
Improving Diversion and Youth Outcomes

October 29, 2020

Diversion in Maryland



Intake officer may propose informal adjustment, unless:

- The youth is charged with a felony, **OR**
- The youth is possession of a gun

The State's Attorney shall review the case file and determine whether judicial action is:

- In the best interest of the public, **AND**
- In the best interest of the child, to decide whether to:
 - File a petition,
 - Refer the complaint to DJS for informal disposition, or
 - Dismiss the complaint

Recent reforms in the U.S.



- Florida
- California
- Kentucky
- Kansas
- South Dakota
- Utah

Several states have passed relatively recent bills to standardize statewide diversion processes and remove barriers to participation.

Pre-Arrest Diversion

Prevents youth from being formally processed by the juvenile or criminal justice systems.

Generally occurs when police choose not to arrest youth or when schools decline to involve police or the courts.

- Caution and Warning Programs
- Civil Citation Programs

Officers may divert from the juvenile justice system any juvenile for whom in their opinion legal proceedings would be inappropriate or the use of other resources would be more effective. The officer [may consider] the nature of the offense, the age and circumstances of the alleged offender, the offender's past record if it is known, and the availability of community-based programs that could assist the child.

Florida Civil Citation Program



Florida has the longest running police-initiated civil citation program, dating back to 1990 and present in 60 of the state's 67 counties as of 2016.

Juvenile misdemeanors may qualify for a civil citation, EXCEPT:

- Any misdemeanor involving the possession or use of a firearm
- Any misdemeanor involving exposure of sexual organs or other sexual related behavior
- A misdemeanor that is directly related to, or a part of, gang activity

Each judicial circuit's civil citation program should:

- The misdemeanor offenses that qualify a juvenile for participation
- The eligibility criteria for the program
- The program's implementation and operation
- The program's requirements

Florida Department of Juvenile Justice; F.S. 985.12

California Diversion Efforts



SB 433 would require the California Department of Social Services (CDSS), in collaboration with the California Department of Public Health (CDPH) to establish and oversee a three-year, five-county pilot program for the purpose of **advancing a comprehensive, coordinated, and expanded approach to youth diversion, with the goal of minimizing youth contact with the juvenile or criminal justice systems.**

Kentucky



SB 200 passed in 2012.

Requires that the Administrative Office of the Courts, and County attorneys offer diversion when:

The youth is referred to intake upon a first-time misdemeanor Complaint.

Permits diversion even upon a first-time felony when:

- The County Attorney provides written approval, **AND**
- The charge does not involve sex or weapons

Impact:

- Between '14-'18, diversion agreements increased from 45% to 58%
- Nearly 9 out of 10 youth completed diversion
- No negative impact on public safety

KRS 605.030

Kansas



SB 367 passed in 2016.

Youth shall be offered the opportunity to participate in an immediate intervention program and avoid prosecution if:

- The youth is charged with a misdemeanor,
- The charge is not a sex crime, **AND**
- The youth has no prior adjudications

Duration of diversion:

- No longer than 6 months (up to 8 months if in evidence-based MH or substance abuse treatment)
- Diversion may be satisfied early
- Diversion may be extended by multidisciplinary team if unsatisfactory compliance

KSA-Sect. 38-2346

South Dakota



SB 73 passed in 2015.

The reforms made diversion the presumptive default, where:

- The youth is charged with a misdemeanor
- The youth has no prior adjudications
- The youth has no informal adjudications in the past 12 months, **AND**
- The charges do not allege violence or use of force against another

Additional safeguards:

- No longer than 4 months (was previously 6 months)
- Community Services Intervention Model – DSS maintains relationships with services providers
- Language was amended (2018) to clarify intent that diversion is available to all youth at the State Attorney's discretion.

SDCL 26-7A-11.1

Utah



HB 239 passed in 2017.

Intake officials SHALL offer "nonjudicial adjustment" where:

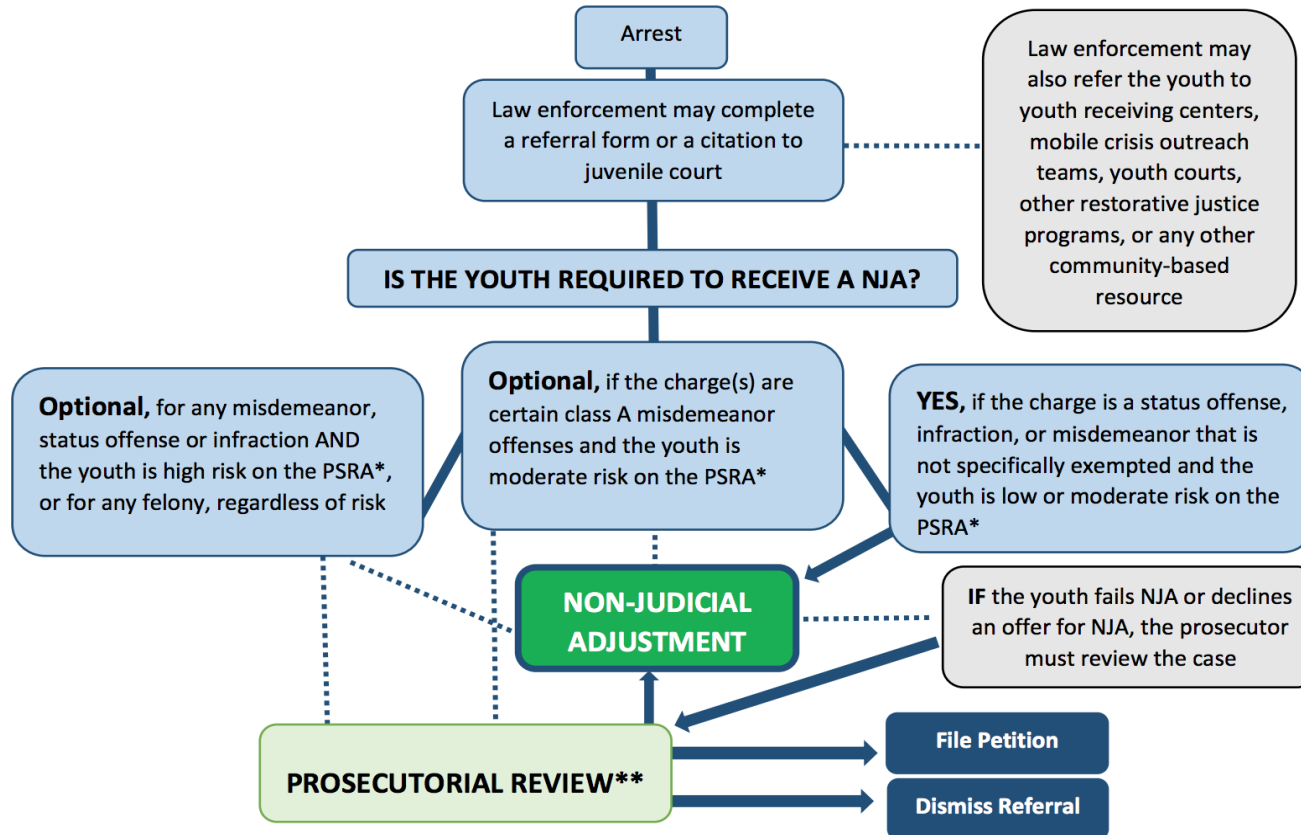
- The youth is referred for an offense that is a misdemeanor, infraction, or status offense
- has no more than two prior adjudications; and
- has no more than three prior unsuccessful nonjudicial adjustment attempts.

May withhold diversion if a youth is high-risk or charged with:

- driving under the influence;
- reckless endangerment
- negligent homicide;
- sexual battery;
- possession of a dangerous weapon

Utah Statute 78A-6-602

Utah (cont.)



Best practices

- Quickly divert youth
- Mandatory referral of low-level charges
- Guide prosecuting attorneys to consider diversion
- Limit prosecutor ability to override
- Evidence-based practices and infrastructure to monitor diversion programs
- Set parameters on diversion duration

Discussion
