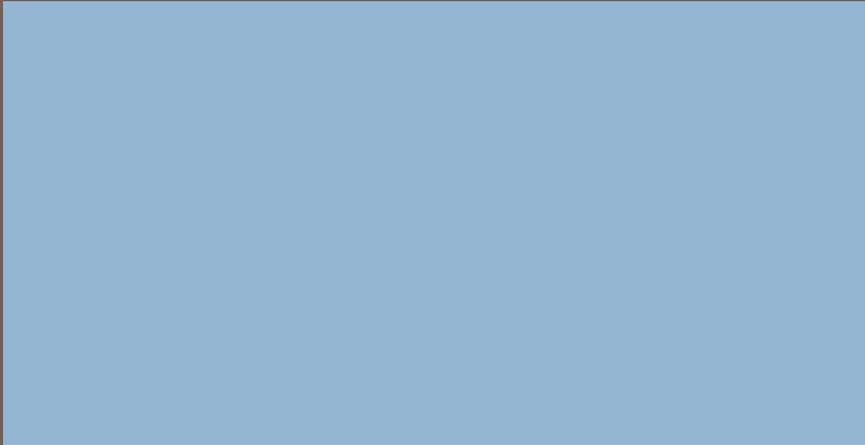


SB 73: JUVENILE JUSTICE REFORM



Work Group Goals

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- ▣ Reduce juvenile justice costs by investing in proven community based practices, preserving our residential facilities for serious offenders.
- ▣ Increase public safety by improving outcomes of youth and families and reducing juvenile recidivism.
- ▣ Effectively hold juvenile offenders more accountable.

Mandatory Diversions

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- Shall be referred if certain criteria are met:
 - No prior adjudications;
 - No informal adjustment or action within last 12 months;
 - Alleged conduct constitutes a misdemeanor;
 - Alleged conduct did not include violence or force against another person
 - Notice to child/parents, admission and consent from parent/child

Court's Role in Diversion

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- Mandatory as detailed on previous slide unless:
 - State's Attorney has "good cause to believe that informal adjustment or informal action is insufficient" and petitions the court to proceed on formal petition
- Petition must include notice of the departure from mandatory diversion
- Notice of right of child to contest departure
- Child may motion the court to have the matter sent to diversion
- Court will refer to either court services for informal adjustment or a court-approved diversion if no "good cause" found for petition
- If no finding of good cause then proceed on petition

Diversion Fiscal Incentive

- DOC developed and is administering a program to incentivize and support county use of court approved diversion programs
- DOC will pay a county \$250.00 for every juvenile completing a diversion program beginning in FY 17

Juvenile Citations Policy

- Lower level charging mechanism for State's Attorneys for certain offenses:
 - Petty Theft in 2nd Degree
 - Intentional Damage to Property, \$400 or less
 - Minor Possession or Consumption
 - Truancy
- Dispositional Options:
 - Fine & Court Costs not to exceed \$100 or community service hours
 - Restitution or Community Service Hours
 - Suspension or Revocation of Driving Privileges
 - Probation or Detention is not an option

Community Based Interventions

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- DSS to establish evidence-based community treatment options in cooperation with UJS and DOC for justice involved youth;
- DSS, DOC and UJS shall work together to provide data and establish a referral process;
- Process should be driven by risk and needs assessments and mental health or substance abuse screening tools.

Community-based Services

Implementation progress

- DSS met regularly with UJS and DOC to determine the screening tools, referral process and evidenced based interventions to be implemented
- Met with stakeholders such as community agency directors, school district representatives, residential care representatives, and county representatives to ensure feedback was obtained from all levels
- Consensus was Functional Family Therapy (FFT) would be the primary intervention
- An RFP was issued in August of 2015 with awards in November 2015
- FFT services began statewide in January of 2016

Community Response Teams (CRTs)

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- Purpose is to “assist judges by recommending viable community-based interventions.”
- If appointed shall include a CSO and designees from DSS and DOC;
- May include a school representative and one or more public representatives;
- Prior to any disposition to DOC (Delinquency or CHINS) the court may seek a recommendation from the team for viable community options;
- Team has 7 days to make a recommendation;
- Court may accept, reject or modify recommendation.

Commitment Policy

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- Purpose is to focus on community-based rehabilitation and the goal has always been and remains the least restrictive alternative in the best interests of the child.
- May only commit to DOC if the court finds:
 - ▣ no community alternative exists
 - ▣ the youth presents a significant risk of physical harm to another person
 - OR
 - ▣ the youth is currently adjudicated delinquent for:
 - an offense eligible for transfer proceedings,
 - a crime of violence, sex offense, felony sexual registry offense or burglary in the second degree

Juvenile Detention

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- If a judge orders more than 14 days of detention in a thirty day period in a delinquency or CHINS case, the judge must enter specific findings in the dispositional decree justifying the need for extended detention.

Probation Duration

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- Term of Probation for Delinquency or CHINS may not exceed 4 months unless:
 - ▣ Intensive juvenile probation- initial term up to 8 months;
 - ▣ Extended by the court- up to four months- no more than 2 extensions or 12 months total “for the child to **engage in evidence-based treatment** as required by the case plan.”

Graduated Responses

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- Required to develop graduated response grid for juveniles “to guide court services officers in determining the appropriate response to a violation of terms or conditions of probation”;

“Graduated response programs aim to increase juvenile accountability and promote pro-social behaviors by appropriately responding to both the positive and negative behaviors of youth.”

-The Crime and Justice Institute

Graduated Responses (cont.)

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□ Purpose:

- Respond to violations swiftly, consistently and proportionately;
- Reducing the time and resources expended by the court to respond to violations; and
- Reducing the likelihood of a new delinquent act.

Probation Violations- Delinquency and CHINS

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- Formal Probation Violation Filed
 - ▣ After application of response grid
- Court must find by a preponderance of evidence the existence of a violation
- If violation the court may modify the terms and conditions; revoke probation or take other action except:

DOC Commitment Criteria...

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- Court may only commit a child to DOC for a probation violation if the violation was a “new law violation” and “aggravating circumstances” exist.

New Law Violation...

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- “New law violation” means:
 - delinquent behavior pursuant to SDCL 26-8C-2
 - “Delinquent child” defined. In this chapter and chapter 26-7A, the term, delinquent child, means any child ten years of age or older who, regardless of where the violation occurred, has violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult, except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as misdemeanors, or petty offenses or any violation of § 35-9-2 or 32-23-21.
 - Class 1 misdemeanor in Title 32
 - or DUI under age of 21 (SDCL 32-23-21)

and Aggravating circumstances...

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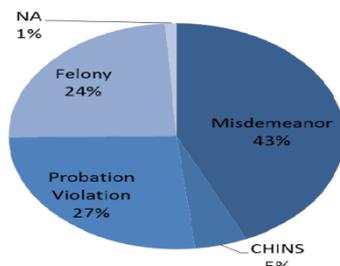
- “Aggravating circumstances” means meets criteria to commit at disposition for either the Delinquency or CHINS action;
- Must also make findings required for dispositions to DOC as previously specified.
- If petition not sustained the court shall continue on probation unless the duration of probation previously ordered has terminated.

Delinquency

- DOC is the least restrictive alternative; and
- Adjudicated for an offense that is:
 - transferable (16 years old + Class A,B,C, Class 1 or 2 felony);
 - crime of violence (murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact as defined in § 22-22-7, felony child abuse as defined in § 26-10-1, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device);
 - sex offense;
 - felony sex offender registry offense;
 - Burglary in second degree;
 - *“Or the court finds from evidence presented at the dispositional hearing or from the pre-dispositional report that the youth presents a significant risk of physical harm to another person.”*

CHINS

Youth Committed to the DOC, 2013



84% of the probation violators committed to DOC in 2013 were originally placed on probation for a CHINS violation or non-sex misdemeanor adjudication

Next steps

- Continue to share information with juvenile justice stakeholders and the community on JJRI implementation progress
- Identify additional community-based services needed to serve youth in the South Dakota juvenile justice system
- Routinely examine and share implementation progress and data with the Juvenile Justice Oversight Council to monitor impact of the reforms



Why are we doing this again...

Projected Impacts

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Implementation of the policy package is projected to result in:

- More children diverted from the system without a criminal record.
- Incentive funds to counties to increase use of diversion.
- 29% fewer juveniles on probation in the next 5 years.
- More than 50% fewer youth placed out-of-home by 2020,
 - ▣ Freeing up funding to invest in programming in the community.
- Expanded access to proven community based interventions, especially in rural areas,
 - ▣ Such as programs that address substance abuse, family challenges, antisocial thinking and behavioral issues.