



Next Steps in Juvenile Justice Reform Taby Ali

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In 2007, Connecticut passed landmark changes to its juvenile justice law, both “raising the age” of juvenile court jurisdiction to permit most offenses involving 16 and 17 year olds to be adjudicated in juvenile court rather than adult criminal court, and also expanding diversion services and court options for youth engaged in “status” offenses, such as truancy, running away, and out-of-control behavior. These changes marked a pivotal moment in Connecticut’s treatment of its at-risk youth, moving from a punitive model to one that is more age-appropriate and likely to prevent future delinquent behavior. Despite this important progress, more work remains to assure full implementation of these changes and to address remaining deficiencies in our juvenile justice system.

Raise the Age Law

Connecticut has been one of just three states in which 16 and 17 year olds are considered adults for purposes of Connecticut’s criminal law, with their cases handled like adult offenders and without the protections afforded juvenile offenders. However, based on compelling neurological research on the differences between the brains of an adult and a sixteen year old¹ and other legislative precedents that identify sixteen and seventeen year olds as minors,² the Connecticut General Assembly passed a landmark law – PA 07-04 (June Special Session) - to “raise the age” of juvenile court jurisdiction to include this age group. In its totality, this act ensures that these older youth face the consequences of their actions in a more developmentally-appropriate manner and environment.

Starting January 1, 2010, most offenses³ involving 16 and 17 year olds will be adjudicated in juvenile court, affording these youth the protections already provided to younger offenders (e.g., confidentiality of their records; access to mental health assessments and therapeutic services; the right not to be questioned

without a parent present). The new law also broadened current law pertaining to the erasure of juvenile arrest and court records. Currently, courts may grant petitions erasing the arrest and court records of a youth who is delinquent or living in a Family with Service Needs when the youth has not been charged with another offense within a specified period. The 2007 reforms also allow records to be erased when the youth signs a statement of responsibility admitting to having committed a delinquent act or status offense (such statements are often prerequisites to participating in court diversion programs that, when successfully completed, lead to a dismissal of charges).

Importantly, the new law prohibits judges from placing juveniles in pretrial detention unless it is necessary and in the least restrictive environment possible consistent with public safety; this restriction did not exist previously. It also requires the Court Support Services Division (CSSD) of the Judicial Department to provide a continuum of services for juvenile offenders living in the community, including programs for youth classified as eligible for release with, and without, structured supervision. Whereas prior law required these programs to be tailored to a youth’s offense history, age, gender, mental health and chemical dependency status, the 2007 reforms also require that the programs be tailored to a youth’s maturity, social development, and need for structured supervision, and that they be culturally appropriate, trauma-informed, and provided in the least restrictive environment possible consistent with public safety.

The range of programs CSSD must provide includes not only substance abuse, mental health, and sexual offender assessment and treatment, but also anger management and conflict resolution training; job training and employment opportunities; substance abuse prevention; and services as needed for the

youth's family. Individualized remediation plans are now required in each juvenile's general education program. CSSD, by July 1, 2009, is to evaluate its juvenile programs and services to assure that they are able to meet the needs of youth age sixteen and older, and make needed changes.

To assure successful implementation of the "raise the age" legislation, it is essential that the General Assembly and Governor support the following initiatives that improve outcomes for youth in the juvenile justice system, including:

- Funding truancy prevention programs and other measures that reduce school suspensions, expulsions, and school-based arrests;⁴
- Increasing access to mental health services so that the juvenile justice system does not become the default children's mental health system;⁵
- Moving juvenile offenders out of the CT Juvenile Training School and into small, community-based programs that are more home-like and accessible to families;⁶
- Using training and objective screening and assessment tools to reduce racial and ethnic biases in the juvenile justice system and the resultant over-representation of minority youth⁷ in the system;
- Responding appropriately to the unique needs of girls involved in the juvenile justice system;⁸
- Ensuring that all responsible state agencies and organizations make the policy and practice changes needed to transition most 16 and 17 year olds into the juvenile justice system in 2010.

Families with Service Needs

PA 07-04 (June Special Session) also made some important changes to the law pertaining to Families with Service Needs (FSWN) cases. These cases involve youth engaged in behaviors that would not be criminal if committed by an adult ("status offenses"), but which are considered risky and worthy of state intervention when committed by a youth (e.g., truancy, running away). Connecticut courts review 3,600 to 4,000 FWSN cases annually. Truancy was the leading reason for FWSN referrals in SFY 2007 (42% of all referrals).

The new reforms changed FSWN law by:

- Eliminating the Youth in Crisis (YIC) program and making these youth instead eligible for the Family with Service Needs program after January

1, 2010. This will afford 16 and 17 year old status offenders access to more comprehensive services than are now provided through the YIC program;

- Expanding diversion services and court options for FWSN youth, including allowing the court to suspend formal court proceedings for a longer time when it is in the child and family's best interests and directing CSSD to establish a network of Family Support Centers. These community-based centers must provide (or assure access to) services intended to prevent further court involvement such as screening and assessment; crisis intervention; family mediation; mental health treatment; resiliency skill-building; educational evaluations and advocacy; and short-term respite care;
- Prohibiting probation officers from filing FWSN petitions until they first conduct an initial assessment and refer the youth for voluntary services *and* are notified by the provider that the family can no longer benefit from the services;
- Eliminating the authority of complaining parties to file FWSN petitions on their own after being told the probation officer is not doing so;
- Limiting the detention of FSWN youth who have violated a FSWN court order to no more than 24 hours (excluding weekends and holidays) while waiting for a court hearing on the issue;
- Allowing the placement of a FSWN youth found to have violated a FSWN order in a "staff secure" CSSD facility for up to 45 days, but only if there are no appropriate, less restrictive alternatives and the court reviews the appropriateness of continuing the placement every 15 days. Similar restrictions on the duration and judicial review of the placement are imposed on the placement of a FSWN youth in a staff-secure CSSD facility when a court finds: a) that the youth is in imminent risk of physical harm from his/her surroundings; b) the youth's safety is endangered and immediate removal is necessary to ensure that safety; and c) there is no less restrictive alternative;
- Allowing courts to order a youth committed to DCF custody for an indefinite period of up to 18 months (or to extend the commitment) only when the court finds there is no less restrictive alternative.

Support legislation to improve the continuum of care and services for youth in Families with Service Needs, such as those proposed by the FWSN Advisory Board,⁹ including:

- Funding six additional Family Support Centers¹⁰ so that their services are available statewide;
- Funding the State Department of Education's \$350,000 request for truancy reduction programming in the five school districts with the largest truancy referrals;
- Enhancing the services available at Youth Service Bureaus so they include Juvenile Review Boards in each of the four judicial districts;¹¹
- Appropriating additional flexible funding to allow CSSD to purchase child-specific services for low and medium risk FWSN cases;
- Revising the FWSN law to ensure procedural safeguards.¹²

¹ Neurologists have demonstrated a clear difference between the brains of 16- and 17-year-olds and young adults. Brain imaging studies comparing the brain activity of adults and adolescents confronted with difficult decisions have illustrated that it takes adolescents, whose brains are not yet fully developed, a longer time than it does adults to figure out what is a bad idea. See A.A. Baird, J.A. Fugelsang, and C.M. Bennett, "What were you thinking?" available at <http://www.theteenbrain.com/research/projects/goodidea2.p>

² In a variety of ways, Connecticut already recognizes the fact that 16- and 17-year-olds are not fully adults: a 16 or 17 year old Connecticut youth cannot vote, drink alcoholic beverages, serve on a jury, get a marriage license on his/her own, or enter a casino.

³ Unchanged by PA 07-04 (JSS) is existing law that requires juvenile cases involving serious felonies to be transferred automatically to adult court and that allows prosecutors to ask juvenile court judges to transfer other cases to adult court. PA 07-04 (JSS) also specifies that juvenile courts will not handle charges against sixteen and seventeen year olds involving motor vehicle violations for which a prison term may be imposed or charges involving misconduct or manslaughter with a motor vehicle if the youth was under age sixteen when the offense occurred. Juvenile courts also may not handle charges involving infractions and violations subject to a statutory mail-in fine procedure. The Act requires juvenile court judges to impose statutory fines on all children convicted as delinquent for possessing alcohol.

⁴ Researchers continue to document the relationship between absence from school (as a result of truancy and/or suspensions or expulsions) and delinquency. R. Skiba and K. Knesting find that repeated exclusionary discipline methods, such as suspension and expulsion, push children out of the classroom and into unsupervised settings where they are liable to get into more trouble. For more information see, "Zero tolerance, zero evidence: An analysis of school disciplinary practice," Indiana Education Policy Center (August 2002). Available at: www.indiana.edu/~safeschl/ztze.pdf. Indeed, CSSD found that 89% of court involved 16 and 17 year olds have been suspended

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or expelled from school. Its presentation, "JJPIC: Proposed Court and Service System for 16 & 17 year olds," (January 4, 2007) is available at: www.housedems.ct.gov/jjpic/.

⁵ At least 62% of children admitted to detention in Connecticut, have mental health issues that need treatment. New England Juvenile Defender Center, "CT Mental Health At a Glance" (2004), available at:

http://www.nejdc.net/conn/mental_health.asp.

⁶ Research by S. Zavlek suggests that confining juveniles in secure facilities is not as effective at preventing future offenses as providing services in the communities where children reside. "Planning Community Based Facilities for Violent Juvenile Offenders as Part of System of Graduated Sanctions" Office of Juvenile Justice and Delinquency Prevention (August 2005), available online at: www.ncjrs.gov/pdffiles1/ojjdp/209326.pdf.

⁷ African-American and Latino youth are over-represented in every phase of Connecticut's juvenile justice system. In 2004, minorities were 30% of Connecticut's 16 years old and under population but: a) 52% of the children referred to juvenile court on delinquency and status offense charges; b) 65% of the children put into detention; and c) 54% of those committed to DCF facilities. CT Department of Children and Families, "CT Juvenile Justice Strategic Plan: Building Toward a Better Future" (August 2006), available online at:

www.nejdc.net/downloads/CT%20-%20strategic_plan.pdf.

⁸ The CT Department of Children and Families concluded in a 2005 report that, "there is no system of gender-specific, strengths-based, trauma-informed, culturally competent, relationship-driven girls' services in Connecticut." Currently, female juvenile offenders are confined in an adult woman's correction facility. M. Beyer, "A System of Service for Girls in Connecticut" (CT Department of Children and Families, December 15, 2005), available online at: www.ct.gov/dcf/lib/dcf/juvenile_services/pdf/beyer_report_final_2005%5B1%5D.pdf.

⁹ Public Act 06-188 established a FWSN Advisory Board that is responsible for addressing gaps in care and measures to prevent FWSN types of offenses. The Board consists of a multi-disciplinary group from each branch of state government and community organizations. For more information on the FWSN Advisory Board's recommendations see "Report to the Connecticut General Assembly" (February 2008), available online at <http://www.cga.ct.gov/KID/FWSN/FWSN.asp>.

¹⁰ Family Support Centers are to work with the youth and his/her family to determine an action plan. Services available are to include family mediation, educational advocacy, mentoring, crisis intervention, Intensive In-home Child and Adolescent Psychiatric Services (IICAPS), and Multi-systemic Therapy (MST).

¹¹ Youth Service Bureaus are community centers that provide programs that help youth and families deal responsibly with behavior issues and stay out of court. (www.ysb.net). Juvenile Review Boards can help divert more children from court and provide services for the child and family in their local community.

¹² Conn. Gen. Stat. §46b-124(j) requires that mental health screenings and assessments of delinquent children be used solely for planning and treatment purposes and otherwise be kept confidential. It is recommended that FWSN children, who are also screened and assessed, be afforded the same protections as delinquent children.