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DJS State Advisory Board – Legislative Update

Bills that Passed

SB0691(CH0041) / HB0459(CH0042) - Juvenile Justice Reform

Minimum Age of Jurisdiction (New minimum age established)

- The juvenile court has jurisdiction over a child who is 13 years or older.
- The juvenile court has jurisdiction over a child who is 10, 11 or 12 who is accused of committing a crime of violence (14-101) - and crimes arising out of the same incident. Crimes of Violence include:
 - Arson 1st Degree
 - Assault 1st Degree
 - Burglary 1st Degree
 - Burglary 2nd Degree
 - Burglary 3rd Degree
 - Burglary - Home Invasion
 - Burglary With Explosives
 - Carjacking - Armed
 - Carjacking - Unarmed
 - Child Abduction of Individual Under 16
 - Child Abuse 1st Degree
 - Child Abuse Continuing Course of Conduct*
 - Child Abuse - Physical with Death
 - In-State Abduction of Child Under 12
 - Kidnapping
 - Manslaughter - Voluntary
 - Murder 1st Degree
 - Murder 1st Degree - Attempted
 - Murder 2nd Degree
 - Murder 2nd Degree - Attempted
 - Prostitution - Abduct, Persuade, Entice for Prostitution or Certain Sex Crimes
 - Rape 1st Degree
 - Rape 1st Degree - Attempted
 - Rape 2nd Degree
 - Rape 2nd Degree - Attempted
 - Robbery
 - Robbery with Deadly Weapon
 - Sex Offense - Continuing Course of Conduct
 - Sex Offense 1st Degree**
 - Sex Offense 1st Degree - Attempted**
 - Sex Offense 2nd Degree**
 - Sex Offense 2nd Degree - Attempted**
 - Sex Trafficking - Felony
 - Use of Handgun in Commission of Felony or COV, 1st Offense
 - Use of Handgun in Commission of Felony or COV, Subsequent



Intake

- When a felony complaint comes to intake the intake officer does not have to forward to the SAO if:
 - The intake officer determines that the matter can be solved with an informal adjustment; and
 - The crime wasn't a crime of violence and didn't involve intentional physical injury or death.
- Intake is still required to forward the case and file if the intake officer denies authorization to file a petition.
- Intake must still give the file to the SAO if Intake decides for some reason to deny a petition and not do an informal adjustment.
- *(Amendment removed language requiring informal adjustment for misdemeanors and non-violent felonies)*
- The intake officer may proceed with an informal adjustment without informing the victim if:
 - Intake has made a reasonable effort to contact the victim.
- Victim consent is no longer required for an informal adjustment.
- Prior to an adjudication hearing, if all parties agree (the child, the child's counsel, SAO, the Court), a case may be returned to Intake under the following circumstances:
 - If the respondent (the child) completes informal adjustment, the court shall dismiss the case; and
 - If the respondent (the child) does not successfully complete the informal adjustment, the case proceedings resume.

Detention

- Before the court determines to detain a child or put them on community detention, they shall:
 - Consider the use of a validated risk scoring instrument; and
 - If the most serious is a misdemeanor, the child may not be placed in detention unless:
 - The act involved a handgun; or
 - The child has been adjudicated delinquent (found guilty) twice in the last year.
- If the court decides to put a child in detention, the following must occur:
 - DJS has to appear in court to explain to the court every 14 days the need to continue detention;
 - Within 10 days of detention, DJS has to submit a community release plan for the child.
- A child cannot be placed in detention for a technical VOP.

Commitment

- A child cannot be committed for an out-of-home placement to DJS:
 - if the most serious offense is a misdemeanor (unless the offense involved a firearm); or
 - for a technical violation.

Probation

This bill creates a goal-oriented probation model where young people are matched with needed services and receive a level of supervision consistent with their risk to public safety. Generally, the new law limits the length of probation for misdemeanors at 6 months and felonies at 1 year. The new law did not place limits on probation terms for crimes of violence (COV).

Specifically, the bill does the following:

- If the most serious offense is a misdemeanor, the court initially may not place a child on probation for a period of more than 6 months.
 - However, the court may hold a hearing and extend that probation by terms of 3 months if the court finds:
 - good cause to extend the probation; and
 - the purpose is to ensure the child completes treatment or rehabilitative program.
 - The total probation cannot exceed 1 year.
- If the most serious offense is a felony, the court initially may not place a child on probation for a period of more than 1 year.
 - However, the court may hold a hearing and extend that probation by terms of 3 months if:
 - good cause to extend the probation;
 - the purpose is to ensure that the child completes treatment or rehabilitative program;
 - the total probation cannot exceed 2 years UNLESS;
 - the court holds a hearing and finds that there is clear and convincing evidence that there is good cause to extend; and

- extending is in the best interest of the child.
 - Total Probation cannot exceed 3 years.
- *(Amendments struck probation limits for life crimes.)*
- *(Amendments added)* If a child commits a VOP, except for a technical VOP, a court may, after a hearing, place the child on a new term of probation that's consistent with the period of probation that was initially imposed (the term of probation can be re-started at any point during probation).

Establishes the Commission on Juvenile Justice Reform and Emerging Best Practices

- Membership: (11 total)
 - 2 Senators,
 - 2 Delegates,
 - The Secretary of DJS,
 - The Secretary of DHS,
 - The following members are appointed by the Governor:
 - 1 member from an institute for Juvenile Justice public policy in Maryland;
 - 1 member from an institute from the University of MD, specializing in evidence-based and culturally competent services for juveniles; and
 - 3 representatives with relevant education and experience.
 - The Governor designates the Chair, and it is staffed by DJS and DHS.
- Tasks of the Commission
 - Research culturally competent evidence based research based and promising practices relating to:
 - child welfare;
 - juvenile justice rehabilitation;
 - mental health services for children; and
 - preventative and intervention services for juveniles.
 - Evaluate cost effectiveness of practices researched by the commission;
 - Identify the means of evaluating practices researched by the commission, giving special attention to organizations representing underserved areas and identify strategies to enable community-based organizations that provide services for juveniles to evaluate their own services.
- The Commission reports its findings starting December 31, 2023 and each year thereafter.

Reporting

- GOCPYVS
 - GOCPYVS shall request and analyze data relating to juveniles charged as adults from:
 - law enforcement agencies;
 - AOC;
 - local correctional facilities; and
 - DPSCS.
 - The information shall include:
 - the number of juveniles charged, convicted and sentenced as adults;
 - the outcomes of the youth charged as adult (YCA) cases including conviction, dismissal, or transfer decisions;
 - the number of YCA housed in each state/local correctional facility; and
 - the length of sentence for each YCA.
 - GOCPYVS shall report its findings to the Governor starting on Dec 31, 2023 and every year thereafter.
 - Additionally, on or before December 31, 2023 GOCPYVS shall:
 - Develop a model policy for diversion of juveniles from the juvenile justice system and criminal justice system;
 - Identify funding opportunities to support diversion programs for juveniles in the State, including local programs;
 - Collect and evaluate data related to the implementation and effectiveness of diversion programs for juveniles in the State; and
 - Report its findings to the General Assembly, in accordance with §26 2–1257 of the State Government Article.

- DJS - On or before April 15,2023; DJS shall report on:
 - Plans to publish an annual report by DJS in consultation with MDH, on the length of stay for juveniles in secure facilities while undergoing competency evaluations and receiving services;
 - Plans for the inclusion of information and data relating to use of a risk assessment tool in the Department of Juvenile Services' Data Resource Guide;
 - The use of community detention for juveniles in the care and custody of DJS;
 - The Department of Juvenile Services' development of forms for community detention that do not include information relating to house arrests;
 - The effect of a requirement that DJS provide a robust continuum of community-based alternatives to detention in all jurisdictions of the State and recommendations for establishing the requirement;
 - Access to mental health services for all juveniles served by DJS;
 - The feasibility of and any plans for providing quality, evidence-based programming for juveniles detained in secure juvenile facilities, including educational programming, structured weekend activities, and activities involving family members of detained juveniles;
 - The use of community detention, including electronic monitoring, for juveniles placed on probation;
 - Plans to increase the number of shelter beds available in juvenile facilities, particularly beds for girls;
 - Plans to track and report data on the number of days juveniles ordered to shelter care placements remain in secure juvenile facilities;
 - Minimum training standards for staff at juvenile facilities;
 - Surveillance systems at juvenile facilities, including whether all juvenile facilities are equipped with functioning surveillance cameras capable of monitoring all areas of juvenile facilities;
 - Minimum standards for facilitating family engagement for juveniles at juvenile facilities, including standards for facilitating daily contact between juveniles and their family members;
 - Standards for attorneys to access their clients within all juvenile facilities in the State;
 - Plans to adopt cognitive behavioral therapy training and restorative justice training for staff at all juvenile facilities in the State; and
 - Plans to transition from the current slate of secure juvenile facilities to ensure access to both nonresidential and residential facilities that use culturally competent, evidence-based programming in all jurisdictions of the State.

HB0763 - Correctional Officers' Retirement System – Membership (CORS)

This bill adds the following DJS Classifications into CORS: *(20 year retirement)*

- DJS Case Management Program Supervisors
- DJS Case Management Specialists I, II & III (Community and Facility)
- DJS Case Management Specialist Supervisors (Community and Facility)
- DJS Residential Group Life Managers I & II

SB0172 - Department of Juvenile Services - Facilities - J. DeWeese Carter Center

SB 172 updates the current list of DJS operated facilities by removing the J. DeWeese Carter Center from the statutory list of DJS operated detention and committed treatment facilities. This facility closed on June 30, 2020, which operated as a hardware secure committed treatment program for girls in Chestertown, MD.

HB0139 - State Personnel – Professional Service – Juvenile Services Education Teachers and Correction Education Teachers

HB0139 requires teachers transitioning to JSEP under DJS are classified in the “professional service” employment designation within the MD state personnel management system; removing them from their current classification of "Special Appointments." This bill does the same for DLR employees in the educational and workforce skills training program.

In addition, the bill was amended to clarify that JSEP is a “public agency,” as defined under the Education article and as it applies to the reporting of physical restraint and seclusion incidents by public agencies.

SB0705 / HB1255 - Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training

The intent of the legislation was aimed at addressing the use of seclusion and restraints in public/non-public schools, specifically those that teach developmentally disabled children. The bill adds JSEP as a “public agency,” under the MD Education article, but JSEP is exempted from the provisions limiting the use of seclusion and restraint. DJS has existing standards that limit the use of seclusion and restraint and extensive monitoring / oversight of their use. However, there are still reporting requirements for the use of seclusion/restraints for JSEP as a public agency. These reporting requirements will be built into the existing mandated JSEP reporting and/or the DJS annual Data Resource Guide (DRG).

HB1023 (SB0785) - Department of Legislative Services - Collection of Information Related to Public Safety, Criminal Justice, Corrections, and Juvenile Services

DJS Requirements:

- On or before August 1, 2022, DJS and DLS shall enter into a memorandum of understanding (MOU), which shall include:
 - The provision of various custom reports to the department, including information, de-identified and disaggregated by juvenile, relating to the juvenile’s record of:
 - Delinquency;
 - Court actions;
 - Supervision;
 - Placement; and
- The development of a work plan by DJS regarding efforts to include specific race and ethnicity data for individual juveniles.

This bill also contains various reporting requirements for the Dept. of Public Safety and Correctional Services (DPSCS), the MD Police Training and Standards Commission (MPTSC), MD State Police (MSP), law enforcement agencies, and the Governor’s Office of Crime Prevent and Youth, Victim Services (GOCPYVS).

HB1276 / SB0870 - Baltimore City Youth Data Hub - Establishment

Establishing the Baltimore City Youth Data Hub - an integrated, electronic data management system that links data about youth from various providers. The purpose of this bill is to promote the well-being of youth and ensure equitable access to, and cost-efficiency of, youth programs in Baltimore City. The bill establishes an executive committee to, among other responsibilities, appoint and oversee a manager of the Hub. The bill includes procedures to safeguard the security and confidentiality of data included in the Hub and establishes penalties for violations of those procedures. The Hub must also publish an annual report that is available and accessible to the public. No state agencies are required to provide information to this data hub.

High Impact Bills - FAILED

HB0877 - Juveniles Charged as Adults - Confinement (JJDP Compliance Bill)

This bill would have brought Maryland into compliance with the federal Juvenile Justice Delinquency Prevention Act (JJDP) by requiring all youth under 18 be removed from adult jails and held in juvenile detention facilities except in limited circumstances. The court takes into consideration the following things when deciding where to detain a youth pending adult trial:

- age of the child;
- physical and mental state of child;
- nature of offense;
- history of delinquency;
- relative ability of available adult and juvenile detention facilities to not only meet specific needs of the child but also to protect other detained youth; and
- any other relevant factor.

Kids held in adult facilities must have case reviewed every 30 days and may not exceed 180 days (unless good cause shown).

SB0165/HB0294 - Juvenile Court – Jurisdiction (Direct File)

This bill would have ended direct file for all youth under 18 regardless of offense. Specifically it removes the entire transfer of jurisdiction process from code and removes several crimes from list of education reportable offenses (abduction, kidnapping murder, etc.).

Monitored Bills - PASSED

SB0053 / HB0269 - Juvenile Law - Child Interrogation Protection Act

The bill prohibits a law enforcement officer from conducting a custodial interrogation of a child until the child has consulted with an attorney, and the law enforcement officer has made reasonable efforts to notify the parent/guardian that the child will be interrogated. Interrogations, unless impossible, impractical, or unsafe must be recorded. If a law enforcement officer fails to comply with the new requirements of the bill, there is a rebuttable presumption that the statements elicited are inadmissible. The State can overcome that presumption by showing clear and convincing evidence that the statement was knowing, intelligent, and voluntary. The only circumstance where a custodial interrogation that does not follow the new requirements will be allowed is when a law enforcement officer reasonably believes information is needed to protect against a threat to public safety. In that circumstance, questions posed by the officer must be limited to obtaining information needed to protect public safety.

SB0003 / HB0297 - Facilities - Disabilities, Juveniles, Behavioral Health, and Health Care - Children and Community Relations Plans

SB0003 / HB0297 requires DJS / “each juvenile care facility” (and MDH) to create a safety or emergency plan and policy, which must be revised every five years. Safety plans that currently exist for other purposes, but contain similar information, can be used to satisfy the requirements put forth in the bill.

HB0146- Education - Reportable Offenses and Student Discipline - Children with Disabilities and Reporting - First Reading Education, Health, and Environmental Affairs

This bill requires MSDE to develop and submit a report to the Governor and General Assembly regarding reportable offenses. Specifically, the report requires data on demographics, disability status, actions taken by each school, the nature of the offenses, and school removal/exclusion decisions. This bill also requires that the students' attorney be present if they have one, during any conferences between, the student, parents/guardians, principal, county superintendent and the manifestation determination review. Finally, there are additional reporting requirements for MSDE to send this information to the MD Center for School Safety.