

Oversight Overview: Juvenile Justice Reform Transcript

Welcome to Oversight Overview, a video series by the Levin Center's State Oversight Academy at Wayne State University Law School. We will take a look at how states across the country are performing oversight of a particular issue, or in a particular way. Today, we will be examining juvenile justice reform.

In this video, we will focus on three states – Connecticut, New Jersey, and Kansas. Let's start in Connecticut, which has completely overhauled its juvenile justice system over the past two decades.

In 1995, in response to rising youth crime rates, Connecticut expanded the number of juvenile offenders that could be tried as adults and housed in adult prisons, and increased the number of crimes that juveniles could be incarcerated for in juvenile detention centers. It was one of three states that automatically tried 16- and 17-year olds as adults. In 2001, Governor Rowland rejected legislative efforts to fund a therapeutic youth corrections facility in favor of one modeled after a maximum-security adult prison. The conditions were terrible. During a corruption investigation, it was discovered that this contracting process was rigged, and Governor Rowland resigned in 2004 and served time in prison.

In 2005, despite decreasing youth crime rates, more than 4,000 juveniles were held in detention centers for status offenses or delinquency. The legislature passed a bill preventing detention for status offenses or for violating a court order in any case arising from a status offense, which they refer to as "Families with Service Needs" or FWSN.

FWSN cases involve a child who:

- Has run away without just cause;
- Is beyond control of his or her parents or guardians;
- Has engaged in indecent or immoral conduct;
- Is truant or defiant of school rules and regulations; and/or
- Is 13 or older and has engaged in sexual intercourse with a person who is 13 or older and not more than 2 years younger

It created and funded Family Support Centers that would address the needs of juveniles and their families to help divert them from the system. The legislature also established the Families with Service Needs Advisory Board to recommend plans to improve handling of FWSN cases, comprised of representatives from courts, juvenile justice, education, the executive and legislative branches, the community, and the public and private sectors. The board issued its report in 2007, and the legislature accepted its recommendations. It passed legislation that required that every child referred to the juvenile court for a status offense be diverted if it is their first offense, and referred to a family support center, and a rapid decline in further court involvement was seen immediately.

Reforms didn't stop there. In 2006, the CT legislature heard testimony from a woman whose mentally ill 17-year old son committed suicide while incarcerated in an adult prison. It authorized a panel to develop a plan for raising the age of juvenile jurisdiction. In June 2007, the legislature passed the Raise the Age Act – after ironing out some issues, 16-year olds stayed in the juvenile system as of January 1, 2010, and 17-year olds as of July 1, 2012. In that time period, 8,325 16-year olds avoided the adult criminal justice system, and in 2011, the state shut down one of its juvenile detention centers due to low population, saving the state \$2.45 million that fiscal year.

In 2007, the legislature prohibited out-of-school suspension, except when the child is threatening school safety or disrupting the educational mission so severely that it is absolutely necessary. By 2010, out-of-school suspensions declined by 30%, even though the law didn't actually go into effect until that year.

In 2014, the legislature established the Juvenile Justice Policy and Oversight Committee “to evaluate policies related to the Juvenile Justice system and the expansion of juvenile jurisdiction to include persons sixteen and seventeen years of age.” In 2015, the committee released its first report and recommendations, and in 2016, Public Act No 16-147 implemented all recommendations to reduce juvenile incarceration rates, increase diversion from the juvenile justice system, reduce recidivism, address mental and behavioral health issues, and to increase data sharing in a secure manner. It passed both chambers unanimously.

Connecticut has made other reforms that affect both juvenile and adult offenders: In 2015, the legislature eliminated chronic absenteeism as a status offense and requires schools/communities to develop appropriate responses to the issue. The act led to a 70% reduction in the number of status offense petitions in juvenile courts. It also eliminated mandatory minimums for low-level drug offenses.

In 2017, the legislature eliminated all other FWSN offenses from court and redirected them to community-based systems.

In 2018, it banned the checkbox that refers to criminal history on employment applications. It began providing free feminine hygiene projects to female inmates; established privacy-related parameters for male staff regarding female inspections; and strengthened visitation policies for all prisoners with children under age 18.

In 2019, the legislature prohibited discrimination in employment, housing, public education, insurance, and government programs and services based on criminal history.

There's more! The Juvenile Justice Policy and Oversight Committee works with the Council of State Government's Improving Youth Outcomes Program and collaborates with community members and other departments to form working groups with specific focuses including racial and ethnic disparities, education, diversion, cross-agency data sharing, and more. In 2021, the Legislature passed a bill to divert youth who commit low-level offenses to community-based

diversion systems rather than arrest, and to ensure that youth under 18 who need to be held in a secure setting are housed in juvenile detention centers rather than Department of Corrections facilities. The committee also developed a Juvenile Justice Equity Dashboard “to monitor and examine juvenile justice system involvement across the state for youth of different races, ethnicities, and genders.”

Just a bit south in New Jersey, in 2015, The Democratic legislature and Republic governor, Chris Christie, passed the substantial juvenile justice reform bill S2003. The law, amongst other things:

- “Raises the minimum age at which a child may be prosecuted as an adult from 14 to 15, narrows the list of offenses that can lead to prosecution as an adult, and amends the standard governing such decisions to reflect the continuing maturation of young people through their mid-twenties;
- “Requires due process, including representation by counsel, before a young person who is confined in a juvenile facility can be transferred to an adult prison; and
- “Eliminates the use of solitary confinement as a disciplinary measure in juvenile facilities and detention centers, and places time limits on the use of solitary confinement for reasons other than punishment, such as safety concerns.”

According to the Juvenile Justice Information Exchange, this made New Jersey the first state to have no exceptions in the law surrounding waivers for defendants 14 and under. Between 2011 and 2017, the number of youths committed to secure facilities dropped 50%.

In 2020, the legislature passed further juvenile justice reforms, which:

- Eliminated fines as a penalty for juvenile offenders
- Limited when juveniles can be incarcerated
- Replaced mandatory post-incarceration supervision period with one that is discretionary, and
- Transferred responsibility for parole decisions from State Parole Board to panel with at least two members from Juvenile Justice Commission and one member of State Parole Board.

Additional legislation was passed in 2022 to eliminate further court imposed financial obligations and prohibited a warrant from being issued for a juvenile or parent of a juvenile for failure to pay court-imposed fees.

In addition to these legislative changes, New Jersey is the only state-wide participant of the Juvenile Detention Alternatives Initiative, which promotes collaboration between stakeholders, increases use of data collection and analysis in decision-making, expands community-based alternatives to confinement, improves conditions in facilities, and addresses racial and ethnic disparities in the juvenile justice system. After implementing JDAI, all counties saw dramatic decreases in average daily populations in secure detention centers. It also uses aspects of the Balanced and Restorative Justice Model developed by the U.S. Department of Justice’s Office of

Juvenile Justice and Delinquency Prevention. You can find more on these programs in the accompanying document.

The Juvenile Justice Commission, part of New Jersey's Office of the Attorney General, is responsible for implementing the laws regarding care, custody, and rehabilitation services of youthful offenders. It operates four secure facilities and ten residential community homes, provides a "step-down" parole process to juveniles, and coordinates rehabilitation and treatment services. The treatment services unit utilizes social workers, mental health professionals, and alcohol and drug abuse counselors who take a trauma-informed, multi-disciplinary approach to address the needs of the juvenile.

Let's head back to the Midwest and see what Kansas has been doing.

In 2015, A study by the Kansas Department of Corrections found that placing youthful offenders in group homes did not produce desired outcomes. They did not receive appropriate treatment and were not prepared for release, and most ended up back in group homes within six months. Kansas' governor, chief justice, and legislative leadership created the bipartisan, inter-branch Kansas Juvenile Justice Workgroup to study the juvenile justice system and offer recommendations that would:

- "Promote public safety and hold juvenile offenders accountable.
- "Control taxpayer costs.
- "Improve outcomes for youth, families, and communities."

The workgroup consisted of state senators and representatives, law enforcement officials, KDOC officials, judges and other court officials, attorneys, Kansas Department for Children and Families officials, and county youth services. The group also worked with non-profits including the Pew Charitable Trusts (whose excellent report you can find linked in the accompanying document) and the Crime and Justice Institute at Community Resources for Justice.

After seven months, the work group issued a report with 40 recommendations, which were the basis of Senate Bill 367. The final version of the bill passed the Senate unanimously and the House 118-5. It was signed into law in April 2016, and includes reforms such as:

- Standardizing statewide diversion processes
- Limiting pre-adjudication detention
- Expanding community-based detention alternatives
- Limiting time spend under court jurisdiction and on probation
- Tailoring supervision and services to the individual youth
- Improving reintegration and re-entry for youth released from residential facilities
- Investing in community-based programs
- Providing training for staff working with juvenile offenders
- Authorizing an oversight committee to investigate juvenile due process rights and make recommendations to improve the quality of juvenile defense
- Creating a statewide oversight authority to oversee implementation of the reforms

The legislation also phased out facilities and out-of-home placements with more than 50 beds and limited the use of secure facilities to only highest-risk youth or youth with high-level felonies. While the number of youths in confinement has decreased by over 50% since implementation and two youth prisons have been closed, it has not improved racial disparities. The committee also hosts interactive dashboards that makes data from annual reports available to the public, including admissions and releases, placement outcomes, referred services, case plans, offense types, race, gender, and more.

In 2019, the Legislative Post Audit Committee authorized a review of SB367. The Kansas Legislative Division of Post Audit evaluated the effects of the bill. It found that “[t]he reforms aimed to reduce the number of juveniles entering the juvenile system” by making it mandatory that an Immediate Intervention Program be offered to juveniles for a first misdemeanor offense. “The reforms reduced out-of-home placement options,” “put new limits on how long juvenile offenders remain in the justice system,” and “sought to create new community programs aimed at reducing recidivism.” However, there was not enough data available from the Kansas Department of Corrections or Office of Judicial Administration to review the effects of the reforms on in-home probation or Immediate Intervention Programs.

The savings from the reforms, which was about \$40 million at the time of the audit, must be used to create or expand community programs. The Department of Corrections had spend \$9 million on programs including anger management, cognitive behavior, drug and alcohol rehabilitation, education, family therapy, independent living, mental health services, mentoring services, sex offender treatment, and vocational training. Most judicial districts offered at least seven of these ten community programs. 61% of Juvenile Corrections Advisory Board members surveyed said there were adequate community programs in their districts, 30% said there were not, and 9% said they did not know. The most common reason for not having adequate programming was lack of qualified staff.

The audit also found that the Department of Corrections “did not have a process to ensure judicial districts used grant funds on appropriate programs.” “Some county and district attorneys did not follow the state’s new requirements on mandatory Immediate Intervention Programs” because they believed it was an unconstitutional breach of the separation of powers clause to remove their discretion to determine which cases to prosecute. Some stakeholders reported that “more juvenile offenders have entered foster care due to the reforms,” creating budget issues in the Department for Children and Families. More than half the stakeholders who responded to the survey “said the new probation, detention, and case time limits had a negative effect on the juvenile justice system,” particularly the graduated responses to probation violations, but the new level of service assessment tool was viewed positively. Finally, the audit found that the Juvenile Justice Oversight Committee was required to monitor the success of the reforms, but had not implemented most of the monitoring requirements.

The audit made three recommendations:

1. The Kansas Department of Corrections (KDOC) and the Office of Judicial Administration (OJA) should both develop complete datasets of juvenile offenders under their supervision or custody.
2. Once both datasets are in place, KDOC and OJA need to cooperate to reach an agreement on how to share, stage, and analyze their agencies' data so the state can have a comprehensive dataset of its juvenile offenders.
3. The Kansas Department of Corrections should develop a process to ensure judicial districts are using reinvestment grant funds on appropriate programs.

In early 2023, the House Child Welfare and Foster Care and Corrections and Juvenile Justice Committees held joint hearings about the status of SB367. They heard that, while the bill did reduce youth incarceration rates, limited case lengths, and increased funding to community programs, it failed to provide enough community supervision for violent juvenile offenders. These offenders, who might be well-served by a treatment program more intensive than those offered in the community, are instead being moved into the foster care system, shifting the burden of care from one agency to another and putting other foster children in dangerous situations. The committees discussed establishing more crisis intervention centers for juvenile offenders and treatment programs run by mental health centers to address these issues.

In May 2023, the governor approved HB2021, which will require the Department of Corrections and the Department for Children and Families to coordinate risk and needs assessments for at-risk youth. It allows a judge to commit a juvenile to detention for a probation violation if “the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substances. The detention period may not exceed 24 hours for the first violation, 48 hours for the second violation, and 15 days for the third or subsequent violation.” It expands funding to include evidence-based community programs for families of juvenile offenders, juveniles experiencing a behavioral health crisis and their families, and more. It also requires juvenile crisis intervention centers to provide substance abuse services.

What can we learn from the juvenile justice reform efforts in Connecticut, New Jersey, and Kansas? All the legislation requires data collection and analysis, and some of the reforms were initially spurred by studies. All legislation was bipartisan, and the workgroups and commissions established to plan, monitor, and oversee the reforms are bipartisan. And, as we see in all three states, the reforms require ongoing oversight and additional legislation to address changing circumstances.

We'll be back soon for another Oversight Overview, but until then, we're heading back to the Levin Center in Detroit. If there is a topic you'd like to see us cover or if you have any questions about oversight in your state, we'd love to hear from you. Please check out the State Oversight Academy website at stateoversight.org. Our contact information and links to more information on what you've seen in this video are available in the accompanying document. Thanks for joining us!