Proposal: Statutorily based criteria are necessary to reduce Pennsylvania's reliance on detention. Recommendation 14 contains such criteria but creates exceptions if a youth poses "a substantial risk of harm to others and there is no alternative to reduce the risk of harm to others." This language functionally invalidates the specific criteria set forth because it continues to authorize detention for youth who are under 14 or are pregnant or parents of children born in the past year. As explained above, detention centers are not developmentally appropriate for any youth. Furthermore, they are often ill-equipped to provide the necessary medical services to youth who are pregnant or have just given birth. The stress and trauma caused by the harmful conditions present in detention centers have an even more deleterious effect on those who are pregnant. Youth need to be with their newborn children during the first year when

crucial development and bonding occurs. We recommend legislation that sets forth the criteria, without this broad exception.

Recommendation 8-Minimum Age of Juvenile Court jurisdiction

Recommendation 8 would raise the minimum age of juvenile court jurisdiction from 10 to 13.²³ Raising the minimum age of juvenile court jurisdiction will put Pennsylvania in the company of states such as California, Massachusetts, Nebraska, and Mississippi that have all raised their minimum age above 10.²⁴

Juvenile Law Center proposal: Although raising the minimum age to 13 is a step forward, we recommend setting the minimum age at 14 instead. This is the age that Advocates for Youth Justice (formerly Juveniles for Justice) recommended based on their own experiences. The 2019 United Nations Global Study on Children Deprived of Liberty also advocates for a minimum juvenile court jurisdiction age of 14 and found that the most common minimum age of criminal responsibility internationally is 14.²⁵

To make the recommendation even stronger, we suggest including another provision clarifying that children 13 and under should receive warnings in the first instance and referrals to voluntary services when further interventions are needed. The model used by the Philadelphia School Diversion Program is one good example of such a program. We also recommend clarifying that these children may not be sent to adult court.

We also recommend eliminating the exception for sex offenses. This exception is not grounded in research. Youth who commit sex offenses are no different from youth who engage in non-sexual delinquent behavior.²⁶ Multiple studies confirm that children who commit sexual offenses are motivated by impulsivity and sexual curiosity, not predatory, paraphilic, or psychopathic characteristics.²⁷ With maturation, a better understanding of sexuality, and decreased impulsivity, these behaviors stop. Youth who commit sexual offenses are unlikely to commit another. Over 97% of youth who engage in sexual misconduct never commit another sexual offense. This is true even as to PA youth.²⁸ Further, the severity of a youth's offense is not predictive of re-offense. A study comparing sexual recidivism rates of children assigned to three groups based on the severity of their offenses found no significant difference in the recidivism rates of the three groups.²⁹

Additionally, youth who engage in inappropriate sexual conduct need treatment and intervention, but the juvenile justice system need not be the vehicle to provide that intervention. The child welfare system's interventions and treatment providers can provide appropriate services to address the needs of children between the ages of 10-12. Providing treatment to address inappropriate sexual conduct will minimize deeper penetration into the legal system and ensure intervention that is targeted and effective. The likelihood of criminal prosecution may result in fewer reports when a child engages in inappropriate sexual conduct. Typically, children who engage in this type of conduct do so with siblings or friends.³⁰ Families will be discouraged from seeking treatment knowing that their child will be prosecuted. Providing interventions outside the juvenile justice system will ensure that children benefit from the treatment necessary to address their inappropriate behaviors.

Recommendation 13-Pretrial Diversion

Senators Camera Bartolotta and Anthony Williams have introduced a co-sponsorship memorandum to encompass Recommendation 13 which expands the use of pretrial diversion by

outlining circumstances where it is required.³¹ Expanding diversion is a key avenue to reducing the overall juvenile justice population and saving the money that is now spent on out-of-home placement. Data shows that diversionary efforts such as informal adjustment have an 80% success rate in Pennsylvania, and among youth who score low risk to reoffend, that rate rises to 87%.³² Despite the great success of diversion programs, they are only used in 35% of cases.³³ Moreover, 66% of youth assessed as low-risk offenders did not receive pre-petition diversion, and half of misdemeanor charges do not receive pre-petition diversion.³⁴ Where diversion is used, it is done so inequitably with 48% of white youth receiving diversion compared to only 36% of Black youth and 13% of Hispanic youth.³⁵

Diversion and informal adjustment are underutilized because of the discretion given to juvenile probation officers, district attorneys, and the court to use it. In many counties in Pennsylvania, district attorney's offices oversee admission into diversion programs, often with unclear standards as to which youth can enter the program. Additionally, the criteria juvenile court judges use to determine informal adjustment eligibility also varies with consideration given to factors such as court history, offense, assessed risk level, and victim input.³⁶ Statutorily requiring diversion/informal adjustment for specific offenses will both increase its utilization and ensure that it is used in a more equitable fashion.

Juvenile Law Center Proposal: We support this recommendation and would only advocate that eligibility and admission decisions to these diversion programs are made by the court instead of the district attorney's office to ensure that these statutory criteria are strictly followed.

Recommendation 10-Fines and Fees

Juvenile Law Center, with national partners, is leading a national campaign dedicated to ending the harmful and unjust fees and fines imposed on youth and their families in the justice system.³⁷ In the past few years, 15 states, Republican and Democrat, have passed legislation to abolish fines and fees in the juvenile justice system. Through our work with this campaign, we are well versed in best practices in fines and fees. We were pleased to see that Senators Gene Yaw and Amanda Cappelletti introduced a co-sponsorship memo encompassing Task Force Recommendation 10 which eliminates most fines and fees in the juvenile justice system.³⁸

For young people, the consequences of fines and fees can be particularly devastating. Youth, due to their age and educational responsibilities, rarely have jobs or other sources of financial resources, rendering them unable to pay juvenile justice costs and fees. Youth and families who cannot pay fees face criminal contempt, civil judgments that follow them into adulthood, probation violations, additional fees, and incarceration. During our 2020 Townhall, David Harrington testified that his probation was prolonged much longer than necessary solely because of an exorbitant amount of court fees and restitution that he could not pay. Fortunately, a community organization helped him settle his debt, but many youth do not receive such assistance and are consequently left under court supervision because of poverty. At the February 24, 2021 Task Force meeting, Shyara Hill also testified to having three additional years of probation solely due to court fees that she was unable to pay.

Additionally, fines and fees increase recidivism. Criminologists Alex Piquero and Wesley Jennings examined the impact of fines and fees on youth, analyzing over 1000 cases.³⁹ They concluded that youth who had fines and fees imposed on them had higher recidivism rates than those who did not, even when controlling for age, race, gender, and type of offense.⁴⁰

Consequently, fines and fees undermine the juvenile justice system's rehabilitative goals and are also not developmentally appropriate.

We note that some diversion programs, such as the Accelerated Rehabilitation Disposition program, require fees for youth to participate and in some cases youth who cannot pay are denied participation. We advocate that any legislation clarify that fines/fees for diversion programs are also eliminated.

Juvenile Law Center proposal: While we fully support the Task Force recommendation and co-sponsorship memo as stated, it still authorizes a \$10 to be imposed for the maintenance of a restitution fund. While we believe that legislation would be even stronger and more beneficial if the \$10 fee were removed, the legislation is a huge step forward for the Commonwealth.

¹ <http://www.pacourts.us/assets/files/page-1316/file-9942.pdf?cb=1608055829240>.

² <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=S&billTyp=B&billNbr=1226&pn=1639>

³ <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=S&billTyp=B&billNbr=1227&pn=1644>

⁴ <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=S&billTyp=B&billNbr=1228&pn=1640>

⁵ Recommendation 15 provides:

1. Youth may not be removed from the home as the disposition for an adjudication of delinquency, unless the court determines that one of the following applies:
 - a. The youth poses a risk to the safety of the community or a victim. In determining whether the youth poses a risk to the safety of the community or a victim, the court shall consider:
 - i. The results of a validated risk and needs assessment;
 - ii. Whether the youth used a deadly weapon in the commission of the offenses;
 - iii. Whether the youth intentionally inflicted significant bodily injury upon another person in the commission of the offenses; and
 - iv. The nature of the offense.
 - b. The youth has been adjudicated delinquent of a sexual offense and residential treatment is the most appropriate and least restrictive dispositional option.
 - c. The court determines that the juvenile is medically in need of residential drug and alcohol or mental health services, after an appropriate evaluation or assessment.
2. The court may not remove a youth from home solely for a technical probation violation. This shall not include:
 - a. The violation of a no contact order which places the safety of the community or a victim at risk;
 - b. Repeated violations of probation for an offense involving the threat to, or use or possession of a deadly weapon or the intentional infliction significant bodily injury to a victim;
 - c. The violation of probation for a sexual offense; or
 - d. When the court determines that the juvenile is medically in need of residential drug and alcohol or mental health services, after an appropriate evaluation or assessment.
3. In all cases where the court has determined that removal and placement of the youth is the appropriate and least restrictive dispositional option after consideration of the above factors, the court shall set forth its reasons for removal and placement of the youth on the record and in writing.
4. The court shall not dispose a youth to out-of-home placement solely because treatment is not available in the community.
5. The court shall not remove a youth from home because of concerns related to the family or home environment (neglect, abuse, etc.). Where there are concerns related to abuse, neglect, or dependency, the matter should be referred to the appropriate child welfare agency.
6. The model (CPCMS) juvenile delinquency dispositional and post-dispositional review orders should be reviewed by the Juvenile Court Procedural Rules Committee and the AOPC to ensure that the court order cannot be entered unless the court's reasons for the disposition are set forth as required by Pa. P.J.C.P. 512

and 42 Pa C.S. § 6352(c) as added to the Juvenile Act by Senator Baker’s Act 22 of 2012 (including, if the juvenile is removed from the home, why the court found that the out-of-home placement ordered is the least restrictive type of placement that is consistent with the protection of the public and the juvenile’s treatment, supervision, rehabilitation, and welfare).

⁶ The Annie E. Casey Foundation, *The Road to Adulthood: Aligning Child Welfare Practice with Adolescent Brain Development* (2017), <https://www.aecf.org/m/resourcedoc/aecf-theroadtoadulthood-2017.pdf> (The “strain” that incarceration and restrictive practices can put on a child’s development in the delinquency system is even more extreme than the challenges described in this publication with respect to youth in the child welfare system. 36 *Transforming Justice: Bringing Pennsylvania’s Young People Safely Home from Juvenile Justice Placements* The takeaway is the same: age-appropriate, community based services that come with connection with family and caring adults support healthy development as youth transition to adulthood.).

⁷ www.pacourts.us/assets/files/page-1316/file-9942.pdf?cb=1608055829240.

⁸ www.pacourts.us/assets/files/page-1316/file-9928.pdf?cb=1608055999508.

⁹ *Id.*

¹⁰ www.pacourts.us/assets/files/page-1316/file-9667.pdf?cb=1612449479147.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ PA. JUV. CT. JUDGES’ COMMISSION, *THE PENNSYLVANIA. JUVENILE JUSTICE RECIDIVISM REPORT: JUVENILES WITH CASES CLOSED IN 2007, 2008, 2009, 2010, 2011, OR 2012*, at 91 (Sept. 2016), <https://www.jcjc.pa.gov/Publications/Documents/Recidivism/Pennsylvania%20Juvenile%20Justice%20Recidivism%20Report-Juveniles%20with%20Cases%20Closed%202007-2012.pdf>.

¹⁵ Recommendation 14 provides:

1. The following youth shall not be placed in detention prior to adjudication:
 - a. Any youth under the age of 14, unless the court determines the youth poses a specific, immediate, and substantial risk of harm to others and there is no alternative to reduce the risk of harm to others.
 - b. Any youth on a written allegation of a misdemeanor offense or nonviolent felony
 - c. Youth who are charged with a status offense, probation violation, or non-payment of fines, fees, or restitution.
 - d. Youth who are pregnant or are parents of children born in the past year, unless the court determines the youth poses a specific, immediate, and substantial risk of harm to others and there is no alternative to reduce the risk of harm to others.
 - e. Any youth who does not pose a specific, immediate, and substantial risk of harm to another person.
2. No youth shall be placed in detention solely due to:
 - a. A lack of supervision alternatives or service options;
 - b. A parent or guardian avoiding legal responsibility;
 - c. A risk of self-harm;
 - d. Contempt of court;
 - e. Violations of a valid court order; or
 - f. Technical violations of probation or aftercare unless there is probable cause that the juvenile poses a specific, immediate, and substantial risk of harm to others.
3. At the detention hearing, a youth shall not be placed or allowed to remain in detention unless:
 - a. They have scored as detention-eligible on a validated detention risk assessment, which may not be overridden to place a youth in detention.
 - b. There is probable cause that community-based alternatives to detention are insufficient to 1) secure the presence of the youth at the next hearing as demonstrated by the record or 2) protect the safety of another person from serious threat.

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4. Detention shall never be required.
 5. Expand access to community-based alternatives to detention which do not include the use of electronic monitoring, such as evening and afterschool reporting centers.
 6. A youth shall not spend more than 20 cumulative days in detention prior to adjudication. This 20-day limit may only be extended at the request of the youth or upon a written finding of specific, immediate, and substantial risk of harm to others.

¹⁶ Justice Policy Institute, *The Dangers Of Detention 6* (2006), http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

¹⁷ *Id.* at 6.

¹⁸ *Id.* at 9; Kareem L. Jordan, U.S. Dep't of Justice, Office of Juvenile Justice and Delinquency Program, *Preventive Detention and Out-of-Home Placement: A Propensity Score Matching and Multilevel Modeling Approach* (Fall 2012).

¹⁹ <http://www.pacourts.us/assets/files/page-1316/file-9667.pdf?cb=1616160976533>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Recommendation 8 provides:

1. Raise the minimum age for a written allegation of delinquency against a youth from 10 to 13, except for murder or sexual offenses which would be designated as a Felony in the First Degree if they were committed by an adult, for which the minimum age of jurisdiction shall remain 10. County Children and Youth agencies shall prioritize services to children who are alleged to have committed a delinquent act or crime, other than a summary offense, while under the age of 13 years.

Remove the juvenile court's jurisdiction over offenses referred to court on contempt for non-payment of fines/fees in Magistrate court.

²⁴ CA Welf & Inst Code § 602; MGL c.119, §§ 52; Neb. Rev. Stat. Ann. § 43-247(1)-(2); and MS Code § 43-21-605.

²⁵ United Nations, General Assembly, "Global Study on Children Deprived of Liberty: report of the Independent Expert," A/74/136 (11 July 2019): 20, available at <https://undocs.org/en/A/74/136>.

²⁶ Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 *SEXUAL ABUSE: J. RES. & TREATMENT* 293, 313, 331 (2005); Michael F. Caldwell et al., *An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism*, 14 *PSYCHOL., PUB. POL'Y, & L.* 89 (2008), available at <http://www.ncjfcj.org/sites/default/files/examinationofthesexoffender.pdf>

²⁷ Michael F. Caldwell, *What We Do Not Know About Juvenile Sexual Re-Offense Risk*, 7 *CHILD MALTREATMENT* 291 (2002); Elizabeth Letourneau & Michael Miner, *Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo*, 17 *SEXUAL ABUSE: J. RES. & TREATMENT* 293, 331 (2005); Judith Becker & Scotia Hicks, *Juvenile Sexual Offenders: Characteristics, Interventions, & Policy Issues*, 989 *ANN. NY ACAD. SCI.* 397, 399-400, 406 (2003); Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 *INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY* 197, 197-98 (2010).

²⁸ PA. JUV. CT. JUDGES' COMMISSION, *THE PENNSYLVANIA. JUVENILE JUSTICE RECIDIVISM REPORT: JUVENILES WITH CASES CLOSED IN 2007, 2008, 2009, 2010, 2011, OR 2012*, at 91 (Sept. 2016), <https://www.jcjc.pa.gov/Publications/Documents/Recidivism/Pennsylvania%20Juvenile%20Justice%20Recidivism%20Report-Juveniles%20with%20Cases%20Closed%202007-2012.pdf>.

²⁹ Franklin E. Zimring et al., *Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6 *CRIMINOLOGY & PUB. POL'Y* 507 (2007).

³⁰ <https://www.rainn.org/statistics/children-and-teens>.

³¹ Recommendation 13 provides:

1. Require Informal Adjustment or other pre-petition diversion for any youth who has fewer than two prior pre-petition diversions for:
 - a. All misdemeanors and all nonviolent felonies, except firearm related offenses.
2. Other conditions of informal adjustment:

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- a. The youth shall not be required to admit guilt, but may be required to accept responsibility, in order to receive an informal adjustment or other pre-petition diversion.
 - b. There shall be no fees associated with a pre-petition diversion or informal adjustment.
3. Limit length of consent decree to six months:
- a. Extensions shall not be allowed except for the completion of an evidence-based program assessed as necessary for that youth by a validated risk/needs assessment or to complete community service, and then an extension is possible for three months. Each consent decree shall have no more than two extensions.
 - b. Revocations of consent decrees shall not be allowed solely for non-payment of restitution or other financial obligations including fines and fees, except for cases where the Commonwealth demonstrates that the youth was able to pay and made no effort to do so.

³² www.pacourts.us/assets/files/page-1316/file-9741.pdf?cb=1612449264297.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ <https://debtfreejustice.org/>

³⁸ Recommendation 10 provides:

1. The Juvenile Act shall be amended to ensure that the court and juvenile probation does not incorporate any financial condition, except for restitution and a fee or cost that is related to the maintenance of a county restitution fund or the Crime Victims Compensation Fund, as a part of any informal resolution to a juvenile case or formal delinquency disposition, notwithstanding any other provision of the law.
2. The Juvenile Act shall be amended to provide that contribution to a restitution fund pursuant to an informal adjustment, consent decree, or a disposition following an adjudication of delinquency shall not exceed \$10.00.”

³⁹ Alex R. Piquero & Wesley G. Jennings, *Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 1 (2016).

⁴⁰ *Id.*