

# Making Impactful Juvenile Justice Reform: Lessons From Recent State Efforts

by Ted Alcorn

## Executive Summary

Lawmakers around the country are refocusing their juvenile justice systems, and with good reason. After decades of costly, overly punitive approaches—and with a better understanding of cognitive development—there is a growing awareness that juvenile justice systems that adopt a lighter touch can reduce costs and yield better outcomes with fewer racial disparities.

Although a complete performance assessment of Maryland's juvenile justice system is not possible without a deep dive into the state's data, recent reforms are indicative of progress being made—and opportunities for further improvement. The number of juvenile complaints has declined, as has the number of committed youth, particularly those adjudicated for nonviolent crimes. Still, a majority of the state's committed youth are adjudicated for misdemeanor or status offenses, and there are persistent disparities in the treatment of white youth and youth of color. Above all, the state lacks crucial data systems for monitoring and managing its own juvenile justice system toward better performance.

Maryland can benefit from examining the experiences of other states that have embarked on reforms of their juvenile justice systems. The focus of this report is the diverse group that has undertaken sustained, comprehensive reforms, with technical assistance from the Pew Charitable Trusts. The circumstances of these states have varied, but they have generally followed a similar progression:

- **First, successful reforms have begun by bringing the right parties to the table,** assembling statewide, bipartisan work groups that draw expertise from across their juvenile justice systems, and beyond. This stakeholder process helps forge political consensus, and anticipate challenges that reforms may face later as they are implemented. A strong task force chair and committed legislative sponsor are critical.

- **Second, states have taken a hard look at their existing systems, gathering and analyzing data from across agencies** to answer foundational questions about how many youth are in the system, how much time they spend moving through it, their risks and needs, and the outcomes achieved. Even states with relatively rich and unified data systems have gained insights from bringing information together in novel ways.
- **Third, with insights from this analysis, states have crafted meaningful reforms that match their circumstances**, typically by better tailoring juvenile system responses to measures of risk, by reducing the overuse of out-of-home placements, and

by expanding and improving community-based services. In practice, this rebalancing frees up resources from one area that can be reinvested elsewhere.

- **Lastly, states that have made lasting change have measured outcomes and created oversight councils** to monitor and report outcomes into the future. Their experience underscores that reform isn't a one-time event but rather a continuous process of improvement.

There is bipartisan support for juvenile justice reform, and while it can be difficult to look back at past mistakes, there is much to be gained by learning from these mistakes as reform efforts move forward.

## Introduction: What is juvenile justice reform and why does it matter?

Over the last decade, everyone—from lawmakers to scientists to judges to taxpayers—has awoken to the reality that when it comes to juvenile justice, they have been getting it wrong. In most jurisdictions, when young people break the rules, they are often forced into a criminal-legal system that has few tools to assess their needs or risk of reoffending, been too quick to remove them from their homes, lacked community-based alternatives, and done remarkably little to measure the outcomes and the costs of this approach.

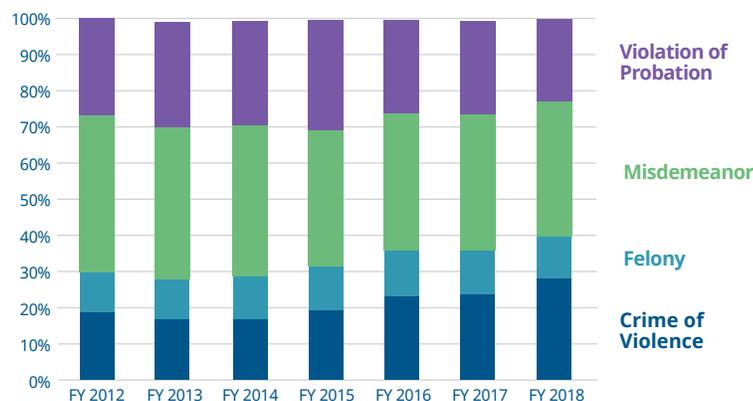
This has left states operating costly juvenile justice systems that are inefficient at best. And at worst, they are counterproductive. Even as youth arrest rates have substantially declined and the number of kids committed to out-of-home placements has halved over the last decade, those who are left are subject to programs and punishments that reduce, rather than increase, their likelihood of long-term success.<sup>1</sup> Often, because of the

overrepresentation of people of color in the criminal-legal system, racial disparities are exacerbated.

But yesterday's misjudgments serve as today's opportunities for lawmakers: Reforms to the juvenile justice system can help yield superior outcomes at a lower cost. In recent years, states across the country have undertaken significant reforms. Each had its own set of institutions and laws, and each faced a unique political landscape. But, together, their experiences offer a road map for achieving change—and are a testament to the benefits that reforms can bring.

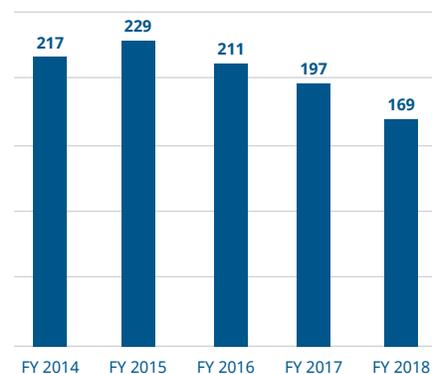
There is no time to waste. "If you're a youth advocate and you know that there's something wrong with the system, you have a moral obligation to do something about it," said Susan Burke, former director of the Utah Division of Juvenile Justice Services. "And you don't have the luxury of time on your side to make changes, because we're talking about the lives of young people."<sup>2</sup>

## New youth commitments by crime category



Source: Maryland Department of Juvenile Services.

## Average length of stay of committed youth in Maryland (days)



Source: Maryland Department of Juvenile Services.

### Historical background: How did we get here?

For much of the 20th century, the American justice system treated youth differently from adults, emphasizing rehabilitation rather than punishment. But beginning in the 1980s, state and federal legislators made a series of changes that eliminated many of these distinctions. Prompted by a dramatic increase in juvenile crime, lawmakers adopted policies that increasingly channeled young arrestees into adult courts and responded to juveniles' misbehavior with punitive rather than reformatory measures.<sup>3</sup> The share of youth who were incarcerated skyrocketed, and only years later, as crime rates fell and state budgets tightened, did lawmakers begin to recognize that this model was unjust, and was not helping make communities safer.

An improved understanding of adolescent development helps explain why. Adults are often punished on the basis of culpability, but behavioral science has shown the degree to which adolescents' decisions are impulsive and

reckless rather than malicious. The teenage brain is also extraordinarily plastic, which means a youth has an opportunity to reform, but only if an appropriate environment is there to facilitate it.<sup>4</sup>

In recent years, policymakers around the country have come to realize that their juvenile justice systems have been failing to attend to real world outcomes. "We looked at some of the providers," said Terri Williams, the former deputy secretary of Kansas's Division of Juvenile Services, "and I realized that really, the only thing we were asking was 'how much do we owe you?' Which is so not acceptable on so many levels."<sup>5</sup>

Even states where a declining number of young people are touched by the juvenile justice system should not be complacent. Although, nationwide, juvenile arrests have fallen more than 72 percent from a high in 1996,<sup>6</sup> there remain flaws in the ways that juvenile justice systems continue to operate for those entangled with them.

“We all kept data but we never looked at it; it was never analyzed, so we didn’t know what the data was going to show.”

–Stephanie Bond, former director of the West Virginia Division of Juvenile Services

### *In Maryland, what are potential opportunities for improvement?*

By certain measures, Maryland’s juvenile justice system has been improving. According to Maryland’s Department of Juvenile Services, the number of juvenile complaints has been steadily falling, including a decline of 12.4 percent between fiscal years 2016 and 2018; recidivism rates did not worsen; and as overall commitments fell, the proportion of new commitments that were not for crimes of violence also fell. After years of stagnation, the average daily population of Maryland youth committed by juvenile court to out-of-home placements, between fiscal years 2013 and 2018, fell by more than half. The average duration of out-of-home placements in Maryland has also been falling in recent years, and is shorter than in other states. But more than half of new commitments are for misdemeanors or violations of probation—less serious offenses that could likely be better addressed with a less intensive response.<sup>7</sup>

The state has also made some important reforms. Recently, Maryland adopted a single risk-assessment tool, the Detention Risk Assessment Instrument, for deciding whether to detain youth, and two years ago the tool was validated. To match youth with appropriate services and supervision, the state employs a different risk assessment, the Maryland Comprehensive Assessment and Service Planning (although as of March 2019, the validation had not yet been incorporated).<sup>8</sup> After a court decision in 2016, the state ended the practice of shackling kids in court,<sup>9</sup> and efforts are underway to eliminate fines and

fees from the juvenile justice system.<sup>10</sup> There have also been recent calls to eliminate solitary confinement for minors incarcerated in adult detention facilities.<sup>11</sup>

But, as in many states, there is a dearth of data to describe how well the state’s existing outlays for juvenile justice are being spent.<sup>12</sup> While the number of youth transferred from adult to juvenile court nearly doubled between fiscal years 2013 and 2018, some judges faced with youth who are charged with crimes of violence are less likely to return them to the juvenile system than others. And youth charged as adults face long stays in juvenile detention facilities awaiting transfer hearings. The Maryland Department of Juvenile Services cannot track youth who are charged as adults and do not touch the juvenile system, according to Betsy Tolentino, executive director of pre-adjudication services and reform, so the state has little ability to determine whether the juvenile or adult system yields better outcomes.

Law enforcement (pre-charge) diversion options are limited, and programs and practices vary by local jurisdiction with little data collection. There is not yet an integrated case management system that identifies how different schools refer complaints to the juvenile justice system. And the state lacks the systems necessary to understand why prosecutors dismiss certain cases and not others.

Existing data also give reasons to be concerned about the system, particularly the persistent disparity in the rates at which youth of color are transferred to adult court, secure detention, and secure correctional facilities.

**“Is it working? Where isn’t it working? And how can we fix it? Those are questions we continue to ask and will always and ever continue to ask if we’re doing it right.”**

–Kentucky State Senator Whitney Westerfield

“We’ve had a significant reduction in out-of-home placements, but our disparities are growing,” said Tolentino.<sup>13</sup> In fiscal year 2018, 77 percent of committed youth were black.<sup>14</sup>

There is also heterogeneity in access to and character of services across jurisdictions. Although there are evidence-based services in every county, there are fewer options in some areas than in others. The bulk of the state’s committed facilities where youth movement can be restricted by personnel or facility (“staff secure” or “hardware secure”) are in its west, remote and difficult for family to visit. And a share of committed youth are sent out of state entirely.

## **How have other states addressed this?**

In recent years, states across the country—and legislators across the aisle—have reformed their juvenile justice systems in numerous ways, often with technical assistance from outside experts. The MacArthur Foundation has focused on keeping youth in the appropriate justice system, protecting them in the courtroom and during confinement, and successfully reintegrating them into the community on return.<sup>15</sup> Through its Juvenile Detention Alternatives Initiative, the Maryland-based Annie E. Casey Foundation has worked with numerous localities to adopt reforms<sup>16</sup>—including conducting a deep analysis of Maryland’s juvenile justice system in January 2015.<sup>17</sup> And the Pew Charitable Trusts has partnered with leaders in a number of states to examine how kids move through their justice systems, compare their findings to what

research says works and what other states have done, and determine what they want to do differently. For example, several states have moved kids and resources from the “deep end” of the system into the community to get better outcomes with less incarceration.<sup>18</sup>

Arguably, the states that have achieved the most significant reforms are those that have undertaken sustained, comprehensive efforts, rather than responding reactively with one-off changes. This policy brief focuses on the experiences of states that pursued comprehensive reforms of this nature after seeking technical assistance from Pew.

The circumstances that have sparked reform efforts are varied. In states that include Kentucky, South Dakota, and Utah, lawmakers who successfully enacted reforms of the adult criminal justice system turned their attention to the processes for juveniles. In Kansas, an audit of the state’s residential facilities raised concerns,<sup>19</sup> and fresh leadership was inspired to make changes. But to proceed, all of the cataloged states followed a consistent process that involved:

- 1. Bringing the right parties to the table;**
- 2. Learning from the data;**
- 3. Crafting meaningful reforms; and**
- 4. Measuring outcomes and making lasting change.**

## 1. Bringing the right parties to the table

Multiple parts of state government touch the juvenile justice system, so reforms must—by necessity—involve multiple branches of government. A process that involves a diverse array of stakeholders will create space for the necessary dialogue between all parties that has not occurred before.

When Kansas embarked on reforms, agencies hadn't been tackling areas of shared responsibility, according to Terri Williams, the deputy secretary of the Division of Juvenile Services at the time. "The grown-ups weren't talking to one another, and the kids were suffering because of that."<sup>20</sup> But once given a space for thoughtful discussion, the state's policymakers were more than up to the task.

Transparency was also critical in West Virginia, according to Stephanie Bond, the director of the Division of Juvenile Services at the time the state undertook reforms. "We talked about things we were doing that were great, and things that were not so great. But if you want to change, you have to put it all out there and address it."<sup>21</sup>

States that have implemented significant reforms have typically begun by assembling a statewide, bipartisan work group or task force that draws on expertise from across the system—and beyond. Task forces are typically constituted of police, prosecutors, judges and court personnel, defense attorneys, legislators, governors' policy advisors, juvenile justice agency representatives, probation leaders, school officials, and staff from child welfare and mental health agencies. "It's important to get people who are experienced in the area they represent," said Greg Sattizahn, state court administrator of South Dakota. "You don't want the brand-new prosecutor who is just getting their feet wet."<sup>22</sup> Task forces may also include academics, advocates, and parents, to create a more broadly inclusive process.

While the breadth of representation in the stakeholder process is important, leadership is also key: Having a strong task force chair or chairs is critical, and a legislative sponsor must be willing to work hard and weather criticism. Most task forces have been helmed by elected officials or been appointed by them, and their strong relationships with their state's leaders have been critical for making progress. One exception is in West Virginia, where reform efforts begun under one gubernatorial administration stagnated under its successor, according to Stephanie Bond. Under those unique political circumstances, she would have preferred a task force helmed by someone whose influence was undampened by a change in state leadership. That way, "regardless of the political landscape, they're still going to be around."<sup>23</sup>

Though a stakeholder process can take time, it creates the conditions for forging political consensus—a consensus that may ultimately be broader, and for deeper reforms, than anyone originally thought possible.<sup>24</sup> It may also help win over would-be opponents. When Kansas embarked on the process, the chairman of the Senate Corrections and Juvenile Justice Committee was Greg Smith, a former police officer and teacher who became a victim advocate after his daughter was murdered. Rather than try to exclude him from the stakeholder process, the Senate president asked Smith to take the lead. During the six months the group spent hearing presentations and discussing the issue, he came to see juvenile justice in a new light, and he ultimately proved a powerful champion for substantial reforms. Smith later joked about the process in an interview: "The Democrats asked what I thought of the legislation and when they heard, the reaction was, 'Smith? Greg Smith? You mean he supports this?' It definitely surprised some people."<sup>25</sup>

An effective stakeholder process may also prove crucial for anticipating and avoiding challenges that will otherwise emerge later

in the process. In Utah, while the working group included a participant from correctional education, the education system at large was not represented, and as a result, it yielded reforms that schools could not realistically implement in the time they were allotted. “Schools were just hopping mad at us,” recalled Susan Burke, former director of the Utah Division of Juvenile Justice Services, “and they had a right to be, in the sense that they felt like they didn’t have a voice and they didn’t have sufficient time to move in the right direction.”<sup>26</sup> This oversight created unnecessary friction, but the reformers were ultimately able to extend the timeline for the schools, who successfully implemented the necessary changes.

## 2. Learning from the data

Whether states had undertaken reforms in the past or were starting fresh, they have all benefited from a thorough analysis of their own juvenile justice data, which is rarely brought together and analyzed in a systematic way. “We all kept data but we never looked at it; it was never analyzed, so we didn’t know what the data was going to show,” said Stephanie Bond, the former director of the Division of Juvenile Services in West Virginia.<sup>27</sup> In no case has such an examination disclosed a system that was entirely evidence-driven. And when stakeholders are confident the process will be driven by evidence, they are more willing to commit to it.<sup>28</sup>



## GEORGIA - 2013

**Context:** After several years of contemplating juvenile justice reform, in 2011 the state’s General Assembly created a 20-member Special Council on Criminal Justice Reform for Georgians, which guided an overhaul of the adult justice system the following year, with projected savings of \$246 million. Governor Nathan Deal then extended the council’s mandate to the juvenile justice system, and in 2013, both chambers of the legislature unanimously passed a reform bill, House Bill 242.

**Measures:** The package was projected to prevent the opening of two residential facilities and save \$85 million over five years. Among many measures, it required jurisdictions to use a standardized risk assessment for determining whether to place youth in detention, restricted use of out-of-home placements to youth who had committed serious crimes, and used projected savings to establish a \$5 million voluntary incentive grant program to create evidence-based community programs. It also required uniform data collection and centralized data that could be accessed from any participating court.

**Impact:** In the first four years following enactment of the reforms, the number of youth placed in out-of-home facilities fell 36 percent, allowing the state to close three facilities with a capacity of 269 beds. During that time more than \$37 million was redirected toward evidence-based sentencing options, which provided individual or group therapy to more than 8,000 youth.<sup>i</sup>

i. Boggs, M. P. & Miller, C. A. (2018, February). *Report of the Georgia Council on Criminal Justice Reform*. <http://bit.ly/2FgksIK>

Joe Vignati, who worked in Georgia's Department of Juvenile Justice for decades and ended his career as assistant commissioner, acknowledged that a data-driven process can feel painful and painstaking but is a crucial shift away from merely reacting to anecdote. "What frequently happens is you let one case drive the discussion when you really want to consider: Is this an isolated incident or is this the norm?"<sup>29</sup>

It may be necessary to gather data from juvenile justice and adult corrections systems,

prosecutors' offices, community-based service providers, and schools, among others. To link data across systems without compromising confidentiality (particularly when it pertains to juveniles), cases may be assigned unique identifiers. In other cases, where aggregate data are sufficient, this can be less of a concern.

The most crucial data to collect are for the purpose of assessing the system: counting youth in the various parts of the juvenile justice system (including detention, probation, corrections, treatment agencies, and



## KENTUCKY - 2014

**Context:** Between 2002 and 2012, the duration of out-of-home placements in Kentucky had grown across all categories of youth, including by 31 percent for those who had violated probation or court orders, by 21 percent for those convicted of misdemeanors, and by 11 percent for those convicted of felonies.<sup>i</sup> So in 2012, a year after Kentucky passed legislation to reduce the adult prison population and strengthen probation and parole, the General Assembly created a bipartisan task force to study the state's juvenile justice system and recommend changes. In a two-year process spearheaded in part by Republican State Senator Whitney Westerfield, they were incorporated into Senate Bill 200 and passed into law in 2014.

**Measures:** The law was projected to save the state \$24 million over five years, to be reinvested in community programs. Among many measures, it expanded the pre-court diversion process by creating Family Accountability, Intervention and Response (FAIR) teams; narrowed the group of youth placed outside the home by barring youth convicted of misdemeanor and class D felonies from being committed, except under rare circumstances; and capped the time youth could be held. The new law also required the use of standardized risk assessments in adjudicating youth, and established a grant program to encourage local jurisdictions to adopt evidence-based practices. It also mandated uniform data collection and created an oversight council to oversee implementation.<sup>ii</sup>

**Impact:** Pre-court diversions increased in the years following enactment. Between 2014 and 2016, out-of-home placements were increasingly employed for youth who had committed serious offenses: The share convicted of felonies rose to 74 percent, with the total number of out-of-home placements falling by 44 percent. This allowed the state to close three facilities.<sup>iii</sup>

i. Kentucky's 2014 Juvenile Justice Reform. (2014, July). The Pew Charitable Trusts. <http://bit.ly/2uagXNN>

ii. Public Safety in Kentucky. (2017, June 27). *The Pew Charitable Trusts*. <http://bit.ly/2THAnJb>

iii. Crime and Justice Institute. (2017). *Kentucky's Senate Bill 200: Comprehensive reform implementation successes*.

Once processes are established to gather and analyze data to monitor a system's performance, these can also be valuable tools for gauging outcomes and sustaining quality improvements into the future.

diversion programs) and the time they spent in each; describing the individuals in terms of their assessed risk and needs, the types of offenses they committed, and their history of probation violations; and tracking their outcomes after release including recidivism, educational attainment, and employment status. It's also crucial to collect demographic information such as race, gender, and ethnicity to assess equity and fairness within the system. And system savings should be monitored to ensure that those dollars are reinvested back into programs, services, and staff support.

A close analysis of data may identify variation in practices and outcomes across a state.<sup>30</sup> Linking information across systems and working with individual-level data can describe how youth move through the system, allowing policymakers to better understand the total number of placements a youth might experience before leaving the juvenile justice system, or how long on average youth are removed from their home and away from their families, for example. In other cases, policymakers seeking answers to crucial questions may discover they need to institute entirely new data-collection and sharing practices. In Kentucky, when policymakers sought a rate of recidivism for youth, they discovered the state wasn't maintaining the data to calculate one. "It still just boggles my mind," said State Senator Whitney Westerfield, who was one of the legislative leaders championing the reforms. "Moving forward without data is folly."<sup>31</sup> Once processes are established to gather and analyze data to monitor a system's performance, these can also be valuable tools for gauging outcomes and sustaining quality improvements into the future.

Utah has particularly rich data, and also benefits from having a single statewide data-management system, in which all information for justice-involved youth are contained under a unique identifier. But with assistance from the Pew Charitable Trusts, Utah was able to analyze its own data and generate novel insights.

Lawmakers there were struck by the finding that an out-of-home placement cost 17 times the amount required to put the same child on probation.<sup>32</sup> The data also affected their perception of community service, which judges had favored out of the belief that it allowed youth to pay restitution to their victims and it taught them to appreciate the negative impact their misbehavior had on the community. But the data revealed that kids were assigned hundreds of hours of service, even for offenses that posed no risk to the community, and then were being sent to out-of-home work camps for one to three months in order to complete them or pay off financial obligations.

"We were bragging about our 95 percent restitution collection rate as a result of those work camps, but when we did the numbers, we found that it would have been cheaper for the state to just pay the restitution out of pocket, as opposed to operate work camps, because they were so expensive," said Susan Burke.<sup>33</sup> As part of the state's reforms, it limited the hours of community service a judge could order a child to complete and closed down the camps.

### 3. Crafting meaningful reforms

Once stakeholders have built a collective understanding of the performance of their juvenile justice system, they can set priorities for change and match them with the most effective reforms. The precise reforms undertaken by states are highly specific to the structure of their respective juvenile justice systems, but as the Urban Institute has summarized, many have refocused the way they respond to youth offenders, directing them down pathways that will yield the best outcomes, and ensuring that sufficient resources are available to support evidence-driven, community-based services for youth living in their own homes.<sup>34</sup>

#### *Better tailor the juvenile justice response to measures of risk*

In states without a validated process for conducting risk assessments to help agencies and courts sculpt effective interventions for kids, juvenile justice systems do a poor job of matching youth offenders with the services that will yield the best outcomes for them. Prior to reforms in Kansas, Kentucky, Tennessee, and West Virginia, there were no standards for conducting risk assessments or applying them to sentencing decisions.<sup>35</sup>

Georgia's tools for assessing risk of recidivism were infrequently validated at best, and judicial officers were not informed about



## SOUTH DAKOTA - 2015

**Context:** A year after the state enacted a package of reforms to its adult criminal justice system, South Dakota created a 17-member bipartisan work group to develop a strategy for reforming the juvenile justice system. In November 2014, the work group made recommendations that were codified in Senate Bill 73. With vast support from the legislature, the bill was ultimately signed into law in March 2015, with the majority of changes going into effect in 2016.

**Measures:** The reforms narrowed the number of people entering the juvenile justice system by creating a presumption that youth charged with nonviolent misdemeanors and status offenses who have no prior adjudications and no recent diversions will be diverted, and by awarding funding to counties for each youth diverted. The reforms also limited the use of commitment to residential facilities, and created community response teams to help courts identify appropriate alternatives. The law budgeted an upfront investment of \$3 million to strengthen community-based services and projected an increased amount to be appropriated in the coming years, derived from savings as a result of the reforms.<sup>i</sup>

**Impact:** The number of new youth commitments to the state's Department of Corrections had been falling prior to enactment of the bill and continued to do so, from 110 to 83 between fiscal years 2016 and 2018. An increasing share of youth who were diverted successfully completed the programs, for nearly all types of offenses. While the number of minors committing felonies fell 8 percent between 2017 and 2018, the number of probation violations rose 51 percent.<sup>ii</sup>

i. South Dakota's 2015 Juvenile Justice Reform. (2016, January). *The Pew Charitable Trusts*. <http://bit.ly/2W3DFDa>

ii. Sattizahn, G. (2018, November 20). *Draft JJPSIA Annual Report*. <http://bit.ly/2O5QcTG>

the findings before they made decisions about placement and supervision needs.<sup>36</sup> After reforms, the state made the administration of risk assessments a standard practice prior to adjudication, and trained local officials and practitioners to conduct them effectively.<sup>37</sup>

### *Reduce overuse of out-of-home placement*

Many states have come to over-utilize punitive approaches to juvenile offenders, often relying on out-of-home placements even for youth who have committed minor offenses and represent little public safety risk. This can have counterproductive impacts on the child and be grossly expensive for taxpayers.

West Virginia is exemplary of this. Each bed in a youth residential facility cost over \$100,000 annually and, therefore, should have been reserved for youth who had committed serious

offenses and represented a high risk. But, in 2012, an analysis found that over half of the youth in out-of-home placements had only committed status offenses and another 24 percent had committed misdemeanors—far higher than what is typical.<sup>38</sup> The state made efforts to change this, but compromises made during the legislative process blunted its impact. The original package of reforms was projected to reduce the population of committed youth by 40 percent and accrue \$59 million in savings,<sup>39</sup> but after the judiciary won back substantial amounts of discretion in sentencing decisions, the reforms are now only expected to reduce juvenile commitments by 16 percent by 2020, with cumulative savings of \$20 million.<sup>40</sup>

South Dakota took a number of measures to reduce youths' exposure to the deep end of the juvenile justice system. The state clearly defined criteria for those who posed a serious



## WEST VIRGINIA - 2015

**Context:** In the summer of 2014, the state created a 30-member, bipartisan task force to review the state's juvenile justice system, and that December, it delivered policy recommendations, many of which were incorporated into Senate Bill 393 and passed by legislators unanimously the following year.

**Measures:** The reforms attempted to reduce the number of youth committed for convictions of minor offenses, and to expand community-based services. Among other measures, it expanded and improved the diversion process for youth charged with committing status offenses or nonviolent misdemeanors, and required that at least half of program expenditures be for evidence-based practices. Notably, lawmakers rejected the task force's recommendation to eliminate out-of-home placements for many low-level offenders, which had been projected to more sharply curtail youth commitments and produce greater savings, and instead restricted the use of out-of-home placements for first-time, lower-level offenses. The state continues to lack community-based services for addressing the needs of youth charged with low-level offenses, and many in the state still feel that the most appropriate services can be provided outside the home.

**Impact:** The reforms are projected to reduce the number of youth in out-of-home placements by 16 percent over five years, producing a savings of \$20 million.

risk to public safety, and created performance-based contracts for providers of out-of-home placements to ensure they were meeting treatment goals and sending kids home in a timely fashion.<sup>41</sup> Performance-based incentives are available to providers if they meet treatment goals in three months, with a lesser incentive for completion in four months. Judges who order youth held in a secure detention center for more than 14 days during a one-month period must now justify the decision in writing.<sup>42</sup>

In Kansas, lawmakers banned out-of-home placement for youth convicted of misdemeanors as well as probation and aftercare violations, and for youth convicted of lower-level felony offenses with few or no priors. In Georgia, to increase accountability, the state required any county requesting a youth be placed in a secure facility to pay for their transportation there.<sup>43</sup>

#### *Expand and improve community-based services*

Another typical inadequacy of state juvenile justice systems is underinvestment in community-based services, particularly in light of the proliferation of therapies that can be delivered in this setting and have strong evidence of impact. This can inadvertently contribute to excess rates of out-of-home placements because, in a vicious circle, judges may end up removing youth based on a sense that community-based alternatives are either scarce or offering services that have not been evaluated for effectiveness, further increasing spending on costly out-of-home placements.

This was the case in Kansas, where Terri Williams recalled: “We were spending some outrageous amount on out-of-home placements, and then we didn’t have any money left over to do evidence-based community-based services.”<sup>44</sup> Rural areas are particularly likely to suffer from a deficit of such services.

As part of their reforms, states have typically reduced their reliance on more costly, intensive measures and then reinvested the savings into community-based programs. Between 2016 and

2017, Kansas was able to reduce expenditures on out-of-home-placements by \$12 million, of which \$5 million was repurposed for community-based initiatives, serving 350 families in 2017 with the expectation of serving 600 in 2018.<sup>45</sup> Available reinvestment funds have now reached \$30 million, and the state has expanded evidence-based services to every county through both statewide contracts and local grants.<sup>46</sup> Georgia was able to ensure every jurisdiction had at least one evidence-based sentencing option, and has increased capacity for Functional Family Therapy, Multi-Systemic Therapy, and Thinking for a Change, among others.<sup>47</sup>

Rebalancing a juvenile justice system’s expenditures in this way, toward broader provision of lighter-touch services in the community, can achieve better outcomes at a better price.

#### **4. Measuring outcomes and making lasting change**

Some states that have enacted meaningful juvenile justice reforms have experienced immediate, tangible impacts, with significant declines in committed youth that have allowed them to close facilities and reinvest the savings.<sup>48</sup> At the same time, these states have generally not seen an increase in youth offending or recidivism.<sup>49</sup> But to sustain progress, reforms have to be institutionalized. “People leading juvenile justice agencies, on average, serve less than three years,” said Terri Williams, the former deputy secretary of the Division of Juvenile Services in Kansas, so reforms must be designed so they “can’t change on a whim.”<sup>50</sup>

States have been effective in doing this by creating oversight councils to monitor outcomes and regularly report on them. Similar to the bipartisan, interbranch task forces that began the process by recommending reforms, an oversight council can evaluate the extent to which reforms are implemented, provide a space for dialogue and problem-solving, publish findings for purposes of transparency and

accountability, and make recommendations for further improvements.

These councils meet regularly over a span of years to review data, particularly related to outcomes for individual youth, to ensure programs are yielding results in proportion to the resources they consume. Kentucky State Senator Whitney Westerfield attributes the continuing success of his state's reforms, in part, to the way it established a process for collecting more data than the state did previously. "That doesn't get talked about enough—it's invisible— but it guides future policy decisions," he said. These data help the state's oversight council continue to examine

the system's performance. "Is it working? Where isn't it working? And how can we fix it? Those are questions we continue to ask and will always and ever continue to ask if we're doing it right."

No matter how well-considered the reform, it will undoubtedly need revision. Kansas Representative Greg Smith acknowledged as much: "No legislation is perfect the first time it goes through, and I think that as time goes on, we will continue to see things that need to be tweaked. As data comes in and we monitor and evaluate it, changes will be necessary to help us move forward."<sup>51</sup>



## KANSAS - 2016

**Context:** Kansas lawmakers working incrementally on reforms learned that the state had the eighth-highest rate of youth confinement in the nation.<sup>i</sup> In 2015, shortly after an audit of the state's contracted placements raised concerns that youth in placements were not receiving effective services and recidivating at high rates,<sup>ii</sup> lawmakers established a 17-member work group to study the system. After a six-month process, the work group issued recommendations, which became Senate Bill 367 and passed with near unanimous support, becoming law in April 2016.

**Measures:** The reforms encompassed 40 measures, including establishment of uniform, statewide diversion processes and training for school officials to manage misconduct and minimize referrals to the justice system. Clear criteria were established for when youth could be removed from the home, limiting it to those who had committed the most serious crimes and represented a public safety risk, and the amount of time a youth could be under court jurisdiction was capped. The bill allocated \$2 million in upfront funding to expand community-based services, with anticipated savings from reduced-use placement to be reinvested.

**Impact:** The reforms were projected to reduce youth out-of-home placements by 60 percent by 2022, generating \$72 million in savings to be reinvested in community-based programs. As placements declined, the Kansas Department of Corrections shuttered the Larned Juvenile Correctional Facility, leaving only one operating secure juvenile placement facility.<sup>iii</sup> By 2018, the Department of Corrections had already deposited approximately \$30 million into the state's reinvestment fund.<sup>iv</sup>

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## UTAH - 2017

**Context:** In mid-2016, after enacting significant reforms to its adult criminal justice system the year prior, Utah established a 19-member interbranch working group to assess the state's juvenile justice system. Its recommendations, codified in House Bill 239, were signed into law in March 2017, with measures coming into effect by July 2018.

**Measures:** Numerous reforms included expanded early intervention and diversion, standardized responses to offending in order to reduce racial and geographic disparities, and employing the costliest services (i.e., out-of-home placement) for only the highest-risk youth. Among other measures, the new law set the presumptive length of out-of-home placements at three to six months, limiting use for youth adjudicated for a felony or with an extensive prior record.<sup>i</sup> Two years later, lawmakers passed another measure requiring that all criminally charged juveniles be provided with lawyers.<sup>ii</sup>

**Impact:** The reforms are projected to save \$58 million over five years.<sup>iii</sup> In 2018, 55 percent of referrals resulted in diversion, up from 22 percent in the previous three years, and between 2016 and 2018, detention admissions dropped 44 percent. So far, \$6.4 million has been reinvested.<sup>iv</sup>

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## Conclusion

Juvenile justice reform marks a bright spot in contemporary politics. It is difficult to think of another issue in which state lawmakers have worked in such sustained fashion, with such a commitment to evidence and such little regard for political ideology, to make government work better. In the shared goal of achieving better outcomes for children, diverse stakeholders have discovered just how much they have in common.

The process outlined in this report demands serious commitment. In each profiled state, it has taken years to unfold, and has succeeded only thanks to the substantial efforts made by participants. No state has yet to complete the journey: Juvenile justice reform is an ongoing process, not a fixed destination.

But the benefits are too great to delay change, both for the youth currently in the system and the adults they will become. Frederick Douglass wrote, "It is easier to build strong children than to repair broken men." In making reforms today, policymakers secure a better future for the next generation as well.

## About the Author

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Catherine Brooks assisted with research for this report.

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