

JUVENILE JUSTICE

Virginia's Juvenile Justice System, 2021

RECOMMENDATIONS

Compensation for court-appointed attorneys for juveniles ► The General Assembly may wish to consider amending § 19.2-163 of the Code of Virginia to increase the maximum compensation for court-appointed attorneys in juvenile delinquency cases. (Recommendation 1)

Training for court-appointed counsel serving juveniles ► The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Indigent Defense Commission (VIDC) to develop a plan to strengthen training requirements for court-appointed counsel in juvenile delinquency cases that also identifies additional staff resources needed to implement the strengthened requirements. VIDC should submit the plan to the House Appropriations and Senate Finance and Appropriations committees no later than November 1, 2022. (Recommendation 2)

New training requirements for court-appointed counsel serving juveniles ► The General Assembly may wish to consider amending § 19.2-163.03 of the Code of Virginia to strengthen training requirements for certification of court-appointed attorneys in juvenile delinquency cases, based on the requirements proposed by the Virginia Indigent Defense Commission. (Recommendation 3)

Ensuring timely circuit court hearings for juveniles ► The General Assembly may wish to consider amending § 16.1-269.6 of the Code of Virginia to specify a timeframe, such as 45 calendar days, in which juvenile delinquency cases must be adjudicated in circuit court, provided that the time limitation may be extended for good cause or when a jury trial is requested. (Recommendation 4)

Credit for time served in juvenile detention while awaiting circuit court trial ► The General Assembly may wish to consider amending the Code of Virginia to allow juveniles who are not sentenced to an adult correctional facility to receive credit for time spent in juvenile detention while awaiting trial in circuit court. (Recommendation 5)

Bias training for law enforcement interacting with juveniles ► The General Assembly may wish to consider amending § 9.1-102 of the Code of Virginia to require the Department of Criminal Justice Services to amend its training standards for law enforcement to address implicit bias, cultural diversity, and protective responses specifically when interacting with juveniles. (Recommendation 6)

Assessing community services available for youth involved with juvenile justice system

► The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Juvenile Justice (DJJ) to (i) conduct a needs assessment of community-based services across the state; (ii) develop a plan for expanding such services to improve the consistency in treatment of youth across the state for similar offenses; and (iii) estimate the staffing and additional appropriations necessary. DJJ should submit the plan and estimate to the House Appropriations and Senate Finance and Appropriations committees no later than November 1, 2022. (Recommendation 10)

Evidence-based rehabilitative programming at juvenile detention centers

► The General Assembly may wish to consider amending §16.1-284.1 of the Code of Virginia to specify that if a juvenile detention center provides post-dispositional rehabilitative programming to youth, the center shall use evidence-based programs and practices to the maximum extent practicable. (Recommendation 17)

Training requirements for juvenile detention center staff

► The General Assembly may wish to consider including language in the Appropriation Act directing the Board of Juvenile Justice to promulgate regulations that establish specific training requirements for front line staff of juvenile detention centers needed to effectively support youth in rehabilitative programs, including post-dispositional programs and community placement programs. (Recommendation 18)

Assessing rehabilitative programs at juvenile detention centers

► The General Assembly may wish to consider amending §66-3.2 of the Code of Virginia to authorize the Department of Juvenile Justice to regularly conduct quality assurance reviews of juvenile detention centers' post-dispositional rehabilitative programs and provide technical assistance as needed to ensure the centers meet statutory and regulatory requirements. (Recommendation 19)

On-site monitoring reviews of juvenile detention centers' educational programs

► The General Assembly may wish to consider including language in the Appropriation Act (i) directing the Virginia Department of Education (VDOE) to reinstate its onsite monitoring reviews of the educational programs at juvenile detention centers; improve its collection of student outcomes data; and report annually on the effectiveness and quality of programs for youth in detention centers to the Senate Education and Health and the House Education committees; and (ii) establishing and funding an additional staff position at VDOE to assist with these oversight responsibilities. (Recommendation 20)

Extended school year at juvenile detention centers

► The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education to develop a plan to implement an extended school year model that provides structured summer programming in juvenile detention centers and estimate any additional appropriations required. The plan should be submitted to the House Appropriations and Senate Finance and Appropriations committees no later than November 1, 2022. (Recommendation 21)

Evidence-based rehabilitative treatment programs for youth in state custody ► The General Assembly may wish to consider amending Chapter 2 of Title 66 of the Code of Virginia to require the Department of Juvenile Justice to provide rehabilitative treatment programs for youth in its custody based on the best available evidence of effectiveness at reducing the likelihood of reoffending for youth committed to secure residential settings. (Recommendation 25)

Oversight of Community Placement Programs ► The General Assembly may wish to consider including language in the Appropriation Act to (i) create and fund a position at the Department of Juvenile Justice to manage and oversee use of community placement programs and (ii) require management and oversight to include ongoing review of community placement programs and recidivism rates and a process to hold programs accountable for low performance. The Department of Juvenile Justice should be required to report annually to the Senate Rehabilitation and Social Services and House Health, Welfare, and Institutions committees on the performance of the community placement programs. (Recommendation 27)

Sealing and expunging juvenile court records ► The General Assembly may wish to consider amending § 16.1-306 of the Code of Virginia to (i) establish a process to allow records for certain less serious, non-violent felony equivalent offenses of youth adjudicated delinquent in juvenile and domestic relations district court to be automatically sealed after a period of years specified by the General Assembly up to age 29, and then subsequently expunged; (ii) determine the types of offenses eligible for sealing; and (iii) establish other necessary eligibility criteria. (Recommendation 29)

Reducing educational staffing at juvenile detention centers ► The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education (VDOE) to determine the extent to which each juvenile detention center currently implements or could further implement cost-effective staffing methods. VDOE should be directed to work with the Virginia Department of Planning and Budget to determine the potential cost savings and feasibility of implementing each method and propose specific actions along with the estimated cost savings to the secretary of finance no later than June 30, 2023. (Recommendation 30)

POLICY OPTIONS TO CONSIDER

Staff typically propose policy options rather than make recommendations when (i) the action is a policy judgment best made by elected officials—especially the General Assembly, (ii) evidence suggests action could potentially be beneficial, or (iii) a report finding could be addressed in multiple ways.

Ensuring public defenders provide quality representation to youth ► The General Assembly could amend § 19.2-163.01 of the Code of Virginia to require the Virginia Indigent Defense Commission to evaluate the legal services provided to juveniles by public defenders on a biennial basis, to ensure youth are receiving quality representation. Along with conducting the evaluation, VIDC could be required to develop and implement a plan to address any identified gaps in the quality of legal representation provided by juvenile public defenders. (Option 1).

Improving court data on youth legal representation ► The General Assembly could include language in the Appropriation Act directing the Office of the Executive Secretary of the Virginia Supreme Court (OES) to ensure juvenile and domestic relations and circuit court clerks consistently record attorney type for juvenile delinquency cases in their case management systems. OES could be required to report this information annually to the Virginia Indigent Defense Commission. (Option 2)

Creating regional juvenile public defender offices ► The General Assembly could include language in the Appropriation Act directing the Virginia Indigent Defense Commission to develop a plan to establish a state-operated system of regional juvenile public defender offices, including the additional staffing and resources that would be required, and to submit this plan to the House Appropriations and Senate Finance and Appropriations committees. (Option 3)

Considering time served in disposition decisions ► The General Assembly could amend § 16.1-278.8 of the Code of Virginia to require juvenile and domestic relations district court judges to consider any time youth have spent in detention prior to their adjudication when making disposition decisions. (Option 4)

Bias and cultural competency training for juvenile justice system attorneys and judges ► The General Assembly could include language in the Appropriation Act directing the secretary of public safety and homeland security to convene a workgroup, including representatives from the Office of the Executive Secretary of the Virginia Supreme Court, the Virginia Indigent Defense Commission, the Department of Juvenile Justice, and the Department of Criminal Justice Services, to develop and make available an implicit bias and cultural competency training specifically tailored to the roles and responsibilities of attorneys and judges within the juvenile justice system. (Option 5)

Improving vocational training in juvenile detention centers ► The General Assembly could include language in the Appropriation Act directing the Virginia Department of Education to convene a workgroup that includes personnel from Virginia’s juvenile detention centers, the Department of Juvenile Justice, the Department for Aging and Rehabilitative Services, the Virginia Community College System, and local workforce investment boards to assess the adequacy of current training, certification, and placement assistance services available in juvenile detention centers and identify opportunities to expand service offerings. VDOE would report the findings from the workgroup to the Senate Education and Health and the House Education committees no later than December 1, 2022. (Option 6)

Reducing waiting period to seal records of juveniles tried in circuit court ► The General Assembly could amend Chapter 23.2 of the Code of Virginia to reduce the waiting period to seal juvenile criminal records maintained by circuit courts for eligible offenses under current law. (Option 8)

Automatically sealing juvenile records in circuit courts ► The General Assembly could amend Chapter 23.2 of the Code of Virginia to automatically seal juvenile records maintained by circuit courts for eligible offenses under current law, rather than require a petition to be filed requesting the records be sealed. (Option 9)

Encouraging regionally operated juvenile detention centers ► The General Assembly could consider establishing a two-tiered reimbursement rate in the Appropriation Act for the construction and operation of juvenile detention centers. Juvenile detention centers that are operated regionally could receive higher reimbursement rates than those operated by a single jurisdiction. (Option 10)

Lower funding for underused juvenile detention centers ► The General Assembly could consider including language in the Appropriation Act directing the Department of Juvenile Justice and the Virginia Department of Education to provide lower funding for juvenile detention centers that are consistently operating under a certain capacity, such as 50 percent, and are located within a certain distance, such as a 45-minute drive, of other facilities that are also operating under capacity. (Option 11)

Identifying juvenile detention facilities for closure or consolidation ► The General Assembly could consider including language in the Appropriation Act directing the Department of Juvenile Justice (DJJ) to implement a process to identify specific juvenile detention centers that should be closed or consolidated to better align facility capacities with regional needs. DJJ could be directed to report to the General Assembly on the results of the process and specific facilities identified for closure or consolidation. (Option 12)

Specialization of juvenile detention centers ► The General Assembly could consider including language in the Appropriation Act directing the Department of Juvenile Justice to evaluate the costs, benefits, and feasibility of transitioning juvenile detention centers to either specialize in (i) short-term detention or (ii) longer-term rehabilitative programming. The Virginia Department of Education could be required to develop a plan to align the educational programming to meet the different needs of youth in the two types of facilities. (Option 13)