



About Juvenile Justice Reform in Georgia

A Summary of Legislative Reforms from 2013-2016¹

2013 Juvenile Justice Reform Legislation: House Bill 242

In 2012, Governor Deal signed an executive order extending the term of his inter-branch Special Council on Criminal Justice Reform for Georgians (Council) and enlarging its membership. The Council was specially tasked with examining the juvenile justice system and making recommendations for improvement with the aims of protecting public safety, holding offenders accountable, and controlling state costs. Guided by technical assistance provided by the Pew Center on the States, the Annie E. Casey Foundation, and the Crime and Justice Institute, the Council conducted an extensive analysis of the state's juvenile justice data and solicited input from a broad and diverse set of stakeholders.

Despite declining trends in the number of youth involved with the juvenile justice system, Georgia's juvenile justice system was being operated at a substantial cost and witnessing poor outcomes.² In FY 2013, the state budget for the Department of Juvenile Justice exceeded \$300 million, the majority of which was used to operate residential facilities.³ The long-term Youth Development Campuses (YDCs) cost \$91,126 per bed per year, and the short-term Regional Youth Detention Centers (RYDCs) cost \$88,155 per bed per year.⁴ Despite these investments, the recidivism rate remained high, with more than half of delinquent youth committing a subsequent offense leading to a re-adjudication of delinquency or an adult conviction of a crime within three years. To address the factors contributing to these unacceptable results, the Council proposed a number of policy recommendations, which together, were projected to significantly decrease the number of juvenile offenders in detention and realize an estimated \$88 million in state savings through 2018.⁵ Savings presented opportunities for investment in local, evidence-based programs proven to reduce recidivism through reallocation of resources.

The specific strategies to achieve these reforms were combined with previous legislative efforts to comprehensively revise the Juvenile Code led by Representative Wendell Willard, chairman of the House Judiciary Committee, and passed unanimously by the Georgia General Assembly as House Bill 242.

House Bill 242 comprehensively revised the Juvenile Code in technical and substantive ways. The result is a more developmentally-appropriate approach to administering justice for children involved in dependency (abuse and neglect), delinquency, competency, and status offense cases that is based in research and best practice. The new code is stylistically consistent and reflects a new organizational structure in which provisions relating to different types of cases are separated into integrated, self-contained sections (or articles). Substantive provisions are also amended to comply with federal law, reflect social science research, incorporate best practices, and embody consensus from practitioners and stakeholders. The intended result is improved justice for

¹ Prepared for the JUSTGeorgia Institute, June 8, 2016.

² Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.

³ Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.

⁴ Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.

⁵ Report of the Special Council on Criminal Justice Reform for Georgians, December 2012.

children and their families who are before the juvenile court through greater procedural protections to protect clearly-established legal rights administered fairly and uniformly.

HB 242:

- Provides legal definitions of essential terms;
- Creates two categories of “designated felonies” to differentiate dispositional options for non-violent and low-risk offenders from more serious offenders;
- Provides jurisdiction for juvenile courts to review independent living services offered to children involved with the child welfare system after age 18;
- Clarifies that a child is a legal party to a dependency proceeding and entitled to be present in court unless the court makes a finding that it is not in the child’s best interest to attend;
- Encourages courts to refer cases for mediation if appropriate;
- Clarifies applicable timelines for various proceedings and decisions;
- Provides a right for a child in a dependency proceeding to be represented by a lawyer and by a guardian *ad litem* who should be a Court Appointed Special Advocate (CASA) whenever possible;
- Promotes preservation of relationships for children in foster care by requiring joint placement of siblings and visitation with parents or other relatives;
- Enhances information sharing procedures;
- Creates an option to reinstate parental rights for a child in foster care under certain circumstances;
- Creates Children in Need of Services (“CHINS”) as a new approach for intervening with children who have committed an act that would not be against the law but for the fact it was committed by a child, commonly referred to as status offenses (e.g., running away, skipping school);
- Provides a process for responding to children who have been found to be unrestorably incompetent to stand trial, meaning that because of a permanent disability or limitation they will never be able to understand the charges or legal proceedings and assist an attorney in their defense;
- Provides that a child’s right to be represented by an attorney cannot be waived by the child’s parent;
- Prohibits status offenders and certain misdemeanants from being held in residential facilities;
- Mandates use of a validated risk and needs assessment and detention assessment instrument prior to detention and disposition decisions;
- Allows the court to order behavioral health evaluations and competency evaluations under certain circumstances; and
- Requires enhanced data collection and reporting.

2014 Juvenile Justice Reform Legislation: Senate Bill 364

The new Juvenile Code took effect January 1, 2014. Over the course of the first year of implementation, legal practitioners and other system stakeholders identified certain challenges to applying the new law. Accordingly, the Council entertained a proposal to address various technical revisions to correct deficiencies in statutory language and refine the reforms that began with HB 242. The Georgia General Assembly passed Senate Bill 364 to advance those proposed amendments into law.

2015 Juvenile Justice Reform Legislation: House Bill 361

Efforts to perfect the new Juvenile Code continued in the 2015 legislative session, during which House Bill 361 was considered and passed. HB 361 includes additional corrections that needed to be made as a result of drafting errors or omissions from HB 242.

Two substantive reforms also were made in the bill. The “extraordinary cause” standard for post-indictment transfer of a case involving a child age 13-17 alleged to have committed voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated sexual battery to juvenile court was replaced with a list of factors the superior court judge must consider in order to make a developmentally-appropriate and individualized determination as to the appropriate court to hear the case. Additionally, prosecuting attorneys were authorized to file a complaint alleging a child is in need of services (“CHINS”) and to intervene in CHINS cases to represent the interests of the state.

2016 Juvenile Justice Reform Legislation: Senate Bill 367

Senate Bill 367 was introduced in the 2016 legislative session to advance the recommendations in the 2016 report of the Criminal Justice Reform Council that required legislative action. With regard to continuing juvenile justice reforms, the Council’s recommendations build on the success of the past three years, during which the state has witnessed impressive reductions in the number of youth in secure confinement, awaiting placement, and committed to the Department of Juvenile Justice.⁶ These system improvements demonstrate what research consistently proves — that children experience better outcomes when their needs are met in the community.

Research consistently proves that the majority of young offenders outgrow their delinquent and criminal behavior as engagement in school and work increases. Accordingly, the Council’s juvenile justice recommendations focus on schools as a primary source of referrals to the juvenile justice system. The Council specifically recommended:

- Mandating the use of educational approaches to address a student’s problematic behavior rather than over-relying on the juvenile justice system;
- Improving the fairness of school disciplinary proceedings by establishing minimum qualifications and training standards for school disciplinary; and
- Clarifying the role of School Resource Officers (SROs) in responding to school discipline by requiring a written agreement between local schools and local law enforcement.

The combined aim of these proposals is to emphasize the inclusion of children in classroom learning rather than promoting exclusionary discipline practices that predictably lead to encounters with the juvenile and criminal justice systems.

In addition to these school-based reforms, the Council confronted an unintended consequence of the Juvenile Justice Reform Act of 2013: the juvenile courts’ expansion of the use of secure detention for younger children. Since the reforms took effect in 2014, the rate of detention of children age 13 and under has more than tripled. In 2015 alone, 450 youth age 13 and younger were detained. Thus, the Council recommended establishing a statutory presumption against detention of youth in this age category except for those who have committed a serious offense. In such serious cases, detention can be considered if indicated by the validated assessment instrument, and with judicial approval.

Finally, the Council continued its support for the use of accountability courts as alternatives to traditional approaches of disposing cases. SB 367 expands the definition of “accountability court” to recognize “operating under the influence court divisions” and “family treatment court divisions,” and authorizes juvenile courts to establish these specially-focused programs.

⁶ As reported by the Criminal Justice Reform Council, since 2013, Georgia has decreased its population of youth in secure confinement by 17% and reduced the number of children awaiting placement by 51%. Overall commitments to the Department of Juvenile Justice have declined by 33%.



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