

Proposed Recommendations for Juvenile Justice Reform Council

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Senator Chris West:

- The floor on juvenile court jurisdiction would be set at age 12, except in cases involving a crime of violence as defined in § 14-101 of the Criminal Law Article. Under this policy a child under age 12 would not be subject to juvenile court jurisdiction except in cases involving a crime of violence.

Senator Jill P. Carter:

- Elimination of automatically charging juveniles as adults for specific crimes.
- Expanding the use of diversion.
- Establishing a minimum age of juvenile jurisdiction – 13 years of age.
- Replacing School Resource Officers with mental health professionals.
- Limiting the length of probation.
- expanded juvenile court jurisdiction such that if someone is in the system and if services are needed they can receive them up to 25 years of age.

Delegate Jesse Pippy:

- We should NOT continue the practice of early release or any further reductions in incarceration rates for juvenile offenders (particularly violent offenders) as currently implemented during the COVID-19 pandemic without a corresponding increase in Juvenile Services or documented changes in alternative methods of rehabilitation.
- We should look into implementing a system that tracks the recidivism rates of juvenile offenders that have been incarcerated vs. juvenile offenders that received treatment, counseling and other services in lieu of incarceration.
- We should look into evaluating all Juvenile services to ensure they are even capable of meeting any mandated changes currently being recommended and/or imposed.

- We should look into alternative methods of rehabilitation for non-violent offenders in lieu of incarceration.

Executive Director Glenn Fueston:

- Based on the discussion at the last Council meeting, my recommendation would be to support the Utah model of raising the age of juvenile court jurisdiction to 12, with some exceptions (murder and other violent crimes). Maryland is one of 27 states that do not set a minimum age of juvenile court jurisdiction. Youth under 12 will still be served but in a different system, such as the social services/child welfare system.

Jenny Egan:

- Raise the minimum age of juvenile court jurisdiction to 14 using the following language:

[Proposed new text]

§ 3-8A-03. Jurisdiction of court Exclusive original jurisdiction over delinquent children or children in need of supervision

(a) In addition to the jurisdiction specified in Subtitle 8 of this title, the court has exclusive original jurisdiction over:

- (1) A child [at least 14 years old] alleged to be delinquent or in need of supervision or who has received a citation for a violation;
- (2) Except as provided in subsection (d)(6) of this section, a peace order proceeding in which the respondent is a child; and
- (3) Proceedings arising under the Interstate Compact on Juveniles.

- Establish a new standard of competency and a mandatory evaluation for all children 14 and under, including an automatic referral for educational assessments for children charged with delinquent acts.

§ 3-8A-17. Investigation of child

[Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- a. "Developmental immaturity" means a condition based on a juvenile's chronological age or significant lack of developmental skills when the juvenile has no significant mental illness or mental retardation.
- b. "Mental illness" means any diagnosable mental impairment supported by the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.
- c. "Intellectual disability" means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social and practical adaptive skills.

Competency to proceed in a juvenile proceeding.

d. A juvenile is competent to proceed in a juvenile proceeding if the juvenile has:

1. A rational as well as a factual understanding of the proceedings against the juvenile; and
2. A sufficient present ability to consult with legal counsel with a reasonable degree of rational understanding.]

3-8A-17.2. Conditions for examination and detention of child

Conditions for examination

(a) [For all children 14 and under or if the Juvenile Court determines that a competency determination is necessary, it shall order that a juvenile be examined by the State Forensic Service to evaluate the juvenile's competency to proceed. The examination must take place within 21 days of the court's order.] The court shall set and may change the conditions under which the examination is to be conducted.

Melissa Sickmund:

- I would love for us to discuss and consider revisiting the MD juvenile code. It currently includes balanced and restorative justice language but also language from the Standard Juvenile Court Act (1959) and the Legislative Guide for Drafting Family and Juvenile Court Acts (1969) of the due process era. Consider revising the purpose clause to reflect the Developmental Approach: retain elements of prior categories, but mention the use of research on adolescent development or other research and/or require evidence-based practices, programs, and policies and the use of data to inform the juvenile justice system decision making. The Developmental Approach is based on a foundation of adolescent development and brain research. Reforms include keeping accurate data on interventions, results, and measures of system impacts and fairness. The purpose clause should guide all system decision making and reforms.
- Raise the lower age of juvenile court delinquency jurisdiction to 14. This would align with the start of high school for most youth and be reflective of other “life transitions” and adolescent development.
- Consider defining status offense behavior more like dependency matters that would be handled by the child welfare system initially rather than the justice system. See <http://www.jigps.org/status-offense-issues> for examples from other states.
- If re-defining status offense behaviors as dependency matters is not possible, then set a minimum age of juvenile court jurisdiction for Children in Need of Supervision (status offense) cases, perhaps at age 10.
- Eliminate the automatic transfer of youth to criminal court (statutory exclusions of certain offenses from juvenile court) and instead return them to consideration of transfer to criminal court following a waiver hearing in juvenile court (discretionary

waiver or presumptive waiver). Automatic transfer (statutory exclusion) decisions are not appealable (they are basically prosecutor charging decisions). Such an important decision should be something that the youth can appeal.

- Establish a legislative prohibition on the automatic shackling of youth in juvenile court proceedings if one does not already exist. See <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-shackling-of-children-in-juvenile-court.pdf>
- Consider including a requirement that juvenile court judges receive training in adolescent development and brain science if one does not already exist. See <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-judicial-training-on-adolescent-brain-development.pdf>
- Establish policies to make juvenile probation less punitive. See <https://www.goodjuvenileprobationpractice.org/> and <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-juvenile-probation-and-adolescent-development.pdf>
- Consider establishing an independent oversight monitoring body to protect youth in confinement facilities if one does not already exist. See <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-the-need-for-independent-oversight-of-youth-confinement-facilities.pdf>
- Consider eliminating sex offender registration requirements for youth younger than 18. See <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-sex-offender-registration-requirements-for-youth-younger-than-age-18.pdf>
- Consider evaluating juvenile justice policies and practices to assess their impact on the housing stability of youth and families. <https://www.ncjfcj.org/wp-content/uploads/2019/08/addressing-the-needs-of-homeless-youth-and-families-in-juvenile-and-family-courts.pdf>