

Recommendations and Options: Virginia's Juvenile Justice System

JLARC staff typically make recommendations to address findings during reviews. Staff also sometimes propose policy options rather than recommendations. The three most common reasons staff propose policy options rather than recommendations are: (1) the action proposed is a policy judgment best made by the General Assembly or other elected officials, (2) the evidence indicates that addressing a report finding is not necessarily required, but doing so could be beneficial, or (3) there are multiple ways in which a report finding could be addressed and there is insufficient evidence of a single best way to address the finding.

Recommendations

RECOMMENDATION 1

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. (Chapter 3)

RECOMMENDATION 2

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. (Chapter 3)

RECOMMENDATION 3

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. (Chapter 3)

RECOMMENDATION 4

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. (Chapter 3)

RECOMMENDATION 5

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. (Chapter 3)

RECOMMENDATION 6

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. (Chapter 4)

RECOMMENDATION 7

The Department of Juvenile Justice (DJJ) should develop a report detailing (i) its findings from the work conducted pursuant to its grant award from the federal Office of Juvenile Justice and Delinquency Prevention and (ii) changes in the number and disproportionality of school referrals to the juvenile justice system following the implementation of SB 3 and SB 729 (2020). Based on its findings, the report should identify any changes that could be made, including statutory changes, to further mitigate racial disproportionality in juvenile justice system referrals. DJJ should ensure this report is made available on its website no later than December 1, 2024. (Chapter 4)

RECOMMENDATION 8

The Department of Juvenile Justice (DJJ) should assess the effectiveness of its Standardized Disposition Matrix (SDM) statewide and refine the tool, as appropriate. When evaluating the SDM, DJJ should incorporate data measuring the extent to which disposition recommendations and decisions align with the tool, as well as solicit feedback on the tool from attorneys and judges. (Chapter 4)

RECOMMENDATION 9

The Department of Criminal Justice Services should regularly report information on racial disparities in Virginia's juvenile justice system by collecting and reporting data on (i) disparities by offense type; (ii) disparities by region, CSU, or locality, as appropriate; and (iii) the extent of disparities at each decision point in the system. This information should be incorporated into its three-year plan submitted to the federal Office of Juvenile Justice and Delinquency Prevention and reported publicly each year on its website. (Chapter 4)

RECOMMENDATION 10

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. (Chapter 4)

RECOMMENDATION 11

The Department of Juvenile Justice should develop and implement statewide policies for court service units to use in making diversion and probation and parole violation decisions. Diversion policies should clearly specify the types of offenses for which youth may be diverted and the number of times a youth is eligible for diversion. Probation and parole policies should include graduated sanctions for violations based on national best practices and clearly specify conditions in which a youth should be petitioned for a violation. (Chapter 4)

RECOMMENDATION 12

The Department of Juvenile Justice (DJJ) should require court service units to develop and maintain comprehensive inventories of available services within their jurisdictions. Inventories should be updated regularly and made available to judges at least semi-annually, as well as made available on DJJ's website. DJJ should also require court service units to include recommendations for specific programming that aligns with disposition recommendations provided to judges as part of the Standardized Disposition Matrix. (Chapter 4)

RECOMMENDATION 13

The Department of Juvenile Justice should ensure all probation officers receive adequate guidance and coaching on how to use the full range of tools included in the EPICS case management model. (Chapter 5)

RECOMMENDATION 14

The Department of Juvenile Justice should require all court service unit (CSU) staff to participate in implicit bias and cultural competency training that includes research-based material and is designed to improve staff's ability to work with youth from all backgrounds. (Chapter 5)

RECOMMENDATION 15

The Department of Juvenile Justice should develop and implement a pilot program in select court service units to evaluate the impact of providing more comprehensive motivational interviewing training to probation officers, including impacts on youth responsiveness and outcomes. The department should assess the results of the pilot and determine the feasibility of providing motivational interviewing training to all probation officers. (Chapter 5)

RECOMMENDATION 16

The Department of Juvenile Justice should consolidate all of its quality assurance activities and staff resources into its quality assurance unit. (Chapter 5)

RECOMMENDATION 17

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. (Chapter 6)

RECOMMENDATION 18

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. (Chapter 6)

RECOMMENDATION 19

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. (Chapter 6)

RECOMMENDATION 20

The General Assembly may wish to consider including language in the Appropriation Act (i) directing the Virginia Department of Education (VDOE) to reinstate its on-site 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. (Chapter 6)

RECOMMENDATION 21

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. (Chapter 6)

RECOMMENDATION 22

The Department of Juvenile Justice should update and improve training for residential specialists to address the therapeutic responsibilities of the role during the initial five-week training, including training on the specific rehabilitative treatment programs provided to youth at Bon Air Juvenile Correctional Center. (Chapter 7)

RECOMMENDATION 23

The Department of Juvenile Justice should work with the Department of Human Resource Management to identify and address the root causes of recruitment and retention challenges for its residential specialist position. (Chapter 7)

RECOMMENDATION 24

The Department of Juvenile Justice should establish a process to ensure indeterminate committed youths' treatment needs and progress are adequately and fully considered before youth are released. (Chapter 7)

RECOMMENDATION 25

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. (Chapter 7)

RECOMMENDATION 26

The Department of Juvenile Justice (DJJ) should implement a process to evaluate and improve the effectiveness of its rehabilitative programming for DJJ-committed youth on an ongoing basis. At a minimum, this process should determine (i) the extent to which current rehabilitative programming is addressing the criminogenic risk factors of youth, (ii) the extent to which rehabilitative programming adheres to prevailing national best practices and evidence-based research, and (iii) any aspects of programming that may be negatively affecting youth outcomes. DJJ should make the results of the evaluations publicly available on its website. (Chapter 7)

RECOMMENDATION 27

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. (Chapter 7)

RECOMMENDATION 28

The Department of Juvenile Justice should develop and implement a plan to improve its re-entry programming, including expansion of step-down opportunities, consistent with the recommendations of its Successful Transitions workgroup. (Chapter 8)

RECOMMENDATION 29

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. (Chapter 8)

RECOMMENDATION 30

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. (Chapter 9)

RECOMMENDATION 31

The Department of Juvenile Justice should proceed with constructing a smaller juvenile treatment facility on the Bon Air Juvenile Correctional Center property while locations for other facilities are being determined. (Chapter 9)

Policy Options to Consider

POLICY OPTION 1

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. (Chapter 3)

POLICY OPTION 2

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. (Chapter 3)

POLICY OPTION 3

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. (Chapter 3)

POLICY OPTION 4

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. (Chapter 3)

POLICY OPTION 5

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. (Chapter 4)

POLICY OPTION 6

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. (Chapter 6)

POLICY OPTION 7

If the General Assembly authorizes salary increases for corrections officers at the Virginia Department of Corrections, it could similarly increase salaries for residential specialists at the Department of Juvenile Justice. (Chapter 7)

POLICY OPTION 8

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. (Chapter 8)

POLICY OPTION 9

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. (Chapter 8)

POLICY OPTION 10

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. (Chapter 9)

POLICY OPTION 11

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. (Chapter 9)

POLICY OPTION 12

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. (Chapter 9)

POLICY OPTION 13

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. (Chapter 9)
