



National Juvenile  
Justice Network

*2007-2008*

# Advances in Juvenile Justice Reform



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## Introduction

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As we complete our third compilation of advances in the juvenile justice field, we stand at an historic moment in time. The United States has just elected its first African American president, an event greeted by cheers around the world. Yet, at the same time, our country is plagued by the shameful disproportionate treatment of minority youth at all stages in the justice process, and stands alone in the world in our punitive approach to children.

Most of the world looks to the Convention on the Rights of the Child (CRC) for guidance on the treatment of youth in conflict with the law — a treaty that only the United States and Somalia have not ratified. The CRC establishes the age of adult responsibility at eighteen, declares that youth should be detained only as a last resort and for as short a time as possible, and asserts that youth should not be subject to cruel and unusual punishment such as life without the possibility of parole. Sadly, however, the U.S. incarcerates more children and sends more youth into the adult system than any other country. It is also the only country to sentence children to life without the possibility of parole; we currently have almost 2,500 prisoners who were given this sentence as children.

In spite of this disconnection with the international community, the reforms detailed in this volume tell a more optimistic story of our country. Across the U.S., states are changing their laws, policies, and practices to adopt a more humanitarian approach to juvenile offenders.

This past year we have seen a swelling wave of acknowledgement that institutionalizing youth in large facilities, far from their families and communities, is harmful to children and public safety and gives the state a poor return on the dollar. States are closing down large facilities, diverting youth away from detention, establishing smaller, more therapeutic placements, and keeping youth at home under community supervision. The importance of this seismic shift in how to hold youth accountable for their actions was acknowledged by leaders outside of the juvenile justice world when the Missouri Division of Youth Services and Washington D.C.'s Division of Youth Rehabilitative Services were the finalist and semi-finalist, respectively, for the prestigious Innovations in American Government Award this year.

On the sentencing and adjudication front we have seen a trend away from transferring youth into the adult court. States are giving discretion back to juvenile court judges, removing mandatory transfer and sentencing laws, and following Connecticut's example in moving towards raising their age of juvenile court juris-

diction to eighteen. States are also returning to the original promise of the juvenile court by improving their indigent defense systems, juvenile confidentiality protections, and treatment of juvenile sex offenders.

The large scale investments in juvenile justice reform made by the John D. and Catherine T. MacArthur Foundation through its Models for Change project and by the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative have been instrumental in reformulating our dialogue about youth crime. Their leadership and vision in moving our country toward the more humane treatment of youth deserves all of our praise. Mirroring this national commitment is the critical role of advocates in the states, many of whom are members of the National Juvenile Justice Network, who have worked tirelessly to change laws and practices to reflect more developmentally appropriate and fair treatment of children.

We are encouraged by the continued scope and pace of reforms in the juvenile justice field. While we have yet a distance to travel before we can say that we treat humanely all youth who come into conflict with the law, we have clearly and with vigor blazed a trail for success.



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*December 2008*

## Notes to the Reader

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The National Juvenile Justice Network is very pleased to offer you this compilation of advances in juvenile justice reform from across the country. This document gathers together significant laws, administrative rule changes, and judicial opinions; the breadth and scope of its contents are a testament to the great number of positive changes that have occurred over the course of the past year. For this edition, we have altered some of the categories that appeared in the last edition to more accurately reflect the wide range of reforms occurring across the country. We have also added some new categories that demonstrate the different frontiers on which this battle is being fought. Specifically, we have added a “School to Prison Pipeline” category that captures the positive reforms being made to school policies. While these written policies may not directly mention juvenile justice or delinquency, they have a striking impact on the number of youth referred to and involved in the juvenile justice system. We have also added a section, “Promising Commissions and Studies,” that lists some of the many government-sponsored efforts which frequently are the precursors to concrete, instituted reforms. We have made every effort to make this a comprehensive documentation of reforms. Nevertheless, we consider the contents of this booklet to be just a sampling of the many reforms being enacted across the country. We welcome your feedback, and encourage you to contact us at [info@njjn.org](mailto:info@njjn.org) if you notice any omissions. To view the legislation, policies, and reports referenced in this booklet, please visit NJJN’s Web site at [www.njjn.org](http://www.njjn.org).

### **National Juvenile Justice Network**

The National Juvenile Justice Network is a membership organization of state-based juvenile justice coalitions and organizations that advocate for state and federal laws, policies and practices that are fair, equitable and developmentally appropriate for all children, youth and families involved in, or at risk of becoming involved in, the justice system.

# Adjudication and Sentencing

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## ARKANSAS

### Legislature Closes Loophole That Mistakenly Allowed Some Juveniles to Be Tried in Adult Criminal Court

An Arkansas law closed a loophole that was inadvertently created in 2005 and led to certain juveniles being tried as adults. In 2005, the legislature passed a law that mistakenly allowed juveniles who committed illegal acts prior to turning 18 to be tried as adults because a trial was not scheduled until after their 18th birthday. Legislation passed in 2007 eliminated the loophole, ensuring juvenile court jurisdiction for all juveniles who are charged with committing illegal acts prior to turning 18, regardless of whether the actual trial occurs after their 18th birthday. H.B. 1475/Act 257, signed into law and effective March 9, 2007.

## COLORADO

### Colorado Includes Restorative Justice in Children’s Code

Colorado amended its Children’s Code to include a provision for restorative justice for most offenses (juveniles excluded from restorative justice include those who have engaged in “unlawful sexual behavior” and those involved in domestic violence). The law allows juveniles to engage in victim-offender conferences that provide an opportunity for offenders to accept responsibility for their actions and to take an active role in determining the consequences. All conference participants sign an agreement which may include consequences such as apologies, community service, monetary restoration, and counseling. Youth may have their cases dismissed if they successfully fulfill the agreement. The law augments the capability of judges to divert youth from the formal legal system both pre- and post-disposition. H.B. 08-1117, signed into law March 31, 2008.

## DISTRICT OF COLUMBIA

### Emergency Resolution Moves Toward Granting Juvenile Offenders Ordered Into Non-Secure Detention the Right to a Speedy Trial

An emergency resolution passed in D.C. aims to resolve the issue of juveniles placed in non-secure detention, or shelter care, languishing beyond the 30-day deadline in place for youth in secure detention. Many youth who have committed low-level offenses are placed in shelter care, where they do not have the right to a trial within 30 days. Even youth who are ordered into shelter care, but placed in secure detention due to lack of space, are not granted the right to a speedy trial. Per the resolution, the Family Court converted four part-time juvenile trial courts to full-time trial courts. Additionally, the Office of the Attorney General

now provides additional attorneys to staff the courts and the Department of Youth Rehabilitation Services conducts weekly review hearings for shelter home children with low risk assessment scores to possibly step them down to less restrictive settings. According to an evaluation conducted from January, 2008 to July, 2008 by the Council for Court Excellence, D.C. has achieved a high rate of compliance with the legislation. The evaluation recommends that the D.C. Council expedite the permanent enactment of the resolution, with no modification. R. 17-0472, passed and effective December 18, 2007.

#### **ILLINOIS**

### **State Legislature Passes Bill Raising the Age from 17 to 18 for Youth Charged with Misdemeanor Offenses**

Both houses of the Illinois General Assembly passed a bill raising the age of juvenile jurisdiction for misdemeanors from 17 to 18, with an effective date of January 1, 2010. If signed, 17-year-olds who are charged only with misdemeanors will have access to the juvenile court's balanced and restorative justice approach to juvenile justice, such as mental health and drug treatment and community-based services, rather than be subjected to the punitive adult system. The bill will also help to address the disproportionate number of 17-year-old African American and Latino youth who are currently charged as adults. Through the bill, the legislature created the Illinois Juvenile Jurisdiction Task Force to review increasing the age for youth charged with felonies. The Task Force is to submit a report to the general assembly by January 1, 2010, with recommendations on raising the age to 18 for youth charged with felony offenses. S.B. 2275, passed November 13, 2008; pending signature by governor.

#### **INDIANA**

### **"Once Waived, Always Waived" Law Eliminated for Juvenile Misdemeanor Offenders**

New legislation eliminates Indiana's "once waived, always waived" law for youth charged only with a misdemeanor. The existence of previous waivers cannot be used to automatically waive a juvenile into adult criminal court for a new misdemeanor charge. The juvenile court may only agree to waive jurisdiction for a misdemeanor if the juvenile is also charged with a related felony. H.B. 1122, signed into law March 13, 2008; effective July 1, 2008.

#### **KANSAS**

### **Kansas Supreme Court Rules Juveniles Have Right to Jury Trial**

On June 20, 2008, the Kansas Supreme Court held that juveniles have a right to a trial by jury under the Sixth and Fourteenth Amendments of the U.S. Constitution. The 6-1 decision of *In the Matter of L.M.*, 186 P.3d 184 (Kan. 2008),

states that “the juvenile justice system is now patterned after the adult criminal system” and cites several specific changes in the way that juveniles are treated in Kansas, including harsher sentencing rules, less confidentiality for defendants, and a shifting focus from rehabilitation to punishment. The opinion states that “these changes to the juvenile justice system have eroded the benevolent, *parens patriae* character that distinguished it from the adult criminal system.” The court reasoned that because juvenile proceedings are increasingly similar to adult proceedings, juveniles must be granted the same level of due process protections as adults, including a trial by jury.

#### **MONTANA**

### **Restrictions on Juvenile Parole Eligibility Eliminated**

The Montana legislature eliminated statutory restrictions on parole eligibility for juveniles. While not a common practice in Montana, the legislation eliminates as an option the sentence of life without parole for juveniles. Additionally, and perhaps more significantly for juveniles in Montana, the law eliminates all other parole restrictions for juveniles, such as disallowing parole for a set period of time, or conditioning parole on the fulfillment of certain programming. Mandatory minimum sentences and restrictions on parole eligibility no longer apply if the offender was less than 18 years of age at the time of the commission of the offense. §46-18-222(1) (2007).

#### **NEW YORK**

### **New York City Youth Gain Right to Arraignments on Weekends**

Youth aged seven to fifteen now have the right to an arraignment on the weekends, thanks to a series of changes to New York City’s juvenile justice system, which also include the implementation of a new risk assessment tool. Previously, a youth who was arrested on a Friday night or weekend was detained until the next business day, often resulting in detentions of 48 hours or longer for even low-level offenders. Between May and October of 2008, 260 youth were arraigned on the weekend, the majority of whom were released to the community, and only 3.5% of whom were sent to secure detention. Prior to weekend arraignments, all of these youth would have been held in secure detention over the weekend.

#### **RHODE ISLAND**

### **Legislature Swiftly Repeals Act Lowering the Age of Adult Jurisdiction**

Just months after the Rhode Island legislature lowered the age of adult jurisdiction from 18 to 17 in an effort to save the state money, it subsequently repealed the law and restored 17-year-olds to the jurisdiction of the juvenile court. While the origi-

nal law was alleged to save \$3.6 million because it is generally cheaper to house adults than juveniles, it actually caused an increase in the price of incarceration of youth. For their protection, juveniles in the adult facility were housed in the high security unit, which costs an average of \$104,000 per person per year, in contrast to the \$98,000 cost per year of housing a youth in a juvenile facility. The repeal is not retroactive, meaning 17-year-olds charged as adults under the new law, before the repeal, must remain in the adult system. However, the Rhode Island Supreme Court ruled in August of 2008, *State v. Greenberg*, 951 A.2d 481 (R.I., 2008), that the so-called “gap kids” caught in the “jurisdictional quagmire” created by the original legislation and its repeal, are entitled to probable cause hearings before being transferred to adult court. S. 1141B/Chapter 532, passed October 30, 2007; effective November 8, 2007.

#### **VIRGINIA**

### **Blended Sentences Permitted for Juveniles Convicted of Capital Murder**

Even though juveniles can no longer be put to death, they can still be convicted of capital murder in Virginia. Prior to a law passed in 2007, juveniles convicted of capital murder were sentenced only by juries, who had limited dispositional options. The new law states that now only the court may sentence a juvenile convicted of capital murder. The court may impose a blended sentence on a juvenile, whereas a jury may only impose an adult sentence. Blended sentences can allow juveniles to avoid an adult sentence if they successfully fulfill the court’s requirements prior to reaching the age of adult jurisdiction. H.B. 2053/Chapter 460, signed into law March 19, 2007; effective July 1, 2007.

#### **VIRGINIA**

### **Juveniles Given Active Blended Sentences May Earn Sentence Credits**

Juveniles who are convicted as adults in circuit court and given a blended sentence consisting of confinement in a juvenile correctional center followed by an active term of incarceration with the adult Department of Corrections are now eligible to earn sentence credits while at the juvenile facility. Prior to the new law, juveniles could earn sentence credits only after they were transferred to an adult facility. Consequently, juveniles who had received the same length of sentence as adults often served more total time, due to their inability to earn “good time” credit for the time spent in a juvenile facility. This system created a 15% disparity in time served between juveniles in adult facilities and those in juvenile facilities. The new law remedies this disparity. H.B. 1207/Chapter 517, signed into law March 10, 2008; effective July 1, 2008.

# Alternatives to Detention and Youth Prisons

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## ALABAMA

### Juvenile Detention Alternatives Initiative Helps Reduce Use of Detention

Four of Alabama's largest counties launched detention reform efforts with the assistance of the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), and have significantly reduced the number of children in detention on any given day. Additionally, the four counties have substantially reduced their commitments to the Department of Youth Services (DYS) and a number of private contract facilities have been closed. Reform momentum is building statewide and commitments to DHS are dropping even in counties not formally engaged in detention reform. Today, there are more than 300 fewer children in state custody in Alabama than there were just a year ago.

## NEVADA

### Nevada Reduces Detained Population and Increases Use of Community-Based Programs Through Juvenile Detention Alternatives Initiative

Nevada's two largest counties, Clark (Las Vegas) and Washoe (northern Nevada) have made significant juvenile justice reforms through the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). Clark County's 2008 Results Report showed that between fiscal year 2003-2004 and fiscal year 2007-2008 the county reduced its average daily population by 24%, referrals by 12%, average length of stay by 13%, failure to appear rate by 10%, and recidivism rate by 2%. The county's Department of Juvenile Justice Services has focused on objective risk screening, expansion of services for youth with mental health needs, reduction of racial disparities, engagement of youth and families, alternatives to detention for sexually exploited girls, and aftercare programming. Washoe County has reduced its detention population by 39.3% since 2004, implemented new vocational and transitional services, and added Multi Dimensional Family Therapy to the continuum of care provided by the Department of Juvenile Services.

## OHIO

### Alternative Placements Available for Lower Level Offenders Committed to Department of Youth Services

The Ohio Department of Youth Services (DYS) began implementation of its planned Cognitive-Behavioral Centers by opening a revocation center on October 1, 2008. The centers will be staff secure (no fences), intensive, short-term

programs intended to keep qualifying low-level felony offenders closer to home and out of DYS facilities. The length of the program is based on the youth's risk and need as well as progress, and ranges from 90-120 days. This is a significant decrease from the current DYS average length of stay of 11.4 months (6.9 months for revoked youth).

## Conditions of Confinement

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### ARIZONA

#### Department of Juvenile Corrections Improves Conditions; Federal Lawsuit Dropped

The U.S. Department of Justice (DOJ) dismissed a case against the Arizona Department of Juvenile Corrections (ADJC) regarding a Civil Rights of Institutionalized Persons Act (CRIPA) investigation that began in June 2002. DOJ issued its first CRIPA report on January 23, 2004, which found dangerous and unconstitutional conditions in the state's juvenile correctional facilities, including sexual and physical abuse of children by staff and other children; inadequate staffing that contributed to the suicide deaths of three youth; and a lack of necessary education, mental health treatment, and rehabilitative services. A Memorandum of Understanding was reached in September of 2004 between DOJ and the state, in which 16 measures were recommended to resolve the deficiencies. In September of 2007, the federal court monitoring the Memorandum of Understanding found that ADJC achieved substantial compliance in all reporting areas of the CRIPA agreement; the pending law suit was then dropped by DOJ. The governor subsequently established the ADJC Advisory Board in September of 2007 to assist in ongoing oversight of ADJC, including monitoring and ensuring transparency in the Department's operations; ensuring coordination with other state agencies, juvenile justice stakeholders, and community services; and facilitating increased public awareness and advocacy around the needs of youth in custody.

### CALIFORNIA

#### Family Communication and Youth Rehabilitation Act Opens Lines of Communication for Incarcerated Youth

California's Family Communication and Youth Rehabilitation Act is expected to reduce recidivism by allowing for greater family communication. The Act ensures that parents and guardians are notified in cases of emergency; provides for notification to families of upcoming parole hearings; allows youth to speak on the phone with family, clergy, or legal counsel in their native language; requires

facilities to provide blank paper, envelopes, and pencils to youth in a manner consistent with institutional safety; allows youth to write letters to family, clergy, or counsel in their native language; and provides youth with a written description of their rights while in custody. S.B. 1250/Chapter 522, signed into law September 28, 2008.

#### **DISTRICT OF COLUMBIA**

### **Department of Youth Rehabilitation Services Among Top 50 Programs for Innovations in American Government Award**

The Ash Institute's Innovations in American Government Award Program at Harvard's Kennedy School selected the D.C. Department of Youth Rehabilitation Services (DYRS) as one of the Top 50 programs in the nation. In its 21st year under a court consent decree for deplorable conditions in its facilities and grossly inadequate and ill-conceived community-based services, DYRS is now being hailed for its reform efforts. The Department has focused its efforts on the tenets of Positive Youth Development, which concentrate on youths' assets and strengths, rather than the more negative medical ("fix them") or correctional ("control them") approaches used in many juvenile justice systems around the country. DYRS is also dramatically reducing the population of its one secure facility for committed youth from 130 in 2005 to 60 in 2009; the population is currently 90. April, 2008.

#### **INDIANA**

### **Legislation Allows Increased Monitoring of Juvenile Facilities**

Indiana law now provides that any facility that is used or has been used to house or hold juveniles must give the Indiana Criminal Justice Institute access to inspect and monitor the facility. H.B. 1122, signed into law March 13, 2008; effective July 1, 2008.

#### **MISSISSIPPI**

### **Educational Standards Set for Detained Youth**

Two pieces of legislation in Mississippi set new educational standards for youth in detention and require the annual appropriation of sufficient funds for the provision of educational services to detained youth. School officials must now be notified when a student misses school due to being detained in a juvenile detention center. Additionally, school attendance officers must gather data on youth in detention centers and the Office of Dropout Prevention must establish a procedure to track students who enter and leave detention centers. Youth court judges may request that a local school district or private provider supply a certified teacher to provide educational services to detained youth. A transition team must

work to help youth transition back to their home school districts when released. The state Juvenile Detention Monitoring Unit reports that as a result of the legislative changes all detention centers are now providing some educational services to youth. S.B. 2818/Chapter 568, signed into law April 21, 2007; effective July 1, 2007 and H.B. 348/Chapter 481, signed into law April 3, 2008; effective July 1, 2008.

## **MISSOURI**

### **Division of Youth Services Wins Innovations in American Government Award**

The Ash Institute for Democratic Governance and Innovation at Harvard's Kennedy School awarded Missouri's Division of Youth Services (DYS) the 2008 Annie E. Casey Innovations Award in Children and Family System Reform. DYS serves youth offenders in small, dormitory settings and takes a therapeutic approach, viewing youth as a direct product of their experiences and capable of turning their lives around through a step-by-step change process. Through ongoing group therapy, dedicated staff, relationships with the court system, and strong community support in the form of liaison councils and neighborhood advisory boards, the program cites measurable results in halting the cycle of juvenile crime. Not only does the program note significant reductions in violence while youth are enrolled in DYS, over 90% of youth avoid further incarceration for three years or more after graduating from the program. DYS will receive \$100,000 toward replication and dissemination of its program around the country. September, 2008.

## **OHIO**

### **Settlement Agreement to Improve Conditions in Juvenile Prisons**

In April of 2008, the state of Ohio and the Ohio Department of Youth Services (DYS) settled a long-standing class action lawsuit (*S.H. v. Stickrath*, Case number 2: 04-CV-1206) by agreeing to widespread system reform. The system-wide scope of the agreement creates a long-term investment in Ohio youth by infusing new resources into DYS operations, overseeing reform of the process for determining when youth should be released from DYS custody, and supporting evidence-based community programs for low risk offenders. DYS agreed to reduce the youth-to-guard ratio; hire additional staff in various areas of expertise; increase staff training; and revise use of force, seclusion, and discipline policies. The agreement also supports improved mental health services; enhanced educational, medical, and dental services; and a capacity goal on the youth population. The settlement agreement is in place for at least five years, through 2013.

## **RHODE ISLAND**

### **Limit Set on Juvenile Facility's Population**

The Rhode Island legislature set a limit on the number of youth who may be housed at the Rhode Island Training School. Whenever the population reaches 95% of capacity, or 141 males and 11 females, youth who do not pose a risk of harm to themselves or the community will be referred to the court for release. The court must use a risk assessment instrument to determine whether to release a youth. The court must release a youth unless it finds that the youth poses a substantial risk of harm to him/herself, poses a substantial risk of harm to others, or is at risk of fleeing the jurisdiction. \$1.2 million of the projected \$2.4 million in savings from the changes will be invested into community-based programs during the 2009 fiscal year. H. 7204A/Chapter 9, signed into law and effective May 1, 2008.

## **SOUTH CAROLINA**

### **Department of Juvenile Corrections Recognizes Importance of Maintaining Connections Between Incarcerated Youth and Their Families**

In September of 2008, the Community Connections Center opened at the site of the South Carolina Department of Juvenile Justice's two secure juvenile facilities. The Center provides more than 10,000 square feet of space to accommodate family visitation and also serves as site for volunteer services and programming. The Center was created in an effort to develop a more open and less threatening environment for youth, their families, and community members.

## **Disproportionate Minority Contact**

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## **OREGON**

### **New Detention Risk Instrument Reduces Disproportionate Minority Contact and Reduces Re-Offending in Multnomah County**

Through the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), Multnomah County (Portland, Oregon) has implemented a new validated detention risk instrument, which has decreased the detention rate for African American youth by 15%. Over the last year the judiciary, district attorney, defense bar, and juvenile services division have worked with other system partners to implement new policies that do a better job of identifying which youth need to be detained to protect the public, and which youth can be held accountable in the community. The new policies have led to a reduction in dis-

proportionate minority contact as well as improvement in juvenile recidivism rates for all pretrial youth. The re-offense rate of pretrial youth fell from 18% to 13% in the first year of implementation of the new practices, its lowest rate in six years.

## Dually Involved Youth

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### ARIZONA

#### **Information Sharing Guide Advises Agencies and Individuals on Communications for Dually Involved Youth; Blueprint Outlines Strategies for Systems Integration**

The Arizona Juvenile Justice Commission and the Governor's Office for Children, Youth and Families created an Information Sharing Guide for those agencies and individuals that work with youth who are involved in both the juvenile justice and child welfare systems. The Guide answers questions and provides best practices for both requestors and givers of information. It also provides a chart of current information sharing laws. The Guide stems from a larger Systems Integration Initiative begun by the governor's office. The Initiative has led to the publication of a State of Arizona Blueprint for integration between the juvenile justice and child welfare systems. The Blueprint recognizes the need for better responses to and improved outcomes for youth who are dually involved, or at risk of dual involvement. Specifically, the document includes its overall vision for systems integration, outcomes, detailed strategies for achieving each outcome, progress to date, and action steps to be taken. July, 2008.

### ARKANSAS

#### **Placement Decisions for Dually Involved Youth to Be Made by One Judge**

If a juvenile in state custody pursuant to a family in need of services (FINS) or dependency-neglect petition picks up a delinquency charge and the court does not keep the juvenile in detention, then any placement issues must now be addressed by the judge in the FINS or dependency-neglect case, rather than the judge hearing the delinquency case. This law aims to ensure that all matters relating to the placement of children who are in foster care and have been sent to a different jurisdiction remain with one judge who is familiar with the child and the history of the case. S.B. 370/Act 587, signed into law March 29, 2007.

## Facility Closures and Downsizing

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### CALIFORNIA

#### Juvenile Facilities Closed and Population Reduced

California has further reduced its juvenile prison population, in accordance with S.B. 81, which passed in August of 2007. Over the past year, the California Youth Authority (CYA) has closed three facilities: DeWitt Nelson Youth Correctional Facility, Fred C. Nelles Youth Correctional Facility, and El Paso de Robles Youth Correctional Facility. These closures resulted in a reduction of the total CYA population from 2,446 in September of 2007 to 1,808 in September of 2008 (a 26% reduction). In 2002, there were more than 4,000 youth in the custody of the CYA at 17 correctional facilities and camps. Thanks to S.B. 81 the total population will ultimately drop to 1,500. S.B. 81/Chapter 175, signed into law and effective August 24, 2007.

### LOUISIANA

#### Abusive Jetson Correctional Center for Youth to Close

The Jetson Correctional Center for Youth, the site of both widespread violence and, recently, the tragic death of a child who was just three weeks away from his release date, is slated to close as of June 30, 2009. After months of legal, media, and policy advocacy to expose abuses at Jetson and to create the public will to enforce the shift to a rehabilitative juvenile justice system, the Louisiana legislature overwhelmingly passed the Youth Justice Act of 2008, which mandates the closure of Jetson. The bill passed unanimously in the House and with only one opposition vote in the Senate. S.B. 749/Act 565, signed into law June 30, 2008; effective August 15, 2008.

### MISSISSIPPI

#### Abusive Training School for Girls in Mississippi Closed

Following a lawsuit filed in 2007 regarding inhumane treatment and conditions (*J.A. v. Barbour*, Case number 3:07-cv-00394) and a consent decree with the U.S. Department of Justice from 2005, the Mississippi legislature passed a bill to close the Columbia Training School for girls. Girls at Columbia were shackled for approximately twelve hours a day for eight days to one month, hog-tied with chains, physically assaulted, sexually assaulted, isolated in windowless rooms, forced to be silent, and denied adequate mental health treatment. The remaining girls at Columbia were transferred to the Oakley Training School in July of 2008. The law additionally requires evidence-based practices and gender specific programming at Oakley. H.B. 244/Chapter 555, signed into law May 10, 2008; effective July 1, 2008.

### NORTH CAROLINA

#### State Downsizes Juvenile Facilities

The North Carolina Department of Juvenile Justice and Delinquency Prevention

has replaced several of its decrepit youth development centers (YDCs) with five smaller, geographically distributed, treatment-focused facilities. In 2005, a state audit revealed that the youth in YDCs were subjected to unsafe environments in outdated, punishment-focused facilities often far from their homes. Now, the Department has nearly completed the construction of one 96-bed replacement YDC and four new 32-bed YDCs in five different communities throughout North Carolina. The replacement facilities are the foundation for a more therapeutic, community-oriented approach to providing services to the state's youth and their families. The new facilities (four of which are currently open) have replaced guards with counselors and have implemented a blended education-treatment Model of Care (under which preliminary findings show a 73% decrease in re-arrest of juveniles compared to standard care, and a 560% increase in the number of students seeking education beyond high school upon leaving the facility).

#### **NEW YORK**

### **New York to Close Four Youth Correctional Facilities**

Four youth correctional facilities — the Brace, Auburn, Cass, and Gloversville residential centers — will officially close in New York State by January of 2009. All of the facilities had been operating well below capacity before the closure was announced, due to an overall increase in the number of youth in New York, especially in New York City, being sent to community-based programs rather than youth prisons. The former residents of the facilities have already been placed in more appropriate community-based programs. The closures were initiated by New York's Office of Children and Family Services Commissioner, who recognized that the agency could invest the \$16 million the state currently spends to operate the facilities on more effective community-based alternatives.

#### **TEXAS**

### **Four Maximum Security Juvenile Facilities Shut Down**

Four maximum security, state-level juvenile correctional facilities have closed in Texas since June of 2007. The Marlin Orientation and Assessment Center and the John Schero State School (a general population facility) both closed in June of 2007 as a result of major reforms put in place through S.B. 103 (signed into law and effective June 8, 2007). The reforms were passed in response to widespread sexual abuse of and retaliation against youth in the custody of the Texas Youth Commission (TYC). The Coke County Juvenile Justice Center, a privately run facility, held youth whose parole was revoked. It closed in July of 2007 after the Office of the Independent Ombudsman discovered horrendous conditions, including confinement of youth in "malodorous and dark" security cells for five weeks, an over-reliance on the use of pepper spray, and regular complaints by youth of finding insects in their food. The Sheffield Boot Camp, a military style facility that served the general TYC population, closed in September of 2008 as a result of population reductions. Each

of the closed facilities had a capacity ranging from 175-285 youth. The total TYC population has been reduced from 4,700 youth in institutions to a population that hovers around 2,000. Additionally, TYC commitments have declined significantly from 2,859 in 2006 to 1,688 in 2008, with dramatic decreases in commitments from major urban counties.

## Girls in the System

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### FLORIDA

#### **National Center for Girls and Young Women Opens in Jacksonville**

On October 16, 2008, the National Center for Girls and Young Women opened in Jacksonville, Florida. The Center is a new division of the National Council on Crime and Delinquency. It will focus on research, assessment services, staff training, evaluation, and advocacy in partnership with Children's Campaign, Inc. in Florida. Girls currently represent the fastest growing segment of the juvenile justice population in America, now accounting for as many as one of every three referrals. Systems of care have been slow to adapt, however, and available services remain generally designed for boys. This leads to the mistreatment of girls in even the best intended programs, and missed opportunities to turn around the lives of troubled youth.

### NEW YORK

#### **Safe Harbor for Exploited Children Act Reduces Criminalization of Sexually Exploited Children**

The Safe Harbor for Exploited Children Act will treat sexually exploited children under 15 as victims, rather than criminals, the first time they are arrested for prostitution. Rather than being prosecuted on prostitution charges, the children will be classified as PINS (persons in need of supervision) and provided with community-based services such as safe houses and counseling. The Act brings New York state law in line with federal statutes, which treat foreigners who enter the U.S. under the control of sex traffickers as victims rather than criminals. Both houses of the New York legislature unanimously passed the Act in June of 2008. A. 5258-C/S. 3175-C/Chapter 569, signed into law September 25, 2008; effective April 1, 2010.

### SOUTH CAROLINA

#### **Department of Juvenile Justice Opens Girls Transition Home**

In the fall of 2007, the South Carolina Department of Juvenile Justice, through partnerships with community members, opened a Girls Transition Home to provide a homelike setting where girls learn and practice the life and social skills they will need when they reenter the community. The home houses eight girls who have been transferred from the larger, more traditional Willow Lane

secure facility. The Transition Home is part of a much broader effort in South Carolina to improve services to young women, which has included introduction of the Girls Circle Curriculum and adoption of a restorative philosophy for in-custody programming.

## Indigent Defense and Confidentiality

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### ALABAMA

#### State Commits to Improving Quality of Juvenile Defense

The passage of the Alabama Juvenile Justice Act of 2008 and subsequent trainings on the Act's new provisions for children's attorneys have laid the foundation for substantive improvement in children's defense in Alabama. The Act sets down specific duties of the child's attorney, which are based on *In re Gault*, 387 U.S. 1 (1967), the National Council of Juvenile and Family Court Judges' Delinquency Guidelines, Institute of Judicial Administration-American Bar Association Standards, and the National Juvenile Defender Center's Ten Principles. These duties include provision of the same loyalty, confidentiality, and competent representation to juvenile clients that would be afforded to adult clients; a prompt and thorough inquiry into facts and circumstance; and working with the court to help develop the best possible disposition plan for each child. H.B. 28 and 29/S.B. 33 and 34, signed into law May, 2008; effective January 1, 2009.

### ARKANSAS

#### New Law Limits Sources to Whom Juvenile Records May Be Released

Arkansas added to its code a list of the parties to whom juvenile records may be released. Prior to the law, Arkansas code provided no guidance as to whom juvenile records could be released. The law now provides the Division of Youth Services and any community-based providers for the Division with a list of specifically named parties to whom they may release records that personally identify a juvenile. The unauthorized release of such records is now a class C misdemeanor. H.B. 2248/Act 742, signed into law March 30, 2007.

### ILLINOIS

#### Juveniles Gain Meaningful Guarantee of Right to Counsel

The Illinois governor signed a bill requiring the court to appoint counsel for youth retained in custody immediately upon the filing of a petition. The appointment of counsel is non-waivable and mandatory for all youth. The law also specifies that a detention hearing cannot be held until the youth has had adequate opportunity to consult with counsel. Attorneys may file a motion for extra time to consult

with their clients before the detention hearing. S.B. 2118/Public Act No. 95-0846, signed into law August 15, 2008; effective January 1, 2009.

#### **LOUISIANA**

### **Louisiana Public Defender Act Mandates Qualification Standards for Public Defenders and Strengthens Juvenile Representation**

The Louisiana Public Defender Board has a new legislative mandate to ensure the provision of uniform public defender services throughout the state. The Board must create standards for all public defenders, including qualification, education, training, and quality of representation standards for juvenile public defenders. The Board must also employ a Director of Juvenile Defender Services and a Juvenile Justice Compliance Officer to provide oversight, monitoring, and regular reports and assessments. The Act creates, for the first time in Louisiana, statutory recognition that juvenile defenders require different skills than other public defenders, and that juvenile justice policies should focus on rehabilitation, opportunity, and treatment, rather than punishment. In Orleans Parish, there is already a more active pretrial motions and writ practice; visiting hours have been expanded at a number of facilities to accommodate more attorney visits to clients; and more charges are thrown out, favorable pleas are more readily offered, and not guilty verdicts are more frequent due to aggressive investigation and preparation. The Board must adopt the rules necessary to implement the provisions of the Act no later than August 15, 2011. H.B. 436/Act 307, signed into law July 9, 2007; effective August 15, 2007.

#### **NEVADA**

### **State Supreme Court Adopts Performance Standards for Indigent Defense Counsel for Juveniles**

The Nevada State Supreme Court adopted performance standards for indigent defense counsel, including those serving juveniles; previously there were no such standards in the state to guide indigent representation. Standard Five specifically addresses juvenile delinquency cases. The standard outlines the role of defense counsel as an advocate for the child; calls for proper education, training, and experience of attorneys; recommends that counsel ensure they have adequate time and resources for juvenile representation; guides counsel through the initial client interview, detention hearing, case preparation, investigation, pretrial motions, plea negotiation, adjudicatory hearing, disposition hearing, post-disposition advocacy, and transfer proceedings; and addresses the options of informal supervision and diversion. Effective April 1, 2009.

#### **VIRGINIA**

### **Compensation Improved for Court-Appointed Counsel for Juveniles**

Two new laws move towards remedying the notoriously low compensation of

court-appointed attorneys for juveniles in Virginia. In 2007, the Virginia legislature approved fee waivers for certain cases in juvenile court, potentially allowing a court-appointed attorney for a juvenile to earn up to twice the current capped amount of \$120 per case. The court may now allow attorneys to earn up to \$240 per case when the “effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver.” In 2008, the legislature further addressed the issue. Court-appointed counsel who represent juveniles charged with an offense that would be a felony if committed by an adult and may be punishable by more than 20 years in a correctional facility (or a violation of probation related to such offenses) may request a waiver on the compensation cap up to \$650. H.B. 2361/S.B. 1168/Chapter 938, signed into law April 10, 2007; effective July 1, 2007. S.B. 610/Chapter 760, signed into law March 27, 2008; effective July 1, 2008.

## LGBTQ<sup>1</sup> Youth in the System

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### DISTRICT OF COLUMBIA

#### **D.C. Metropolitan Police Department Issues Order Requiring Respectful Handling of Transgender Individuals**

An order from the D.C. Metropolitan Police Department calls for respect and awareness of gender identification and expression, with a specific mandate to apply all applicable safeguards and directives to transgender juveniles as well as adults. The order recognizes the unique issues police face when dealing with transgender individuals, such as transportation, housing, and medical treatment, and includes specific procedures for handling interactions with transgender individuals. The order mandates that all transgender juveniles placed under arrest must be taken directly to the juvenile processing center, and at no time may be taken to any Police District. All transgender individuals are considered “at-risk” and must be transported separately and placed in a separate cell when possible in order to ensure their safety. GO-PCA-501.02, October 15, 2007.

### NEW YORK

#### **Office of Children and Family Services Releases Policy and Guidelines to Better Serve LGBTQ Youth in State Juvenile Facilities**

A new policy from the New York State Office of Children and Family Services prohibits discrimination based on sexual orientation and gender identity. The policy states that any discrimination against or harassment of youth, including

<sup>1</sup> Lesbian, gay, bisexual, transgender, and questioning.

by other youth, will not be tolerated. The comprehensive guidelines provide for staff training, policy dissemination, reporting, and enforcement. The guidelines also address issues such as training, disclosure, placement, counseling, resources, language, transition planning, and reporting. March 17, 2008.

## **Mental Health Services and Evidence-Based Programs**

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### **MINNESOTA**

#### **New Funding Awarded for Mental Health Intervention**

Hennepin County (Minnesota's largest county), through the Children's Mental Health Collaborative and the Juvenile Justice Coalition of Minnesota, awarded \$520,000 of newly available federal LCTS (Local Collaborative Time Study) dollars in three year grants to programs that provide mental health intervention services and work toward systems change for justice-involved youth with a mental illness or co-occurring disorder. The grants were awarded through a community-driven process.

### **PENNSYLVANIA**

#### **Mental Health and Substance Abuse Screenings and Assessments May No Longer Be Used Against Youth in Court**

Pennsylvania strengthened juveniles' right against self-incrimination by placing restrictions on the use of mental health and substance abuse screenings and assessments. Statements, confessions, admissions, or incriminating information obtained from a juvenile through such screenings and assessments may no longer be used as evidence against the juvenile to determine his or her guilt. H.B. 1511/Act 109, signed into law October 9, 2008; effective October 24, 2008.

### **TENNESSEE**

#### **Delinquency Prevention and Treatment Programming Must Now Focus on Evidence-Based Programs**

State agencies in Tennessee may no longer expend funds on any juvenile justice program or program related to the prevention or treatment of delinquency unless the program is evidence-based. The Department of Children's Services must continue to research and evaluate theory-based and research-based programs with the goal of identifying and expanding the number and type of available evidence-based programs. The Department must wholly comply with the funding restric-

tions during the 2012-2013 fiscal year. H.B. 1614/S.B. 1790, signed into law and effective June 12, 2007.

#### **TEXAS**

### **Aggression Management Program Closed in Texas Youth Commission Facilities**

On June 1, 2008, the Texas Youth Commission (TYC) closed its Aggression Management Program, a restrictive isolation program for assaultive youth that confined them in a high-restriction dorm in individual cells, sometimes for long periods of time. The program was closed because it does not reflect national best practices in handling youth with behavior problems. TYC is also changing a similar program used in its facilities, the Behavior Management Program, and is instead adopting a new treatment module called Redirect. This new program focuses on each individual youth's abilities and needs, and operates on a privilege (rather than punitive) system using evidence-based techniques. While holding youth accountable for their actions, Redirect also addresses underlying causes of aggression, impulsivity, and chronic negative behavior.

#### **WEST VIRGINIA**

### **Multidisciplinary Treatment Planning Process Established for Committed Juveniles**

West Virginia law now requires the Division of Juvenile Services to engage in a multidisciplinary treatment planning process for committed juveniles. Treatment teams assess, plan, and implement comprehensive, individualized service plans for juveniles involved in status offense or delinquency proceedings. Prior to disposition, the team advises the court as to the types of services needed and the type of placement that will best serve the needs of the child. The treatment team must engage families in the service plans and coordinate its activities with local family resource networks. S.B. 626/Chapter 31, signed into law March 19, 2007; effective June 3, 2007.

## **Organizational and Large Scale Changes**

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#### **ALABAMA**

### **Alabama Juvenile Justice Act of 2008 Reduces Reliance on Juvenile Incarceration and Expands Community-Based Alternatives**

The Alabama Juvenile Justice Act of 2008 reorganizes the entire juvenile code. The Act prohibits secure custody for status offenders (with a limited exception for

violation of valid court orders; those children may be detained for up to 72 hours (total) in any six-month period, but may not be committed to the Department of Youth Services); strengthens the authority of courts to divert cases; prohibits secure custody for children under the age of 13 (unless the child is charged with certain serious felonies); codifies federal Juvenile Justice and Delinquency Prevention Act mandates concerning jail removal and sight and sound separation; prohibits schools from filing ungovernable petitions against students; and includes practice standards for juvenile defenders. H.B. 28 and 29/S.B. 33 and 34, signed into law May, 2008; effective January 1, 2009, except provisions regarding status offenders effective October 1, 2009.

#### MASSACHUSETTS

### Governor Creates Independent Office of the Child Advocate

Massachusetts' governor created the Office of the Child Advocate in December of 2007 and appointed a former Juvenile Court judge to be the first Child Advocate in April 2008. As further defined by legislation passed in July of 2008 (Chapter 176 of the Acts of 2008), the Child Advocate is independent of any executive agency and reports directly to the governor. The Child Advocate has both investigative and oversight authority with respect to services provided to children involved with any executive agency, including children served by the juvenile justice system. Executive Order 494, December 20, 2007.

## Probation, Parole, and Reentry

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#### CALIFORNIA

### Settlement Protects Juvenile Parolees' Constitutional Rights

A settlement was reached in the class action case of *L.H. v. Schwarzenegger*, 519 F. Supp. 2d 1072 (E.D. Cal. 2007), which alleged widespread violations of the rights of juvenile parolees. Youthful offenders now have the right to a lawyer during parole revocation proceedings, a probable cause hearing 13 days from the time a hold was placed on them, and a full revocation hearing within 35 days. The settlement also limits juvenile parole revocations to one year, rather than the previous potentially indeterminate terms. The agreement mandates clear policies that spell out which behaviors warrant revocation of parole or return to a Division of Juvenile Justice facility, and grants youth many other rights that were previously only available to adults. June 4, 2008.

## School to Prison Pipeline

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### CALIFORNIA

#### **Los Angeles Unified School District Adopts School-Wide Positive Behavioral Support and Discipline Plan**

The Los Angeles Unified School District, through a Board Resolution directive, mandated the development of a school-wide positive behavior support and discipline plan. Under the plan, positively stated rules must be taught, enforced, advocated, and modeled at every campus, and staff and parents must be trained in the skills necessary for the implementation of the policy. The plan outlines responsibilities of students, parents, teachers, administrators, staff, and community members, noting that administrators must consistently apply reasonable alternatives to suspension, expulsion, and opportunity transfers. Attachments to the plan include a list of the top ten alternatives to suspension, including restitution, community service, and negotiation/problem solving approaches, and a consequences/school response reference guide. A School-Wide Positive Behavior Support Task Force will collaborate with an independent auditor to implement and review roles and responsibilities, and evaluate data. February 27, 2007.

### COLORADO

#### **Denver Public Schools Discipline Policy Emphasizes Reduced Reliance on Law Enforcement and Increased Emphasis on Restorative Justice**

The Denver Public Schools system revised its disciplinary policy to focus on more progressive and less harsh responses to disciplinary issues. The policy states that law enforcement should only be involved when there is a serious or immediate threat to individual or school safety, and encourages the use of alternatives to suspension, expulsion, and referral to law enforcement. One such alternative that is emphasized as a means to address misconduct is restorative justice, such as family group conferencing, victim-offender mediation, and classroom peace circles. Disciplinary procedures are outlined in a detailed matrix and a discipline ladder as a means to ensure fair, uniform application; eliminate the racial and ethnic disparities in school discipline; and provide greater clarity for students, parents, and school personnel. August 21, 2008.

### CONNECTICUT

#### **Out-of-School Suspensions Discouraged in Connecticut School Districts**

Beginning in July of 2009, suspensions in Connecticut public schools must be in-school, unless the school administration determines during a hearing that

the student being suspended poses such a danger or such a disruption of the educational process that the student must remain out of school during the suspension. The Commissioner of Education issued guidelines on October 1, 2008 to aid local and regional boards of education in making the determination as to whether a suspension of a student should be out-of-school or in-school. Substitute H.B. 5826/Public Act No. 08-160, signed into law June 12, 2008; effective July 1, 2009.

## **ILLINOIS**

### **Chicago Board of Education Integrates Principles of Restorative Justice into Student Code of Conduct**

The City of Chicago Board of Education's Student Code of Conduct now "recognizes and embraces" the philosophy of restorative justice. In a policy statement, the Board encourages principals and administrators to adopt and implement restorative justice philosophies and practices as additional tools to address student misconduct. The Board specifically provides for the use of circles (also called peacemaking circles or circles of understanding), community service, peer juries, restorative group conferencing, victim impact panels, and victim offender conferencing. For each intervention, the policy statement provides a description or definition, goals for the intervention, and implementation guidelines. Effective September 13, 2007.

## **LOUISIANA**

### **Revised School Code of Conduct in Louisiana Emphasizes Positive Approach to Discipline, Behavior Supports and Interventions, and a Continuum of Responses to Student Behavior**

Louisiana's Recovery School District revised its Student Code of Conduct to include a more positive approach to youth and discipline. Infractions are now categorized into three levels, with a continuum of responses outlined for each level. Referral to law enforcement is no longer listed as a response for many infractions, including fighting between students, throwing objects, and willful disobedience. The new code reduces the amount of instructional time lost to unnecessary removals by reducing the number of school-based infractions that are "suspendable" and "expellable" and by increasing the use of school-based interventions and alternatives to suspension and expulsion. The code is now also aligned with the principles of School-Wide Positive Behavioral Supports and is infused with useful and family-friendly information for parents and students about their rights in the discipline process. August, 2008.

## **LOUISIANA**

### **Legislature Improves School Expulsion Process**

The Louisiana legislature altered state laws relating to school expulsions to reduce their amount and duration and eliminate the practice of expelling students without providing any educational alternatives. Prior to the law's passage, a child's school was required to expel him or her on the fourth suspension. Now the school district has the discretion not to expel a child on the fourth suspension, thereby helping to avoid expulsions based on multiple low-level infractions. Additionally, the duration of expulsions has been reduced for many infractions, including possession of illegal drugs or controlled substances. All expelled students must be sent to alternative schools during the expulsion period; schools are now forbidden from seeking waivers to this requirement based on cost concerns, which often led to children being expelled "to the street." S.B. 265/Act 385, signed into law July 10, 2007; effective August 15, 2007.

## **PENNSYLVANIA**

### **State Board of Education Adopts Positive Behavior Interventions and Supports and Bans Prone Restraints**

The Pennsylvania State Board of Education revised its regulations on Special Education Services and Programs to focus on positive behavior supports rather than physical restraints and aversive techniques. The regulations require that behavior support programs include research-based practices and techniques and that the interventions used must be the least intrusive necessary. 22 Pa. Code Ch. 14, §133, effective July 1, 2008.

## **RHODE ISLAND**

### **Zero Tolerance Policies Prohibited in Public Schools**

The Rhode Island legislature mandated that discipline for any public school student who violates a school policy related to the possession or use of alcohol, drugs or weapons must now be imposed on a case-by-case basis. Schools may no longer use a "zero tolerance" approach to discipline in which all violations are treated the same, regardless of the context. School guidelines must take into account the nature and circumstances of the violation and the applicability of any federal laws governing students with disabilities. S. 394/Chapter 407, passed June 12, 2007; effective July 6, 2007.

## **TENNESSEE**

### **Juvenile Court Referrals by School Personnel Curtailed**

A change to Tennessee law now mandates that school personnel may only file a juvenile petition against a student receiving special education after conducting a mani-

festation determination that concludes that the student's inappropriate behavior was not caused by the student's disability. A juvenile petition allows the school to file a petition directly with the juvenile court for status offense-type violations, such as truancy or unruly behavior. Prior to the passage of this legislation, school personnel could file a juvenile petition without making the new requisite determination regarding the connection between the student's behavior and his or her disability. S.B. 2609/ Public Chapter 1063, signed into law May 28, 2008; effective January 1, 2009.

## Sex Offender Laws and Registries

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### ALASKA

#### State Supreme Court Finds Ex Post Facto Violation in Sex Offender Registry Law

In *John Doe v. State of Alaska*, 189 P.3d 999 (Alaska, 2008), the Supreme Court of Alaska determined that the Alaska sex offender registration law violates the ex post facto clause of its state constitution and cannot be applied to people whose offenses predate the registry's effective date. In its opinion, the court recognizes the contradictory ruling of the United States Supreme Court in *Smith v. Doe*, 583 U.S. 84 (2003), but states that the Alaska Supreme Court is free to interpret the state's ex post facto clause in a more protective way than the U.S. Supreme Court interpreted the U.S. Constitution's ex post facto clause.

### ILLINOIS

#### Sex Offender Registration Act Amended to Reduce Negative Impact on Youth

Illinois' sex offender registration act was amended to eliminate the provision that required youth adjudicated with a sex offense to register on the adult, public registry when they reached the state's age of criminal responsibility (17 years). The Act now also decreases the time that juveniles adjudicated as delinquent for a sex offense have to register on the non-public, juvenile registry (from ten years to two years for a misdemeanor; and from life to five years for a felony), and juveniles are now allowed to petition off the registry after the required time period. This right to petition applies retroactively. S.B. 121/Public Act No. 95-0658, total veto overridden and effective October 11, 2007.

### INDIANA

#### "Romeo and Juliet" Law Limits Definition of Sex Offender to Protect Teenagers

The Indiana "Romeo and Juliet" law protects consenting teenagers by revising

the definition of a sex offender to exempt a person convicted of sexual misconduct with a minor as a Class C felony if the person is less than five years older than the victim and the sentencing court finds that the person should not be required to register as a sex offender. The law additionally sets forth a mechanism for those individuals already on the sex offender list to be removed based on the new definition, and adds a “Romeo and Juliet” defense in the sexual misconduct statute. Other added protections include a requirement that the court consider expert testimony before determining that a juvenile is likely to be a repeat sex offender. H.B. 1386, signed into law May 10, 2007; effective July 1, 2007.

#### **VIRGINIA**

### **Virginia Creates “Romeo and Juliet” Carve-Out in Sex Offender Law**

A new Virginia law makes carnal knowledge (engaging in sexual acts with a child between the ages of 13 and 15) a sexually violent offense only when the perpetrator is more than five years older than the victim or the perpetrator was previously adjudicated delinquent for, or convicted of, any two or more sexually violent offenses. Otherwise, carnal knowledge is treated as a regular sex offense, which means offenders can petition to have their names removed from the sex offender registry (sexually violent offenders are required to register for life, and are subject to a variety of more restrictive laws than regular sex offenders). It is at the judge’s discretion to determine whether a juvenile adjudicated delinquent is initially placed on the registry. S.B. 590/Chapter 877, signed into law April 23, 2008; effective July 1, 2008.

## **Status Offenders**

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#### **CONNECTICUT**

### **Connecticut Strengthens Protections for Youth in Families with Service Needs Cases**

New legislation improves the due process rights of children in families with service needs cases and clarifies issues of confidentiality of mental health screenings and assessments. The law also requires the court to hold a permanency hearing within 12 months of a child’s commitment to the Commissioner of Children and Families, and at least once every 12 months thereafter. The Commissioner of Children and Families must file a permanency plan with the court at least 60 days prior to the permanency hearing and make reasonable efforts to achieve the goals of the permanency plan. H.B. 5926/Public Act No. 08-86, signed into law May 27, 2008; effective October 1, 2008.

## NATIONWIDE

### **U.S. Congress Reauthorizes Runaway and Homeless Youth Act**

Congress completed its reauthorization of the Runaway and Homeless Youth Act (RHYA), now entitled the Reconnecting Homeless Youth Act of 2008. The measure was approved in both chambers by unanimous consent. Formerly Title III of the Juvenile Justice and Delinquency Prevention Act, the RHYA provides community-based emergency and residential services to homeless and unaccompanied youth, many of whom are at risk of juvenile justice system involvement and detention because of their runaway status. The reauthorized RHYA will provide increased authorizations for runaway and homeless youth programs administered by the U.S. Department of Health and Human Services, extend the time a youth may stay in emergency or transitional living programs, and make public entities eligible to receive funds from the program. S. 2982/Public Law No. 110-378, passed by U.S. Congress, September 26, 2008.

## Promising Commissions and Studies

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### ARKANSAS

#### **Juvenile Justice Task Force Tackles Large Scale System Reform**

The Juvenile Justice Task Force, started in 2006 by the Department of Youth Services, completed an in-depth assessment of the juvenile justice system in Arkansas. The Task Force published a report in May of 2008: “Juvenile Justice Reform in Arkansas: Building a Better Future for Youth, Their Families, and the Community.” The report identifies factors that lead to over-reliance on secure confinement and makes specific recommendations to address each factor. The Task Force held a strategic planning retreat in October of 2008, and has recommended guiding principles and specific steps to implement reform in Arkansas.

### COLORADO

#### **Colorado Creates Commission to Address Prevention and Recidivism**

The focus of the new Commission on Criminal and Juvenile Justice is reentry and evidence-based recidivism reduction initiatives. The Commission will consider whether to raise the age of direct file or to narrow the range of crimes that may be direct filed. The Commission will also consider sending more juveniles to Youth Offender Services (which allows blended sentences); analyze data on sentencing policies and practices; and investigate alternatives to incarceration, factors that contribute to recidivism, and cost-effective crime prevention pro-

grams. The Commission will make an annual report of its findings and recommendations and evaluate the outcomes of these recommendations. The first report is expected by January of 2009. H.B. 07-1358, signed into law and effective May 23, 2007.

#### **FLORIDA**

### **Blueprint Commission Recommends Systemic Reform**

The final report of the governor's Juvenile Justice Blueprint Commission was released in February 2008. Contained in its 52 recommendations are calls for reform across the spectrum of juvenile justice operations, spanning prevention and first entry into the system through residential treatment, lock-up, and aftercare. Issues such as workforce, gender specific services, disproportionate minority contact, health, and the schoolhouse to jailhouse track are debated and addressed along with systemic care and treatment issues.

#### **ILLINOIS**

### **Commission on Children and Youth to Create Comprehensive Strategy for Services to Youth**

The newly established Commission on Children and Youth will be the first commission in Illinois in more than 22 years to explore how the state can most effectively support children and youth. The Commission will develop a comprehensive five-year strategic plan for providing services to people from birth to 24. The plan must outline recommendations to achieve five specific outcomes: preventive health, education completion, workforce development, social and emotional development, and civic engagement. The Commission must also address disparities in access and outcomes. Ex officio members of the Commission must include representatives from the Department of Juvenile Justice and the Department of Corrections. The final plan must be submitted to the governor and general assembly by June 1, 2011. H.B. 4456/Public Act No. 95-0781, signed into law and effective August 5, 2008.

#### **ILLINOIS**

### **Commission to Study Disproportionate Justice Impact**

The Illinois legislature created the Commission to Study Disproportionate Justice Impact in order to catalogue the nature and extent of harm caused to minority communities through violation and sentencing provisions. A representative from the Department of Juvenile Justice must serve on the Commission. The Commission's findings and recommendations must be submitted to the general assembly by December 31, 2009. S.B. 2476/Public Act No. 95-0995, signed into law October 3, 2008; effective June 1, 2009.

## INDIANA

### **Commission on Disproportionality in Youth Services Issues Recommendations**

The legislatively created Commission on Disproportionality in Youth Services reported on October 15, 2008 to the governor and general assembly on juvenile justice, mental health, education, and child welfare services. The report includes 74 total recommendations, 11 of which are relevant to all systems. The juvenile justice sub-committee issued 14 recommendations, including a call to amend the Indiana Code to include a non-discrimination principle; to create a community juvenile justice council in every county to prioritize the prevention and reduction of disproportionate minority contact; and for the Indiana Supreme Court to develop uniform statewide juvenile justice system data. The Commission has engaged the Indiana Youth Institute to help disseminate the recommendations to youth workers and the public. H.B. 1001, signed into law May 11, 2007; effective July 1, 2007.

## IOWA

### **Youth Race and Detention Task Force Created by Executive Order**

Iowa's governor, noting the significant overrepresentation of minority youth in Iowa's juvenile detention facilities and the high rate of incarceration for misdemeanor offenses, created the Youth Race and Detention Task Force. The Task Force will address and make recommendations regarding the inappropriate or unnecessary use of secure detention; overrepresentation of minority youth in detention facilities; the use of secure detention for low-level/low-risk offenders; appropriate conditions of confinement in secure facilities; exploration of community-based alternatives to detention; and public finances necessary to sustain successful reforms. The Task Force must submit a report to the governor within two years of its first meeting. Executive Order No. Five, October 30, 2008.

## NEW YORK

### **Governor Creates Task Force on Transforming Juvenile Justice**

In September of 2008, the governor of New York announced the creation of the Task Force on Transforming Juvenile Justice to examine ways to improve the state's juvenile justice system. The Task Force will develop and design a strategic blueprint for transforming the system, including examination of alternatives to institutional placement, ways to assist children's reentry into the community, and how to transform the culture of confinement from a punitive approach to a more therapeutic model. Additionally, the Task Force will study ways to improve treatment for juveniles in the areas of mental health and substance abuse, and will

address the disproportionate number of minority youth in the system. The Task Force will issue its recommendations by September of 2009.

#### **NORTH CAROLINA**

### **North Carolina Allocates \$200,000 to Study Impact of Raising Age of Juvenile Jurisdiction from 16 to 18**

North Carolina allocated \$200,000 from its state budget for the Governor's Crime Commission to conduct a study of the legal, systemic, and organizational impact of expanding juvenile jurisdiction from 16 to 18 years of age. The Commission must review the experience of other states that have raised the age of juvenile jurisdiction within recent years; identify practical issues with implementing best practices programming to serve the unique needs of older youth; create a specific plan of the actions necessary to implement the change; and conduct a cost benefit analysis of raising the age. The final report of the Commission's findings is due by April 1, 2009. H.B. 2436/S.L. 2008-107, signed into law July 16, 2008; effective July 1, 2008.

#### **WISCONSIN**

### **Governor's Commission Recommends Returning 17-Year-Olds to Original Jurisdiction of Juvenile Court**

The Governor's Commission on Reducing Racial Disparities in the Wisconsin Justice System found that "once young people get a criminal record, even for minor offenses, they are subject to greater scrutiny and attention from the criminal justice system, and opportunities for educational progress and gainful employment lessen." The report links the overrepresentation of minority youth in adult prisons to current juvenile justice policies. For this reason, the Commission recommends returning 17-year-olds to the original jurisdiction of the juvenile court, while maintaining the current waiver practices that allow transfer of the most serious cases to the adult system. February, 2008.

#### **WISCONSIN**

### **Legislative Audit Bureau Report Finds Higher Recidivism Rates and Fewer Services for 17-Year-Olds in the Adult System**

The Wisconsin Legislative Audit Bureau, a non-partisan legislative service agency, found that 17-year-olds in the adult system had higher recidivism rates than both youth in the juvenile system and adults in the prison system. The Bureau also found that there was a significant lack of services in the adult system for 17-year-olds and that 17-year-olds were actually barred from some services because they were not yet 18. February, 2008.

## Acknowledgements

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We would like to thank all of the people who have supplied us with information for this sampling of advances, especially the Members of the National Juvenile Justice Network. Many of these advances are attributable to their tireless and strategic work on behalf of youth. We would also like to thank the following individuals for their contributions to this document: Pat Arthur, National Center for Youth Law; Sheila Bedi, Justice Policy Institute; Amy Borrer, Office of the Ohio Public Defender; Kim Brooks Tandy, Children’s Law Center; Steven Brown, ACLU of Rhode Island; Elizabeth Burke Bryant, Rhode Island Kids Count; Russell Cook, West Virginia Public Defender Services; Jay Elliott, private attorney, South Carolina; Jim Freeman, Advancement Project; Robert Halverson, Multnomah County Department of Community Justice; Randi Hood, Montana Office of the State Public Defender; Michelle Leighton, University of San Francisco School of Law; Bart Lubow, Annie E. Casey Foundation; Jody Mark-samer, National Center for Lesbian Rights; Linda O’Neal, Tennessee Commission on Children and Youth; Patricia Puritz, National Juvenile Defender Center; Mae Quinn, University of Tennessee College of Law; Elizabeth Reeve, Disability Law and Advocacy Center of Tennessee; Rob Robinson, Public Defender of Metropolitan Nashville and Davidson County; Susan Roske, Nevada State Public Defender’s Office; Liz Ryan, Campaign for Youth Justice; Pauline Salla, Nevada Division of Child and Family Services; Marc Schindler, D.C. Department of Youth Rehabilitative Services; Robert Schwartz, Juvenile Law Center; Judith Storandt, National Disability Rights Network; Connie Hickman Tanner, Arkansas Administrative Office of the Courts; Trudie Trottie, South Carolina Department of Juvenile Justice; Stacy Uliana, Indiana Public Defender Council; Jason Ziedenberg, Multnomah County Department of Community Justice; Eric Zogry, North Carolina Office of the Juvenile Defender; and members and staff of the Coalition for Juvenile Justice.

Very special thanks are due to Annie Balck, the primary author of this document, who spent many painstaking hours researching, collecting, and vetting the legislative and administrative advances detailed within these pages. We also wish to thank our patient designer, Lynn Koble of Parasee Design.

Particular thanks are owed to the National Juvenile Defender Center for its compilation of juvenile justice-related legislation, from which a significant portion of these advances has been culled. Their complete list is online at [www.njdc.info](http://www.njdc.info). The contents of this document, however, are solely the responsibility of the National Juvenile Justice Network.

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***This publication is made possible by a generous grant from the  
John D. and Catherine T. MacArthur Foundation.***

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Justice Network

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