

Juvenile Diversion Guidebook

Prepared by the Models for Change Juvenile Diversion Workgroup

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National Youth Screening and Assessment Project

Robert F. Kennedy Children's Action Corps

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Models for Change

Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states, with core support from the John D. and Catherine T. MacArthur Foundation. Models for Change seeks to accelerate progress toward a more effective, fair, and developmentally sound juvenile justice system that holds young people accountable for their actions, provides for their rehabilitation, protects them from harm, increases their life chances, and manages the risk they pose to themselves and to the public. Key states in the Models for Change initiative have been Illinois, Louisiana, Pennsylvania, and Washington, and through action networks focusing on key issues, in California, Colorado, Connecticut, Florida, Kansas, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Texas, and Wisconsin.

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Part 1: Introduction

At one time or another, almost all adolescents engage in risky behaviors, act without thinking, and make bad decisions more often than they will as adults; thus, many may engage in what would be judged as illegal behavior.¹ Most youth are not apprehended every time they do so, but arrest is a common experience among adolescents, especially for youth of color in urban areas. Yet only a minority of those youth will ever be arrested for a second delinquent act, or will become repeat offenders in adulthood.² In other words, for the majority of youth who are arrested, their first delinquency is not a sign of a future delinquency problem.

Given these facts, a strong argument can be made for having a way to avoid formal processing of youth through the juvenile justice system under certain conditions. Without such a mechanism, large numbers of youth are unnecessarily charged and processed through the system, thus increasing a youth's probability of further delinquencies due to their exposure to other delinquent youth during this process. Moreover, by formally processing these youth, resources available to the juvenile justice system are used in ways that weaken the system's capacity to process and respond to the minority of youth who actually present a risk to public safety and need juvenile justice adjudication and rehabilitation.

Over 2 million youth in the U.S. under the age of 18 are arrested each year.³ Over 600,000 youth are placed in detention centers annually, and approximately 95,000 reside in secure juvenile correctional settings on any given day.⁴ Many of these youth become involved with the juvenile justice system for relatively minor and nonviolent offenses. Often a lack of appropriate community-based treatments and services to address their specific needs plays a role in their admission to juvenile justice programs. As a result, many youth become unnecessarily enmeshed in the juvenile justice

system. These statistics, along with documented reports of inadequate and inappropriate care and treatment of youth, have prompted reform efforts across the country at both the state and local levels. As a result, many states and localities are exploring diversion programs as a way to keep youth out of the juvenile justice system. This Guidebook aims to assist juvenile justice systems in developing and improving diversion programs and processes. It was developed by the Models for Change Juvenile Diversion Workgroup, funded by the John D. and Catherine T. MacArthur Foundation. In 2004, the MacArthur Foundation launched a major reform effort, known as the Models for Change initiative, in response to the concerns expressed here. The Models for Change initiative is "grounded in a commitment to a separate justice system for youth that is responsive to their developmental needs and focused on their practical rehabilitation" and seeks to "harness and direct local reform work into a larger, coordinated effort to share replicable models of reform and catalyze change across the nation."⁵ See Appendix A for more information on Models for Change.

Purpose for the Guidebook

Programs that divert youth from involvement in the juvenile justice system have become more frequent in response to the growing recognition that such involvement often is not necessary to achieve society's goals. The concept of diversion was first adopted by the adult criminal justice system, and in the 1960s, became a topic of discussion in the juvenile justice system.⁶ In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended exploring alternatives for addressing the needs of troubled youth outside of the justice system. In 1976, the Office of Juvenile Justice and Delinquency Prevention's Special Emphasis Branch provided \$10 million in funding for the development of diversion programs.⁷ These efforts were

driven by the belief that diversion programs might yield many benefits, such as: 1) decreased rates of recidivism; 2) less crowded detention facilities; 3) allowing youth the option to choose an alternative to processing; 4) providing more appropriate treatments at the community level; 5) reducing the stigma associated with formal juvenile justice system involvement;⁸ and 6) increasing family participation.

While diversion has been discussed and practiced for nearly four decades, there is little consistency in terms of what actually constitutes a diversion program or process. However, there is a common goal among diversion programs—to minimize a youth’s involvement in the juvenile justice system—but the means and processes to achieve this goal differ in a number of ways, including:

- The segment of the youth population the program targets
- Who makes the decision as to which youth can or cannot be diverted,
- The processing point in the system at which youth are diverted
- How charges against the youth are handled
- Consequences the youth faces for unsuccessful program completion
- Benefits the youth receives for successful program completion
- What community-based services are provided, if any

Likewise, some jurisdictions have diversion programs that are governed by more formal rules and better-defined service outcomes than others.

Therefore, while diversion continues to emerge as an important practice in the juvenile justice field, these inconsistencies in what constitutes “diversion” call for clarification. This Guidebook was created to offer juvenile justice practitioners a roadmap for addressing these inconsistencies.⁹

It is important for readers to recognize that this Guidebook does not consider all types of diversion programs in juvenile justice. Specifically, it does *not* consider:

- Diversion efforts after formal adjudication or in juvenile corrections
- Diversion from pre-trial detention

The focus of this document is on diversion programs designed to reduce the likelihood that youth will encounter formal processing prior to formal adjudication. Thus, detention diversion was excluded because it is different from other pretrial diversion situations that prevent youth from formal processing or adjudication. Diversion from detention only diverts youth from being placed in secure custody while still being formally processed. Therefore, diversion programs considered here range from the point of police contact, to pre- and post-petition, and up to the time just prior to formal adjudication.

Background

The development of this Guidebook involved the collaboration of various individuals working together toward a common goal of assisting juvenile justice practitioners in establishing practices to support the implementation and operation of successful diversion programs. To create this document, the Models for Change Executive Committee established a Juvenile Diversion Workgroup with representatives from a

number of organizations assisting in the Models for Change initiative. This Juvenile Diversion Workgroup included experts from the *Center for Juvenile Justice Reform*, *National Center for Mental Health and Juvenile Justice*, *National Juvenile Defender Center*, *National Youth Screening Assessment Project*, and *Robert F. Kennedy Children's Action Corps* (see Appendix B for more information on the organizations comprising the Workgroup). Together, the members of the Diversion Workgroup developed a plan of action to create this Guidebook.

Part II of this Guidebook provides an overview of diversion, summarizing its history in juvenile justice, as well as its values and limitations. The research summary also identifies the range of diversion processes used across the country, clarifies the points within the juvenile justice system at which diversion may occur, and reviews the key components and characteristics of diversion programs, their benefits, consequences, and challenges. Part II also includes a review, conducted by the Workgroup, of the range of state statutes across the country that provide for diversion, including the differences among the identified objectives and eligibility criteria specified for youth to be diverted.

The centerpiece of the Guidebook, Part III, presents a set of steps jurisdictions should consider when planning, implementing, or improving a juvenile diversion program. For each of the 16 steps, the major options to be considered are laid out, as well as the pros and cons for each option.

In addition to the research and statutory reviews, a diversion survey questionnaire was administered to approximately 36 programs across 13 states in an effort to get a picture of what diversion programs look like, their similarities and differences (see Appendix D for the diversion survey and results). It is important to note that this survey was not designed to meet

scientific requirements for random sampling. Thus, the results cannot be said to be representative of diversion programs across the country. The programs surveyed were primarily those operating within states associated with the Models for Change initiative and the purpose was merely to garner examples from identified diversion programs, including the primary objectives of the program, eligibility criteria and referral processes, how the program is operated and funded, incentives and consequences of youth participation or lack thereof, screening and assessment protocols, services provided, and outcome monitoring/quality assurance procedures. For purposes of this Guidebook, the diversion programs focused on were those that diverted a youth between his or her initial contact with law enforcement and the time of adjudication, excluding those that specifically diverted youth from detention. Various programs are highlighted throughout this Guidebook.

Finally, the Guidebook includes a Juvenile Diversion Workbook (see the attachment at the end of the Guidebook) that is intended to provide structure in the planning process when considering critical issues, various options, and the implications for structuring diversion programs or processes.

This Guidebook underwent numerous review processes, revisions, and drafts. An external advisory board reviewed the information contained in the Guidebook and board members provided suggestions from each of their perspectives working in juvenile justice settings. This Advisory Board included key individuals in the field (e.g., district attorneys, judges, defense attorneys, probation officers, etc.) who provided necessary edits and revisions to make this Guidebook as useful as possible to the juvenile justice field (see Appendix C for the complete list of Advisory Board members).

Part II: Overview of Diversion

A Brief History

The history of diverting arrested youth from formal processing began with the birth of the juvenile court itself. Juvenile justice, as conceived in the late 19th century, provided for a rehabilitation-based response to youths' illegal behaviors. The juvenile court set aside the punitive sanctions youth had been receiving in criminal court. As such, juvenile justice in its infancy could be construed as a "diversion program." It diverted youth from criminal processing as this was believed to be in the best interests of youth and society. Juvenile courts were to order dispositions that were more attuned to the potential to change young lives through special rehabilitation programs, clinical services, and educational guidance.

U.S. Supreme Court decisions of the 1960s announced the juvenile court's failure to live up to its initial promise.¹⁰ In effect, the juvenile justice system was diverting youth from punitive criminal justice sentencing to punitive juvenile justice dispositions, thus representing no diversion at all. Criminologists of the time were challenging the effectiveness of juvenile sanctions and programming.¹¹ Advocates and civil libertarians were documenting the lack of constitutional protections afforded youth, and many were claiming that juvenile justice processing was not protecting youth from legal penalties, but actually bringing more and more youth under state control—a process they called "net widening."¹² Others pointed out inefficiencies in the system and the high costs of secure placement, which became a point of concern and focus for reform.¹³

In this way, diversion from juvenile justice itself became a topic of enormous interest during the 1970s and 1980s. Might youth and society be better served by avoiding formal juvenile court processing for alleged offenses, whenever feasible and safe? Recommendations of

the 1967 President's Commission on Law Enforcement and Administration of Justice marked the beginning of a wave of diversion reform.¹⁴ The Commission urged that alternative ways needed to be found for treating troubled youth outside of the traditional juvenile justice system.¹⁵⁻¹⁸ They envisioned juvenile court jurisdiction being restricted to those cases of manifest danger, with most youths being diverted into various forms of community-based services.¹⁹ The years following the Commission's report were characterized by an abundance of diversion approaches in the handling of offenses by juveniles.²⁰

Research Evidence on Diversion

In the early years of diversion, the main goal was to protect youth from harsh sanctions in juvenile courts and the negative effects of holding cells. Many diversion programs still list this as a primary reason for developing a diversion program. A review of the diversion literature over the past 35 years finds at least five emergent themes identified by communities explaining why they developed methods to divert youth from formal juvenile court processing. These themes include 1) reducing recidivism; 2) providing services; 3) avoiding labeling effects; 4) reducing system costs; and 5) reducing unnecessary social control.

Reduction of recidivism by youth is one of the most frequently mentioned objectives and the most widely used criterion for diversion program effectiveness.²¹ Recidivism refers to re-offending by a youth or repeated delinquent behavior subsequent to the original offense. By reducing formal processing, diversion programs attempt to reduce delinquency and recidivism, and in turn, increase public safety.²²

The second general theme, providing services to youth, is not unrelated to the first. Several studies have

indicated that treating youth in the community using non-justice personnel can reduce further involvement with the juvenile justice system and have positive results for the youth.^{23,24} Although not all youth need services, the types and quality of services and treatment provided through a diversion program may also be an indicator of program effectiveness.²⁵ In an important document on diversion, McCord and colleagues suggest that the success of diversion programs requires providing intensive and comprehensive services that include the youths' families and take into account community, school, and peer interactions, as well as use experienced caseworkers.²⁶

The third general theme, reducing labeling effects, has been at the heart of diversion rationale for several decades. Labeling theory suggests that when a youth becomes identified with criminal activity, there is a negative label attached to the individual—both by the individual and by society—that results in stigma and negative self-perceptions.²⁷ From this labeling perspective, a deviant career does not come to fruition directly from the initial act of delinquency, but rather from the imposition of a deviant label by society and the reaction of the youth to this labeling.²⁸ Schur, an early researcher of labeling, claimed that it was best to “leave the kids alone whenever possible,” because labeling resulted in a self-fulfilling prophecy that created a higher potential for future crime.²⁹ Diverting youth from juvenile justice processing could reduce labeling effects and avoid stigma by minimizing exposure to the “delinquent” label.³⁰

Reducing system costs has often been a theme of diversion programs. The costs of community-based services are less than the costs of incarceration.³¹ In general, diversion programs were seen as having the potential to reduce system inefficiencies, including decreasing the number of cases formally processed and

lessening the number of youth sent to expensive out-of-community placements.³² Evidence for better outcomes of diversion strategies can also translate into reduced system costs.

A final theme emerging from the diversion literature is the reduction of unnecessary social control. This theme arises from a legal perspective focusing on civil liberties. Proponents have argued that the judicial system should not impose greater restrictions on individuals than are necessary to protect public safety. When youth engaging in low-severity offenses (e.g., status offenses) are formally processed through the juvenile justice system and taken out of the community, the judicial system sometimes exerts a degree of control that is disproportionate to the actual threat to public safety or the needs of the youth. Diversion programs could reduce social control by serving youth in the least restrictive environments that will satisfy their needs and the community's safety.

Until the early 1970s, the literature on diversion was mostly descriptive and theoretical, lacking in any critical or empirical focus. From the 1970s to the present, much more of the literature on diversion has been based on research studies. That literature can be divided into two time periods: research prior to the late 1980s, and research published from the late 1990s to the present.

In 1983, Blomberg performed a major review of various evaluations of diversion programs. By this time, it was apparent that diversion programs, although having potential benefits, might also have limitations or even negative consequences for some youth. Blomberg categorized the existing studies into those that documented positive results of diversion and studies that documented negative results.³³ Most diversion studies of the time evaluated effectiveness based on recidivism rates—that is, the degree of subsequent delinquency.

Several studies in Blomberg's review found positive results for diversion, including lower juvenile arrests³⁴ and lower rearrest rates for diverted youth compared to similar cases handled by the juvenile justice system.³⁵⁻⁴⁰ Blomberg's review however, also found some troubling effects of diversion.⁴¹ One of these was evidence of "net widening."⁴²⁻⁵³ Net widening refers to the process by which, ironically, a greater number of youth are brought into contact with the juvenile justice system as a result of the introduction of diversion programs.⁵⁴ Some research had suggested that a number of youth who participated in diversion programs would not have been processed by the system if court diversion programs were not in place.^{55,56}

How could this happen? Blomberg's review noted that some diversion programs specified that a youth's failure to comply with its conditions would result in referral to juvenile court. For example, when families themselves were unable to comply with various diversion program requirements, the youth were often removed from the home and placed by the juvenile court, thus causing greater penetration into the juvenile justice system than had they not become involved in the diversion program. In addition, mere contact with diversion programs, particularly for youth not subject to justice control before the advent of diversion programs, sometimes increased youths' visibility (that is, they were watched more closely by authorities). This sometimes resulted in an increased likelihood of arrest on minor infractions that might otherwise not have been observed by authorities.^{57,58}

Diversion research waned following the wave of research in the 1970s and 1980s, but then revived around the beginning of the 21st century, resulting in a new wave of studies on diversion effectiveness.⁵⁹ In 2010, Petrosino and colleagues performed a review that used a selective set of studies, 22 from the 1970s and 1980s and 7 from 1990 to present.^{60,61} Each of the studies

compared youth who were formally processed to youth who received diversion, and diversion programs were categorized according to whether or not youth were provided services in connection with their diversion. Petrosino's review concluded that youth who were formally adjudicated (not diverted) had higher recidivism rates than youth who were assigned to diversion programs, even when various differences in the groups in case characteristics were controlled. In addition, youth who were diverted to services in the community had a lower re-offending rate than adjudicated youth, whereas youth who were diverted without services (e.g., simply reprimanded and dismissed) were not much different from non-diverted youth in re-offending rates. While some researchers have argued that this study was flawed or limited in its method, it suggests an avenue of future research, specifically whether formal processing is less effective for youth than diversion from formal processing without services and even less effective than diversion with community-based services.

Review of Statutes

The majority of states have statutes governing or referring to an alternative to formal court processing. Such laws acknowledge a state's support for diverting youth from formal court processing in the juvenile justice system. They also create a framework for diversion programs by establishing consistent guidelines for diverting youth from juvenile court. Through legislation, states may codify a diversion program's purpose, eligibility criteria, duration, conditions, services, confidentiality provisions, or any other element that would benefit from support and consistent implementation.

The ways in which statutes classify or label the process of diverting youth from juvenile court vary by state. Some states have more than one process through which

juveniles may be diverted from court, and accordingly have more than one statute and classification for the process.⁶² Regardless of how a state law labels the process, however, the intended outcome of these statutes is the same: to provide youth with a less formal alternative to court processing than adjudication.

Some states label the alternative to court processing “diversion,”⁶³ while other states use terms such as informal processing, adjustment, supervision, or proceeding to refer to the very same thing.⁶⁴ Some states have more unique labels for the diversion process, such as probation adjustment,⁶⁵ deferred prosecution,⁶⁶ deferral of delinquency proceeding,⁶⁷ civil citation,⁶⁸ consent decree,⁶⁹ or formal accountability agreement.⁷⁰ Kentucky, for example, does not describe the process itself, but simply identifies diversion as one of the duties held by the county attorney and court-designated workers.⁷¹

Diversion statutes usually define various procedures or rules that will be applied to diversion practices in the state. Some of the most commonly mentioned provisions include: criteria for eligibility, the purpose of the program, and the voluntary nature of participation. Nearly all state statutes governing alternatives to formal court processing provide a set of criteria to guide the corresponding decision-maker in deciding which youth are eligible to be diverted. A common set of eligibility criteria is based on the nature of the youth’s underlying offense. Some state statutes provide a list of enumerated offenses that, if alleged to be committed by the juvenile, disqualify the juvenile from being eligible for the diversion process.⁷² Other statutes do not specify the disqualifying offenses, but require that a juvenile must not have committed a “dangerous” crime, be a threat to public safety or a chronic offender to participate in diversion.⁷³ Alternatively, several statutes specify that only first-time offenders are eligible to be diverted

from formal court processing or base eligibility on the seriousness of the charged offense.⁷⁴

Statutes vary, however, in their approaches to identifying eligibility for diversion. An alternative approach in some statutes avoids a strict set of eligibility criteria, allowing for greater discretion on a case-by-case basis. For instance, many statutes require a consideration of what is in the best interest of justice and/or what is in the best interest of the child in determining whether it is appropriate to divert a case.⁷⁵ Another approach used by some statutes is to provide a set of “factors to be considered” in making the eligibility determination.⁷⁶ Examples include: (1) the nature of the alleged offense; (2) the minor’s age; (3) the minor’s character and conduct; (4) the minor’s behavior in school, family, and group settings; and (5) any prior diversion decision made concerning the minor and the nature of the minor’s compliance with the diversion agreement.⁷⁷

Statutes do not always make legislative intent apparent. However, state diversion statutes frequently articulate a purpose, policy, goal, or objective for diverting youth from the formal court process. Reducing and preventing juvenile crime is commonly cited as an objective or policy goal in state diversion statutes. To this end, statutes specify reduced recidivism as one of their objectives of diversion.⁷⁸ One codified diversion process aims to provide outreach and advocacy services to youth who may be at risk for committing wayward or disobedient acts.⁷⁹ Another statute referring to reduced recidivism specifically articulates the goals of preventing youth from entering the juvenile justice system and helping make these youth ready for adulthood.⁸⁰

State diversion statutes also often require that diversion occur in a manner that will assure youths’ accountability for offenses for which they were charged, although in ways that are different from the penalties that would

apply if they were adjudicated and found guilty of the offense.⁸¹ For example, statutes sometimes cite victim restitution⁸² and restorative justice⁸³ as related policy goals of the corresponding diversion processes.

Promoting judicial economy is another commonly stated objective of statutes governing diversion processes. This is expressed in various ways. For example, statutes may refer to reducing costs and caseloads in the juvenile justice system,⁸⁴ or providing an efficient alternative to court⁸⁵ that deals with delinquent acts in a speedy informal manner while allowing the judicial system to deal effectively with more serious cases.⁸⁶

Almost one-half of the state statutes require that diversion cannot be employed unless youth voluntarily participate by providing knowing and intelligent consent.⁸⁷ Some states further add that the youth and parent must be clearly advised of their right to consent to or refuse diversion.⁸⁸ This is often considered important, since entry into some diversion programs requires, in effect, that the youth waive constitutionally protected rights. This is the case in programs for which youth are not eligible for diversion unless they admit their participation in the offense that was charged, which then leads to informal rather than formal processing. In doing so, they are waiving their right to be tried, to plead not guilty, to contest the charges, and to present evidence in their defense, all of which could potentially lead to dismissal of the charges and avoidance of any penalties.

While criteria for eligibility, program purpose, and voluntary participation represent three of the most common considerations made in state diversion laws, the statutes address many more considerations. These considerations include elements such as: the referral decision point; operations; participant requirements; incentives; consequences; information use; and the role

of counsel, as set forth and discussed at greater length in Part III of this Guidebook. See Appendix E for a 50 State Statutory Review Chart.

In summary, preparation of this Guidebook involved a systematic review of the literature, a review of state statutes pertaining to diversion, and a survey administered to various diversion programs in the United States. It became clear that existing research is inconclusive as to the effectiveness of diversion. The statutory review demonstrated that some states have made system-wide commitments to diversion; however, there is much variation in their approaches. The survey results help to describe some of those variations, but they do not necessarily represent normative practices as the survey did not use a random national sample.

The development of this Guidebook was motivated by requests from Models for Change states for direction and guidance on how to plan or implement a successful diversion program. This Guidebook was created to provide juvenile justice practitioners with a set of recommendations, or steps, to assist them in establishing and/or improving practices to support the implementation and operation of a successful diversion program. These recommendations are offered in Part III and represent a compilation of the best information and research available on diversion.

PART III: Developing and Improving Juvenile Diversion Programs: 16 Steps

This section offers a guide for planning, implementing, or improving a juvenile diversion program.⁸⁹ It breaks down the process into 16 “steps” to consider when designing a diversion program to reduce youths’ exposure to formal juvenile justice processing. Each step focuses on a question pertaining to a critical element of the plan.

Getting Started

When a community is considering the development of a diversion program, several preliminary activities help set the stage for engaging in the 16 steps recommended in this Guidebook.

First, many communities choose to bring together planners. A wide range of participants may be considered: local juvenile justice administrators, juvenile defense attorneys and prosecutors, local juvenile justice system program directors, and perhaps stakeholders in the private or public child services system and schools within the community. This group can work together over time to develop a comprehensive plan as to what their future diversion program will look like. Of course, this is only one way to start a diversion program. Some programs may be started by a district attorney’s office or probation office. In this Guidebook, the term “planner(s)” will be used to describe the individual or group that is planning, developing, implementing, or improving a juvenile diversion program.

Second, regardless of whether the planner is an individual or a group, many communities find it helpful to review pertinent data before beginning the planning process. Sometimes the local court, for example, will have data on the number of youth involved in the local juvenile justice system each year. They may even have data on the number of youth with first offenses and with minor offenses (identifying the size of the group that is most likely to be the target for diversion).

Third, some communities conduct an inventory of the various youth services available in the community. Many diversion programs have, as part of their objective, the referral of diverted youth to appropriate community programs that focus on prevention, skill-building, mental health or substance use needs, or family assistance. Having an inventory of these services helps to inform later steps of the process.

About the Steps

The steps described here are intended to guide planners in thinking through the questions associated with developing or improving a diversion program and making decisions about its features and operations. One might wonder why we did not simply present a model program that communities could follow without having to make decisions about each of a program’s components. We would have done so, if there were a “model” program that would work well at all possible points for diversion and in communities of all sizes with widely differing police practices, community-based services, and state laws. Such a program does not exist though. Therefore, we offer a guide that allows each community to develop a diversion plan best suited to its needs.

The 16 steps are arranged in the order that planners may want to discuss and resolve them. It is important to note, however, that planners may proceed according to what seems logical for their situation and community, perhaps beginning somewhere within the first set of questions and then circling back to other steps as needed. These steps are simply a guide to motivate discussions around the key points that should be addressed when developing or improving juvenile diversion programs.

Each step begins with a description of an essential question that planners may want to address. Several options are set forth to respond to the issue the question

identifies. Each step concludes with several considerations that planners may want to think about when deciding how to proceed with developing their diversion program.

For most of the steps, we do not arrive at a single recommendation. Instead, we discuss the potential results that should be considered for the available options. We illustrate the questions and options with information obtained from diversion program descriptions, from this Workgroup's survey of diversion programs and from our review of laws and statutes relevant to diversion programs and their operations. This allows planners to decide for themselves the proper answer to each step in light of their own community's circumstances.

The 16 Steps are shown in Figure 1, grouped according to their general category. They are described in detail on the following pages, along with some of the key questions diversion program planners will want to address for each step.

Figure 1. 16 Steps for Creating a Diversion Program

<p>A. Purpose</p> <ol style="list-style-type: none">1. Objectives2. Referral Decision Points3. Extent of Intervention <p>B. Oversight</p> <ol style="list-style-type: none">4. Operations5. Funding <p>C. Intake Criteria</p> <ol style="list-style-type: none">6. Referral and Eligibility7. Screening/Assessment	<p>D. Operation Policies</p> <ol style="list-style-type: none">8. Requirements9. Services10. Incentives11. Consequences of Failure to Comply12. Program Completion/Exit Criteria <p>E. Legal Protections</p> <ol style="list-style-type: none">13. Information Use14. Legal Counsel <p>F. Quality</p> <ol style="list-style-type: none">15. Program Integrity16. Outcome Evaluation
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Quick Reference: 16 Steps for Planning a Diversion Program

A. Purpose

- 1) **Objectives:** The main purpose(s) for developing a diversion program will need to be identified.
 - What will be the primary objectives of the diversion program?
 - In your community, what stakeholders from the juvenile justice public/private youth services systems will be involved to provide input and support in shaping the development of your diversion program?
- 2) **Referral Decision Points:** There are various points within the juvenile justice processing continuum where youth can be targeted for diversion.
 - At what point or points will referral decisions be made?
 - Who, within the processing spectrum, will be responsible for making the decision to divert youth?
- 3) **Extent of Intervention:** The diversion program must consider the kind and degree of intervention it will have in the youth's life.
 - What degree of intervention(s) will the program utilize?
 - Will the program provide the youth with a written contract (either formal or informal)?

B. Oversight

- 4) **Operations:** It is necessary to determine who will have primary responsibility for implementing and operating the diversion program and what the level of community oversight will be.
 - What agency or entity will establish and maintain the program policies, provide staffing, and take responsibility for program outcomes?
 - Will an advisory board or panel be developed to oversee the development of policies and procedures for the diversion program?
 - How will the engagement and buy-in of stakeholders be obtained?
- 5) **Funding:** Jurisdictions developing or implementing a diversion program must determine how the program will be funded and sustained for both the short and the long run.
 - How will the diversion program be funded?
 - Are secure funding streams currently in place that can help to sustain the program in the future?
 - Has the possibility of using other local, state, or federal resources to help support the diversion program or key aspects of the program been explored?

C. Intake Criteria

- 6) **Referral and Eligibility:** A diversion program will need to establish criteria that specify who is eligible for entry into the diversion program.
 - What youth will be eligible for diversion?
 - What offenses will be accepted for diversion? Are there any offenses that might make a youth ineligible and will there be options for discretion?
 - Are there any offenses that might make a youth ineligible and will there be options for discretion?

Quick Reference: 16 Steps for Planning a Diversion Program *continued*

7) Screening and Assessment: Diversion programs may utilize evidence-based screening and assessment tools to assess risk, needs, and behavioral or mental health problems.

- Will any screening and/or assessment methods/tools be used to determine a youth's eligibility, and if so, how will these tools be chosen and who will administer them?
- For what purposes will screening and assessment be used?
- Are there any protocols in place to deal with the sensitive nature of information collected and how, if at all, it can be shared among child-serving agencies?

D. Operation Policies

8) Participant Requirements: It is important to determine the conditions and responsibilities youth will have to follow in order to ensure meaningful program participation.

- What obligations and conditions will the program require for the youth's participation and successful completion?
- How will requirements focus on youths' strengths, address behavioral health needs, satisfy victim concerns, and involve community efforts?

9) Services: The diversion program will need to consider what services, if any, will be provided to the youth by the program or through referral to community-based services, as well as how those services will be administered.

- What services will be provided for the youth while participating in the diversion program?
- Will the diversion program need to perform an inventory of community services, and if so, who will be responsible for this effort?
- Will the diversion program encourage or require the youth's family to participate in services?
- Are there any agreements in place or Memoranda of Understanding (MOU) among the program and community service providers that will better facilitate services to the youth?

10) Incentives: Incentives should be employed by a diversion program in order to motivate youth and caretakers to meet the terms of the diversion program and to ensure successful program completion.

- Will the diversion program use any incentives to motivate youth and/or caretakers throughout the diversion process? If so, what forms of incentives will be used?
- Is the use of incentives economically feasible for the diversion program and what funding source will support incentives?
- Will the court agree to dropping charges against the youth or expunging records once the youth successfully completes the terms of diversion?

11) Consequences of Failure to Comply: Consequences must be specified for youth since some may have trouble fulfilling the terms of their diversion, either by failing to comply with the program's requirements or by declining to participate altogether.

- Will there be any negative consequences for youth who fail to comply with the diversion program's requirements? If so, what will these sanctions be?
- Will the youth ultimately be formally processed for failing to comply with diversion?

Quick Reference: 16 Steps for Planning a Diversion Program *continued*

12) Program Completion/Exit Criteria: Criteria must be established that will define when a youth has successfully completed the terms of their diversion and is ready to exit the program.

- How will the diversion program monitor a youth's success or failure during program participation?
- How will successful program completion be defined, and will there be established exit criteria?

E. Legal Protections

13) Information Use: The diversion program will need to consider what procedures and protocols should be in place that will establish how sensitive information is collected and will be kept confidential.

- What will be the conditions/guidelines for the use of information obtained during the youth's participation in the diversion program?
- How will policies concerning the collection and use of information be clearly established and conveyed to youth and caretakers prior to participation in diversion?

14) Legal Counsel: In the absence of a state statute or local policies, the program should have established guidelines for the role of counsel.

- What role will defense counsel play? Are there local policy provisions in place or statutory guidelines that establish the role of counsel?
- Will the diversion program make counsel available to youth and family?

F. Quality

15) Program Integrity: It is important to carefully attend to the diversion program's development and maintenance to ensure continued quality and program fidelity.

- Are there clear policies and procedures that will be put into manual form for program personnel to maintain program quality and fidelity?
- How will training be developed and delivered for diversion program personnel?
- How will information be collected and in what formats?
- Will the program conduct a process evaluation?

16) Outcome Evaluation: To ensure the diversion program is meeting its objectives and goals, a record-keeping and data collection system should be in place to assist in providing periodic evaluations.

- What kind of record keeping and data collection will be used to provide periodic evaluations of the diversion program and monitor achievement of goals and objectives?
- What youth and program outcomes will be used to measure success?

A. Purpose

Step 1. Objectives:

What will be the main purpose(s) for developing a diversion program?

Background

Before discussing the various possible purposes for developing a diversion program, it is worthwhile to recognize some basic facts about youth and their behaviors that may bring them in contact with police and juvenile justice. These facts can offer a background for discussions of the purposes of a diversion process.

As described earlier in Part I, adolescence is a time when youth—at one time or another—engage in risky behaviors, act without thinking, and make bad decisions more often than they will as adults; thus, many of them engage in what would be judged as illegal behavior.⁹⁰ Most youth are not apprehended every time they do so, but arrest is a common experience among adolescents, especially for youth of color in urban areas. Yet only a minority of those youth will ever be arrested for a second delinquent act, or will become repeat offenders in adulthood.⁹¹ In other words, for the majority of youth who are arrested, their first delinquency is not a sign of a future delinquency problem. Therefore, it is important to have a way for youth to avoid formal processing under certain conditions. Without such a mechanism, large numbers of youth are unnecessarily charged and processed through the system, thus increasing a youth's probability of further delinquencies due to their exposure to other delinquent youth during this process.

Avoiding formal processing under certain conditions is important considering the collateral consequences a youth may encounter after obtaining a juvenile record. Diversion can be a way for youth to avoid the consequences associated with a juvenile court record, including the effects a record can have on employment

and education.⁹² The accompanying text box shows some areas that may be negatively influenced when a youth has a juvenile record of adjudication.

Options

Checklist of Pennsylvania Juvenile Collateral Consequences of Adjudication Checklist*

A juvenile court record can affect any of the following areas:

- Employment Opportunities
- Records Open to the Public
- Juvenile Court Open to the Public
- Public Housing
- Military Admissions
- Carrying a Firearm
- Driver's License
- Access to Schools
- Access to Higher Education
- Fines, Court Costs, and Restitution
- Sex Offense Registration
- DNA Samples
- Opportunity for Expungement of Records
- Voting
- Jury Service
- Immigration Status
- Adult Sentencing

* Pennsylvania Juvenile Indigent Defense Action Network (PA-JIDAN), May 2010

The research literature on juvenile diversion programs and state statutes governing diversion provide several purposes for developing ways to avoid formal processing of youth. The following list is not meant to be exhaustive, but to provide an idea of some of the objectives used by various diversion programs. They include:

- Reducing Recidivism: Decreasing repeat offending, thereby contributing to public safety.⁹³
- Providing Services: Assuring that youth who are in need of intervention and treatment receive services that will help to reduce the likelihood of future offending and meet their developmental and problem-related needs.
- Reducing System Costs: Assuring that the juvenile justice system's resources are reserved for use with youth who must be formally processed, adjudicated, and rehabilitated.⁹⁴
- Reducing Unnecessary Social Control: Assuring that youth, as citizens, are subjected to no more state intervention than is necessary, and that caretakers (rather than the state) are responsible for their children whenever possible.
- Increasing Successful Outcomes for the Youth: Diversion programs may seek to increase school engagement, offer opportunities for positive skill development, increase prosocial activities, or target other criteria that measure success for youth.
- Assuring Accountability: Assuring that youth—while avoiding adjudication—understand the seriousness of their actions and the effects that their behaviors may have on the victim(s), community, their family, etc., and holding them accountable through some type of restitution instead of juvenile court sentencing.⁹⁵
- Avoiding Labeling Effects: Reducing the likelihood that youth—were they to be formally processed—obtain a social label or self-perception as “delinquent,” which may actually contribute to further delinquency.
- Reducing Disproportionate Minority Contact (DMC): Assuring that minority youth are not overrepresented in the juvenile justice system.

Considerations

Individuals, diversion planners, communities and youth authorities will differ in their views regarding which of these possible objectives are more or less important. Diversion planners may even develop objectives in addition to those listed. Some programs may have multiple priorities and establish multiple objectives. The important thing is for planners to clearly endorse objectives that express the intent of their community.

This first step is especially critical for several reasons. The program's statement of purpose will guide planners' choices throughout the remaining 15 steps. There are many ways to build the pieces of a diversion program, and program objectives will increase or decrease the logic for selecting certain options as one moves from one step to the next. For example, if a community's objective focuses *exclusively* on reducing juvenile justice costs associated with formal processing, there would be no need to include the provision of services to diverted youth as part of the diversion program. The program could simply send some youth home following apprehension by police rather than send them to juvenile court, thus saving the court the cost of processing cases. On the other hand, if its primary objective is to reduce recidivism for youth with behavioral health issues, we know from studies reviewed in Part II that the provision of community and clinical services—not merely sending youth home—may be helpful to achieve this.

Planners will begin to learn a great deal about their differing perspectives by discussing and reviewing objectives. They may discover differences of opinion regarding what is important in responding to youth who are apprehended, and what is valued in one's

community. Some may emphasize the need for services for youth, while others may emphasize the need to impress upon youth and families the importance of making the most of the chance they are being given to avoid formal processing.

Selecting the objectives is especially important because a program's purpose becomes its measure of success. The 16th and final step (Outcome Evaluation) in this planning process is the development of a method that will be used to evaluate whether the diversion program is achieving its objectives. Thus, the objectives that the planners ultimately choose will eventually be used to define whether the diversion program has met or failed to meet the expectations of its funders and the community.

Step 2. Referral Decision Points:

Which of the various points within the juvenile justice processing continuum will be targeted for diversion?

Background

Diversion can take place throughout the juvenile justice process – from the initial contact with law enforcement officials all the way through to diversion from adjudication. As noted in the Introduction, this Guidebook focuses on *pre-adjudication diversion*—diversion up to and prior to formal adjudication (excluding detention diversion). Most programs will want to have specified criteria that will allow decision-makers to determine which youth are appropriate for the diversion program. For example, a few broad initial eligibility criteria (e.g., no prior adjudicated offenses) might be necessary for someone to refer a youth to the diversion program. Another way to think about the “decision point,” therefore, is to consider it to be the

moment at which a referral to the diversion process is made based on initial eligibility criteria.

Options

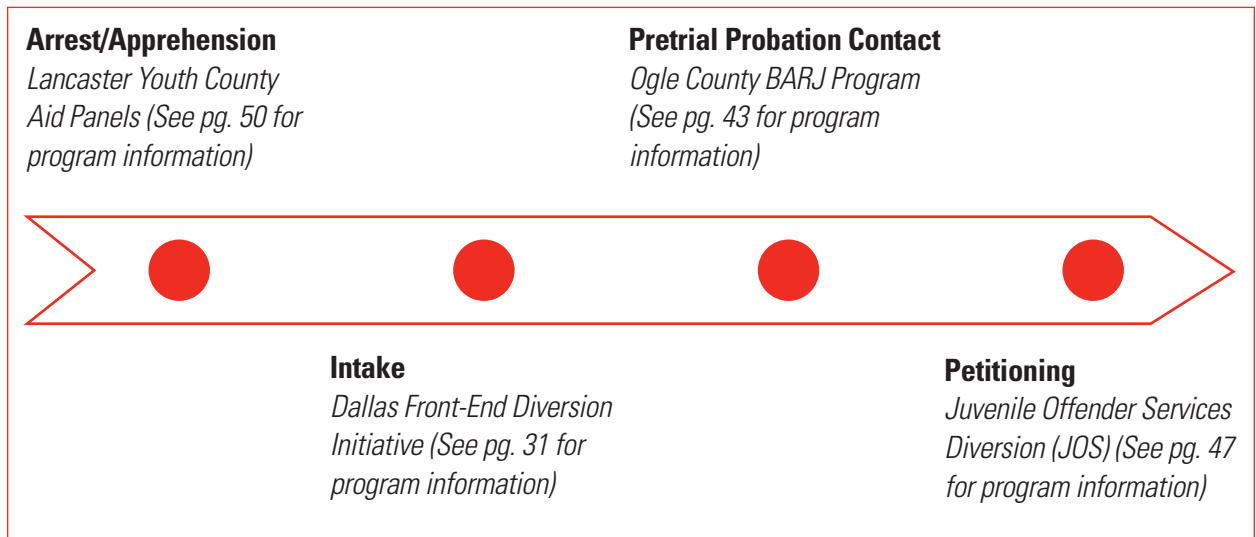
The following are examples of the pre-adjudication points when diversion might occur:

- Arrest or Apprehension: When a law enforcement official has contact with a youth.
- Intake: When a police officer or other authority delivers a youth, after apprehension, to an office that is authorized to “book” the case (This may include intake at a pretrial detention center).
- Petitioning: The point at which (or immediately before) the court would be petitioned to begin the process leading to potential adjudication.
- Pretrial Probation Contact: A court or probation officer engaging in pretrial interviewing of a youth and family in the course of formal processing.

(See Figure 2 on page 26 for a diagram of points at which diversion may occur, and some specific programs—described throughout the Guidebook—that focus on those points in the pre-adjudication process.)

The Workgroup's review of state statutes reveals diversity across states regarding the different points in the pre-adjudication process on which diversion programs focus. Over a dozen state statutes provide that the diversion process or informal court processing should be implemented prior to the filing of a petition in juvenile court.⁹⁶ Florida's civil citation statute further specifies that its pre-petition processing is to take place before the point of arrest.⁹⁷ Some states have laws that articulate that the diversion process should be implemented post-petition.⁹⁸ A few other state statutes

Figure 2. Diversion Points Along Continuum*



* TeamChild Advocacy for Youth is one example of a program that accepts youth referred at any point of the juvenile justice processing continuum above. (See page 54 for additional program information.)

base the implementation of the diversion process around the adjudication stage, specifying that diversion is to occur before adjudication.⁹⁹

Considerations

Since one of the primary functions of diversion is to avoid or minimize formal processing, some program planners will want to consider initiating diversion at *the earliest possible point of contact with the youth*. Some will want to strive for a conclusion that allows for referral at more than one point among the options listed above.

One strategy to approaching this step is to make initial choices regarding the desired referral decision points, then to table the *final* decision until later in the planning process when “entry criteria” are discussed. Options for referral decision points might depend in part on the eligibility criteria established and whether data that will

address those criteria are likely to be available at various referral decision points.

Certain combinations of referral decision points will tend to defeat many of the purposes for diversion. For example, a plan that allows for diversion referral only at the point of petitioning or pretrial probation contact will restrict all diversion referral decisions until formal processing has already begun. By the time the youth’s case has reached those points, it is on record, a period of detention might have occurred, and the youth will have experienced contacts and questioning with various juvenile justice personnel. Some of the purposes for diversion, therefore, are more likely to be met if diversion occurs earlier in the continuum illustrated in Figure 2.

Hamilton County Juvenile Community Courts

Ohio

Overview: The Hamilton County Juvenile Community Courts in Ohio divert youth who have committed minor, first-time delinquency, or status offenses to an unofficial court where community volunteers assess the youth's offense and impose sanctions. If requirements are completed successfully, the youth avoids the formal filing of charges. The program operates on the premise that youth will be more inclined to change their behavior after learning how their offenses impact members of their community. The Hamilton County Juvenile Community Courts have been in effect since 1958 and are operated and funded through a partnership between a juvenile assessment center and local law enforcement.

Target Population: The program targets youth between the ages of 10–17. Generally, they are first-time offenders charged with minor misdemeanor offenses.

Program Description: The juvenile court trains community volunteers to serve as referees at a semi-formal, yet unofficial hearing about the juvenile's delinquent behavior at which time they impose a disposition. Any first-time offender can be set before the community court as long as the complaint came from the school or police. Penalties include community service, counseling, essays, and unofficial probation periods. Restitution is ordered if it is agreed upon by the defendant and the victim. If the youth has no other claims filed against them within one year, the report on the original offense is destroyed and the youth will have no official juvenile court record. An outside study of 393 cases heard in the Hamilton Community Courts over one year found that only 10.1% of youth recidivated in the year following their hearing.

Program Contact:

Hamilton County Juvenile Court, 800 Broadway, Cincinnati, OH 45202

Phone: (513) 946-9455

Website: <http://www.hamilton-co.org/juvenilecourt/default.asp>

Step 3. Extent of Intervention:

What kind and degree of intervention(s) will the diversion program have in the youth's life?

Background

Programs vary considerably in what they do beyond "stopping" formal processing. Some offer interventions and services, while others do not. Among these alternatives, some involve various degrees of intervention. It is this general level of decision about the program's intervention status that is needed at this stage of program development.

Options

The following list provides a way to consider the range of options from minimal to greater intervention.

Warn and Release: This diversion process uses minimal intervention, involving police officer warning or encouragement, and providing assistance to the youth in arriving at a safe place (typically home) immediately after arrest.

No Conditions: The youth is discharged and if no new contact with the law occurs, charges are automatically

16th JDC Prosecutor's Early Intervention Program (PEIP)

Louisiana

Overview: The Prosecutor's Early Intervention Program (PEIP), established in 2006, identifies and provides services for middle school-aged youth who have committed status or other minor offenses. PEIP's mission is to "address risk factors and enhance protective factors through early identification, assessment and intervention with status offending youth and youth with delinquency charges for minor offenses thereby reducing exposure of youth to the juvenile justice system." The program is funded and operated by the local District Attorney's office Family Services Division and serves 7 of the 13 middle schools in the 16th Judicial District, Louisiana.

Target Population: The diversion program targets youth in grades 6–12 that have school behavioral or attendance problems, or who have committed minor delinquent offenses, and are assessed to be at risk for future delinquency.

Program Description: School personnel may refer a youth due to truancy, violation of school rules, or if the youth's parent or caretaker refuses to meet with school personnel to discuss the problem behavior. Once referred, youth are required to attend a family conference where an Informal Family Service Plan Agreement is completed. This Agreement outlines the recommended services for the youth and family and contains the plan for the delivery of those services. Progress is monitored by school-based case managers. If the youth complies with their service plan and the case manager sees demonstrated improvements in behavior, the case can then be closed. If not, the case manager may then refer to the youth to a committee or to juvenile court where a mandate to comply with the terms of the Agreement can be requested. Preliminary outcome data analyzed by the Office of Juvenile Justice shows a reduction in the number of youth entering the system. District court data shows the number of middle school-aged youth sent to court has declined, as has the number of youth adjudicated delinquent.

Program Contact:

Family Service Division- 16th JDC, 300 Iberra Street, Suite 200, New Iberia, LA 70560

Phone: (337)369-3804

Website: <http://16thjdc-g.com/index.html>

dismissed within a certain time period (usually 6–12 months).

Conditions and/or Services: The program provides for the fulfillment of certain conditions (restitution, community service, etc.) and/or referral to services (minor level of services, such as skill building, through higher level of services, such as substance abuse treatment). These conditions constitute an agreement between the program and the youth and family. Upon successful completion, the charges are dismissed.

Considerations

Whichever extent of intervention is agreed upon, it is important that the terms be documented in a clear and concise manner. With warn and release situations, this may just be an official documentation of the incident. Programs employing conditions and/or services often formulate a written agreement (formal or informal) between the youth, the caretaker/family, and the diversion program. These agreements often:

- Express objectives that are measurable (deadlines, work hours, restitution amount, etc.);
- Clearly reflect that the child knowingly and voluntarily consents to participate in diversion;
- Clearly reflect that the juvenile and parents have been notified of their right to refuse certain conditions/requirements of diversion;
- Set a definite, limited duration;
- Include provisions relating to both incentives and sanctions; and
- Express provisions for what constitutes successful completion and termination of charges.

The caretakers and youth agree to seek the relevant services, and the diversion program agrees to work with the caretakers and family across time while they are receiving those services. When youth do not have family members or caretakers ready and available to participate in diversion services, the youth should still be considered for diversion and for services.

The program may also monitor the youth's progress. Both parties have obligations, and typically a set of incentives is built into the plan to drive the arrangement. Like any agreement, there may also be sanctions for failing to abide by its terms. The specific types of obligations, incentives, and disincentives that might be employed are discussed in Steps 8 through 12.

B. Oversight

Step 4. Operations:

What office or agency will have primary responsibility for implementing and operating the diversion program, as well as for providing community oversight?

Background

There are two primary questions to address regarding who will operate the diversion program. One pertains to what office or agency will have primary responsibility for implementation and operations. Typically, this will be one office or agency, although collaborations between agencies are possible. The second question pertains to community oversight. A diversion program, although run by one agency or party, will not operate in isolation. To be successful, most diversion programs need the involvement and “buy-in” of the community’s legal, social, and behavioral health services. The importance of their involvement typically warrants the development of an advisory board or panel that can help the primary operations agency develop policies and anticipated procedures for the work of the diversion program.

Options

The following are examples of agencies or entities that operate diversion programs in some communities:

- County Juvenile Justice Services: Often this is the county’s juvenile probation office or a juvenile center that includes other juvenile justice services, such as pretrial detention.
- Prosecutor: Often this is the county juvenile prosecutor’s office.
- Court: A municipal, county or state court.

- Community-Based Service Agency: Among these are public mental health or other youth services agencies, as well as private organizations serving youth and family needs.
- Law Enforcement: The local police station or sheriff’s office.

Options for forming an advisory board or panel are as diverse as the range of community programs serving youth and families. In general, one would wish to consider having legal, social service, victim, and community consumer representatives. On the “legal” end of the community spectrum are the juvenile court, prosecutors, defense attorneys, probation officers, and law enforcement officers. On the services end are public mental health, schools, and various organizations in the community that provide critical services to youth and families. A community’s victim advocacy group or someone to represent the perspective of victims is important. Consumers typically would include caretakers or someone in the community who is part of neither legal nor clinical services and who has the respect of the community’s families—for example, a local religious leader who is active in public affairs.

Maryland law provides an example of how some diversion programs are coordinated, monitored and supported using local management boards.¹⁰⁰ These boards are required by statute to “[convene] a local planning group consisting of parents, youth, and representatives of public and private agencies that have knowledge of and experience working with at-risk youth and families.”

Considerations

There is no research literature to suggest that diversion programs are more or less successful depending on the types of agencies that operate them. We suspect

Dallas Front-End Diversion Initiative

Texas

Overview: The Dallas Front-End Diversion Initiative (FEDI), established in 2009, serves Dallas County, Texas. It is operated and funded by the Dallas County Juvenile Department (county juvenile corrections) and overseen by the Texas Youth Commission. FEDI is a non-judicial, early-intervention program that strives to assist youth in becoming productive, law-abiding citizens, in an effort to prevent their further penetration into the system.

Target Population: The program targets first-time, low-risk offenders, ages 10–17, that have not been charged with a status, serious, or aggravated offense. FEDI targets youth with unmet mental health needs, although it is not a requirement. A youth is diverted at intake, and does not have to admit to the charges against him/her to be eligible for the program. Caretaker consent/involvement is mandatory for program participation.

Program Description: Once referred into the program, screening and assessment is done to determine the youth's mental health, substance abuse, and risk needs; this information is used for determining eligibility and service planning. A Probation Officer oversees the provision of services (provided by direct service or through referral), which may include substance abuse and mental health treatment services, mentoring, family counseling, educational assistance programs (school/job placement), caregiver respite/support, life skills training, assistance in obtaining Medicaid, parenting classes, and support groups for caretakers of youth with disabilities. Youth are required to participate in services and abstain from new arrests. Failure to complete or follow the program requirements may result in a warning, filing of a petition, temporary detention, increased frequency or intensity of monitoring, and unsuccessful discharge from the program. Upon successful completion of the program, the youth's record is expunged and charges are dropped. The average length of program participation and maximum length of participation is 6 months. Of the 55 participants who started and were discharged from the program between February 1, 2009, and January 31, 2010, five percent (3) had a new referral at 30 days; 18% (10) at 90 days; and, 24% (13) at 6 months.

Program Contact:

Dallas County Juvenile Department, 2600 Lone Star Drive, Dallas, TX 75212

Phone: (214) 698-4223

Website: <http://www.dallascounty.org/department/juvenile/juvenile.html>

that this decision will be based on at least two factors. First, the readiness of an agency to operate a diversion program is likely to depend on the past roles of specific agencies within a community. Choosing a juvenile justice-based agency over a social service agency, or the reverse, may simply depend on their histories in the community in question, and not on any inherent advantage of one type of agency over the other. Second,

there will be a tendency for the operating agency to be the one most strongly motivated to propose the development of a diversion process.

The importance of constructing an advisory board cannot be overstated. Diversion programs are usually community-based programs that are dependent on community support and collaboration. In their most

comprehensive form, some diversion programs will connect youth with a wide range of services in the community. Moreover, many diversion programs are not merely brokers of services but instead work directly with the various participating community service agencies to assure a youth's success. Those operations and relationships will evolve much more smoothly if the community stakeholders are involved from the beginning of the formulation of the program's objectives, policies, and procedures.

Step 5. Funding:

How will the diversion program be funded and sustained for both the short and long run?

Background

Any jurisdiction that is developing or improving a diversion program or process will inevitably have to address how it will be funded and then sustained in the long run. Given recent fiscal crises affecting many jurisdictions across the country, this is not necessarily an easy task. There is often no single, clear funding stream available, and identifying sources of funding can pose a challenge to any community. More particularly, funding for juvenile justice programs is seldom a priority and it is now common for state legislators to search state budgets for areas to cut, including those covering juvenile justice programming.¹⁰¹

Options

There is no one model for jurisdictions to follow when attempting to secure funds. Multiple sources of funding can be tapped, and it is up to a jurisdiction to research the various options for available funding. Of the diversion programs the Workgroup surveyed, a number of different funding sources were identified by the responders.

The most often identified primary sources of funding included:

- County Juvenile Corrections or Probation Agency
- Municipal/County/State Court
- Prosecutor

Other sources of funding identified by survey responders included:

- Juvenile or Community Assessment Center
- Private/Community-Based Service Agency
- State Juvenile Corrections Agency or Detention Center
- State Substance Abuse Agency
- Local Law Enforcement Agency
- County/State Commissioner's Office
- Juvenile Accountability Block Grants

A few programs surveyed also cited federal funding from the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Federal funding for juvenile justice initiatives usually comes from OJJDP or the Bureau of Justice Assistance (BJA), and these funding streams are generally administered by the state governments.¹⁰²

Considerations

While there are many challenges to finding and securing funding, there are some strategies that jurisdictions may choose to pursue that will assist them through what can be an arduous process. The following are just a few of the many differing strategies jurisdictions may pursue:

- Ensure meaningful collaborative relationships with other child-serving and community-based agencies.
- Have an administrative or legislative evaluation of the program conducted to demonstrate cost-effectiveness and use those results to redirect spending from ineffective programs.¹⁰³
- Incorporate program outcomes into program design and outcome evaluations.
- Shift the focus from program cost to investment in public safety and crime reduction.¹⁰⁴
- Utilize volunteer services to enhance traditional funding sources—volunteers may be able to assist in the “follow-up, tracking, and case management tasks.”¹⁰⁵ The use of volunteer services can also be used as a way to lower program costs and sustain program efforts.
- Incorporate existing programs into diversion efforts.¹⁰⁶

It is also important for those in the position of running or starting up a diversion program to be aware of the various funding resources available within their communities. For example, federal grants such as the Formula Grants Program are awarded to State Advisory Groups and are used to support programs that address delinquency prevention, intervention efforts, and system improvements and target diversion programs that keep youth out of the juvenile justice system. In addition to Formula Grants, the Community Prevention Grants Program funds go toward the planning and implementation of collaborative and community-based delinquency prevention efforts, including juvenile diversion programs. Both the Formula Grants and Community Prevention Grants Programs are overseen by the Office of Juvenile Justice and Delinquency

Prevention. Juvenile Accountability Block Grants (JABG), also administered by OJJDP, are another source of federal funding. The goal of the JABG program is to “reduce juvenile offending through accountability-based programs focused on juvenile offenders and the juvenile justice system.” In addition to these federal grant programs, jurisdictions may also look for possible funding from the following areas:

- Designated funds from their state legislatures;
- County/community grants;
- Medicaid;
- Private or public foundation grants;
- Health insurance;
- State Advisory Group; or
- Local businesses and community agencies.¹⁰⁷

While there is no one model blueprint for funding, there are multiple funding streams and nontraditional funding sources to consider. In addition, it is important to consider funding for the long term and to keep all key stakeholders involved in this process. This will inevitably enhance the likelihood that programmatic efforts initiated can be sustained or even expanded.

C. Intake Criteria

Step 6. Referral and Eligibility:

**Which youth will be eligible for diversion?
What criteria will the diversion program use to determine eligibility?**

Background

It is important that a diversion program have very specific criteria that define eligibility for program entry. Written guidelines must be developed that set forth the intake process as well as the criteria that define eligibility for program entry. The criteria must be firm and definitive to be of use to decision-makers, yet flexible to permit the exercise of discretion. The criteria should seek to maximize the opportunities for diversion without widening the net.¹⁰⁸

Before discussing eligibility criteria, it is important to recognize that most diversion programs will need to start with a determination of “legal sufficiency.” This refers to whether the facts alleged in the complaint are sufficient in terms of jurisdiction (they are within the authority of the juvenile court) and in terms of facts (the known facts of the case) to indicate that the allegation can be substantiated. Without legal sufficiency, the case should be dismissed. Diversion should not be a “dumping ground” for cases that should never have been initiated. Without requiring consideration of legal sufficiency, diversion processes run the risk of net widening.

Once legal sufficiency is considered, the diversion program needs guidelines outlining eligibility criteria for entry into the program. There are two broad types of eligibility criteria, which we will call (a) initial eligibility criteria and (b) de-selection criteria. The following explains what these are and how they differ.

After a youth is apprehended by police officers, the program will have one or more points at which a person

or office can say, “This is a youth who fits the criteria for referral to the diversion program.” That person or office may have very specific rules regarding the case facts that would make a youth *eligible to be referred*. This is what we mean by “initial eligibility criteria.” Indeed, for many diversion programs, if the youth is eligible, that person or office is strongly encouraged to refer the youth to the diversion program. Only youth who are not eligible for diversion would be sent for formal juvenile justice processing.

Once a youth is referred to the diversion program, the youth and family typically have an initial meeting with a staff person working in the diversion program. In our further description of this diversion staff person, we will call him or her a “diversion counselor,” although various programs may have different titles for this person. At the first meeting, the diversion counselor will gather information about the youth and caretakers, through interview and any past records. They will talk about the program and engage in agreements about the youth and family’s participation. During this process, other facts might arise that would make entrance into the diversion program inappropriate for that youth. Thus, not all youth who are referred to diversion will necessarily engage in the diversion program. Given that some youth who were referred (met initial eligibility) are later deemed inappropriate for diversion programming, *we refer to the latter criteria as “de-selection criteria.”*

Options

Deciding on the program’s initial and de-selection criteria can be one of the most important set of decisions that will be made by planners of the diversion program, and possibly the most complex. We describe below the options that planners often consider for both types of criteria, followed by some points planners may want to consider while deciding which options to choose.

Initial Eligibility Criteria: We offer three initial eligibility criteria to consider. The first is age, and the other two pertain to types of offenses.

- Age: Planners must decide about the age range of youth who will be eligible. In our survey, the most common age range was 10 years to the highest age that is under the jurisdiction of the juvenile justice system (typically 17th or 18th birthday, but varies from state to state).
- History: In most diversion processes, intake criteria include consideration of a youth's prior history with diversion and the court. While most programs specify that youth are eligible if they have no prior offense, decision-makers can make diversion available to those youth who have previously successfully completed diversion and even those who previously have been adjudicated delinquent. Diversion planners should consider the target population for diversion as they decide how the youth's criminal history affects their eligibility for diversion.
- Type of Current Alleged Offense: Diversion programs often exclude youth from eligibility based on the type of current charge. This refers to the charge that would be filed if the youth were formally charged on the basis of the behavior for which they were apprehended. Jurisdictions differ in the manner in which they classify offenses; however, most jurisdictions have broad classifications for (a) status offenses (would not be criminal offenses if the youth were an adult), (b) misdemeanors, and (c) felonies.

Regarding the "Type of Current Alleged Offense," several levels of decisions may need to be made. The first pertains to the program's objectives. Some programs:

- Focus entirely on status offenses, excluding all youth arrested for behaviors that would be categorized as delinquencies.
- Focus entirely on youth arrested for potential delinquencies, excluding all youth apprehended on status offenses or trancies.
- Focus on both status offenses and delinquencies.

If the program includes youth apprehended for behaviors that would be delinquencies, the next level of decisions pertain to the types of delinquencies that will be eligible. Here there are several options:

- Misdemeanors only
- Misdemeanors and felonies
- Misdemeanors and felonies but with exclusion of some felonies

Regarding those options, our survey found that a majority of diversion programs accepted only misdemeanors (the first option above), and that most programs that accepted felonies excluded certain specific felonies. The specific felonies that were mentioned most often as ineligible for diversion were:

- Weapons-related offenses
- Gang-related offenses
- Violent offenses (ranging from battery to murder)

Some programs use a set of "risk factors" to apply to cases when deciding on their initial eligibility. Risk factors are facts about a case that have been determined to identify a decrease or increase in the likelihood that a case will result in negative outcomes during some period of time in the future. Ideally, the risk factors themselves are known, based on past research, to be valid estimates of future risk of repeated general or violent offending.

Typically the risk factors together are referred to as a “tool,” and the tool’s manual allows the case to be rated or scored on each risk factor. A cut-off score is applied to the sum of the risk factor scores, indicating youth who are not eligible for diversion due to higher risk scores.

The risk factors themselves typically are small in number (5–10 items). To be used as initial criteria, they should be easy to score or rate without an interview or any special assessment of the youth. In other words, they must be answerable based on past records and law enforcement information about the youth’s behavior at arrest.

De-Selection Criteria: As noted earlier, de-selection criteria are applied during a first interview with a diversion counselor (after the youth has been referred to the diversion program based on initial criteria). They are a set of factors that may lead to non-participation in the program, even though the youth has met initial criteria. The following are more common examples of de-selection criteria:

- **Risk Factors (again):** Some programs choose to employ an additional set of risk factors at the diversion program’s intake interview. For example, some screening tools employ risk factors that are important but require information that goes beyond case facts that were used as initial criteria. These additional risk factors can be identified in the intake interview with youth and caretakers. In addition, sometimes the interview will reveal that the case facts that were applied to the threshold decision were wrong. Thus, in a minority of cases, this second risk factor screening might identify reasons to de-select the youth from the diversion program because of high risk for re-offending that was not apparent when the threshold criteria were applied.

- **Youth and Caretaker Decline:** Diversion programs typically are voluntary. Youth and caretakers may decline to participate in the diversion program after they are informed of the conditions of participation, especially those matters that will be required of them. Their declination would de-select them from the diversion program.

Considerations

Offense Criteria: The process of selecting initial eligibility criteria gets to the very heart of motivations and concerns regarding diversion programs. The criteria described above clearly seek to avoid formal processing of youth for a first-time offense. This makes sense, given that we know that most youth who offend for the first time do not offend again. Making them formal first-time offenders (by formally processing them) simply increases their exposure to the juvenile justice system and the chances that they will begin to identify themselves (and be identified by others) as “delinquents.”

On the other hand, our desire to protect the public is equally as strong as our desire to avoid unnecessary formal processing of youth. Planners may want to develop initial eligibility criteria with an eye to avoiding harm to others by those minority of youth who may go on to commit serious delinquent acts.

Devising “prior offense” and “type of current offense” criteria, therefore, may require careful attention to balance between two primary values—avoiding formal processing while ensuring access to services, and assuring public safety. It is good for planners to realize that both values work together, in the following ways:

- Failure to attend to public safety concerns can lead to the diversion program’s failure to provide youth with community-based services. Too many youth might engage in serious offenses while in a

diversion program, leading to public disfavor and lack of continued support for the program.

- Creating highly conservative threshold criteria in the interest of public safety will decrease the number of youth eligible for diversion. This decreases the opportunities for the diversion program to direct youth to community services known to reduce recidivism, thus potentially increasing long-range risks to public safety.

Decisions about eligibility criteria often require considering both science and community standards. Research tells us that some risk factors are important predictors of future re-offending, while others that we might suspect to be warning signs are not actually related to re-offending. On the other hand, community standards and perceptions must also be weighed. For example, research tells us that youth who engage in a sex offense for the first time are very unlikely to engage in one again. Yet public perception in some communities may simply not allow youth arrested for a first-time sex offense to be included in diversion programs, despite their low likelihood of re-offending.

Youth programs of all kinds are often advised to include attention to the strengths of the youth. Does the youth have a supportive family? Are there resources available to the youth that may make diversion the best option? It is important to recognize not only the offense and risk factors, but also the positive qualities of the youth and family, and how these contribute to the decision to divert.

Judgments about initial eligibility criteria can be improved by reviewing sources of information about reliable risk factors. One source is validated risk screening tools. It is also suggested that planners seek the guidance of researchers and others in the field who are familiar with the literature on youth risk factors.

Discretion: Whatever the initial eligibility criteria, a procedural question to consider is whether those who apply the criteria “must” refer each youth who meets the criteria, or whether they are allowed to use their discretion to override the eligibility criteria in some cases. We suggest that it is better for a program’s policies and procedures to see initial eligibility criteria as creating a presumption of referral to diversion. A program that allows decision-makers to simply “take the initial criteria into consideration,” while then using discretion to decide whether or not to divert, is in danger of applying the diversion opportunity in an inconsistent and potentially unfair manner. It provides no accountability for judgments that may, in the end, be arbitrary and based on factors that should have nothing to do with the community’s expressed interest in diversion.

Having said this, planners may not want to employ initial eligibility criteria that provide no option for discretion in unusual cases. It is inevitable that authorities who apply the initial criteria will encounter cases in which the criteria are met, but additional information that is available to them strongly indicates that the youth or the community is in grave and imminent danger if the youth is diverted without immediate control by the juvenile justice system. For example, imagine that a reviewing officer finds that a youth meets all threshold criteria, but is also known (from records) to have attempted suicide twice in the past few weeks. Formal processing may be necessary simply to manage the immediate safety of the youth, especially if the diversion program intake be completed until after the weekend. The reverse can also happen. For example, a reviewing officer may find that a youth does not meet all of the threshold criteria, yet knows them to have a supportive family and extensive resources available to them. The officer may think diversion is the best option for this youth, and use discretion to include them in diversion.

For these reasons, planners may want to consider a “must” rule, but with a tightly defined discretionary option to override in extraordinary circumstances and with such decisions subject to documentation. The discretionary override may require:

- additional information not previously known;
- an extraordinary circumstance;
- prior discussion with a second authority;
- a process of documentation of the exceptional reason;
- a review at a monthly or quarterly meeting of the diversion program.

Caretaker and Youth De-Selection: When discussing de-selection criteria, we noted that some youth and caretakers may decide not to accept the diversion program. Diversion programs are voluntary. Some programs require that youth and caretakers assume a variety of responsibilities as a condition of the program. These requirements vary considerably from one program to another. Moreover, some programs impose consequences if the youth and caretaker fail to honor the responsibilities to which they agreed when they entered the program. When the conditions are not acceptable to the caretaker or youth, they should be able to decline.

Step 7. Screening and Assessment:

Will evidence-based screening and assessment methods be used to assess risk, needs, and behavioral or mental health problems?

Background

Screening and assessment tools can be used to assess the risk of future harm to self or others; the needs,

strengths, and problem areas for a given youth; and special considerations related to behavioral and/or mental health problems.

Screening refers to a brief process, often involving no more than 10–15 minutes per youth. Its purpose is to determine youth who warrant immediate attention and intervention, and youth who may need a more comprehensive review.

Assessment refers to a more comprehensive review. If screening suggests that a youth needs further evaluation, an assessment may be used in this smaller number of cases to offer a more comprehensive, individualized, and in-depth examination of the needs, strengths, and problems identified during an initial screening. This may include the type and extent of mental health issues or substance use disorders, other problems/issues associated with the disorders, skill sets, strengths, and recommendations for services and intervention. Assessments typically require individualized data collection, including past records, interviews, and collateral information.

When choosing a screening or assessment instrument, it is important to try to use tools that are *empirically validated* (sometimes this is called “evidence based”). By this, we mean that the tool is:

- standardized: always done the same way every time with every youth;
- relevant: it will assist with making the necessary decisions at hand and will be compatible with the skill level of your staff;
- reliable: research indicates that two independent raters would usually get the same results; and
- valid: there is research-based evidence that the tool is actually measuring what it claims to

measure. When a tool is backed by research, you can be more confident that the tool will be effective and help with decision-making.

Options

Screening: Various types of screening tools that may be important for use by a diversion program include the following:

Risk Screening: These tools are used to determine the likelihood that a given juvenile will re-offend.

Mental Health Screening: These tools help identify mental health symptoms in need of immediate response, such as suicide risk, while also targeting youths that may require further evaluation.

Substance Use Screening: These tools help identify youth who warrant further attention because they may have a substance abuse problem.

Assessment: Assessment tools typically require more training, and often they must be administered by clinical staff (that is, individuals with specialized master's or doctoral level degrees). There are many types of assessment tools, designed for obtaining more detail on: (a) mental health problems; (b) substance use problems; (c) trauma-related disorders; (d) special educational needs; (e) specific problem areas of adjustment in a youth's life (e.g., family issues, peer relations); and (f) personality traits related to offending.

Considerations

Many diversion programs use risk screening when applying the initial criteria for eligibility. Some also include a brief mental health and/or substance use screening tool, especially if the diversion program intends to favor diversion objectives that increase the

likelihood that youth with behavioral health problems receive services in the community.

Assessment tools (more intensive follow-up) are sometimes used at the point of determining initial eligibility for diversion, if the system has adequate assessment resources to do so. More often, the need for more comprehensive assessment is decided after a youth has been referred to a diversion program, when the need for specific diversion services is being determined.

Screening and assessment tools, when implemented successfully, can increase the chance that diversion—and the services that it might provide—are made available in an effective manner. The best screening and assessment tools have been developed to be fair with regard to gender and race/culture in arriving at their results. This reduces the bias that might be involved if opinions about youths' needs are decided based merely on staff interviews and personal judgments. Screening and assessment tools can also help a diversion program allocate resources for youth, reserving them for those youth at the highest risk of re-offending and/or experiencing considerable psychosocial issues.

Whether a tool is evidence based is an important consideration in choosing tools. A tool's feasibility must also be considered. Some screening tools are briefer than others, require more or less in-service training to administer, and have greater or lesser financial costs associated with their purchase. Some assessment tools can only be given by professionals with formal education in administering and interpreting tests.

Therefore, choosing screening and assessment tools can be complex. Many programs seek the assistance of clinicians with special training in screening and assessment to advise them in tool selection. This might be someone in the community's juvenile justice system,

mental health system, or a psychology department in a local college or university.

It is important for diversion planners to consider development of a screening and assessment protocol that all staff will follow. Doing so will ensure that staff know when the screening tools will be utilized in the process, and if needed, when an assessment or further evaluation should be required.

D. Operation Policies

Step 8. Participant Requirements:

What are the conditions and responsibilities the youth will have to meet in order to ensure their meaningful participation in the diversion program?

Background

When youth agree to participate in diversion, typically they also agree to abide by conditions and responsibilities associated with program participation. Failure to do so may result in termination from the diversion program, as well as other penalties. These conditions should be clearly reflected in a formal written agreement between the youth, the family, and the diversion program. Written agreements often contain the following:

- Measurable objectives and conditions to be met by the youth (for example, agreement to participate in services, hours of community services, exact amount of restitution) rather than vague conditions (show respect). These conditions should be defined in detail and provide a time line for completion.
- A formal process for reviewing and monitoring compliance.
- A system of rewards for compliance and sanctions for noncompliance.
- A statement of the agreement's duration.
- Verification that victim input was sought and taken into account.
- Verification that the youth and caretaker were notified of their right to refuse diversion.

Options

Requirements: Requirements for participants will vary a great deal depending on the type of diversion process. For example, "warn and release" diversion programs may have no requirements at all. For those that do however, one or more of the following requirements and/or conditions are common:

- Participation in screening and assessment
- Participation in community service programs
- Attendance at scheduled diversion program appointments
- Continued participation for a specified length of time
- Restitution

Other Requirements: There are many other possible participant requirements that diversion programs may use. Some examples include:

- Admission to the illegal behavior that led to a referral to diversion
- Acceptable demeanor when meeting with the diversion program contact
- Attendance
- Absence of new arrests
- Consent to participate in diversion
- Signing of diversion agreement

Considerations

There are two broad considerations when addressing this step in the process: (a) the specific types of requirements, and (b) the nature of the youth's and caretaker's consent.

Types of Requirements: For some programs, the requirement to participate in screening and assessment directly furthers the objective to obtain services for the youth and caretaker that are matched to their needs. This typically will include evidence-based mental health screening and assessment tools and structured instruments to assess a youth's needs. But some programs also require such methods as urinalysis to screen for drug use that might indicate the need for special substance use treatment services. If a program is primarily service oriented, failure on the part of the youth to engage in screening and assessment methods may defeat the program's primary objective.

Most of the diversion programs surveyed by the Workgroup required that the youth and caretaker agree to make use of one or more of the community services that the program prescribed. They are informed that failure to do so is a breach of the agreement and can result in a termination of the program's services and reinstatement of the charges. School participation is sometimes included here, in that it is an important "service" for purposes of most youths' positive development.

The requirement to attend scheduled diversion program appointments varies across programs. Some programs require weekly meetings of youth and caretakers with the diversion program counselor. For other programs, regularly scheduled appointments are not necessarily required following the first few sessions during which the youth has been connected with community services. In these instances, subsequent contact may simply

be informal—for example, by phone—to determine the youth's continued use of services. Whatever the arrangement, it is important that participants are clearly informed at the outset that once they are enrolled in the program, continuation will be contingent upon satisfying these requirements for meetings with the diversion counselor. In addition, some of the programs we surveyed required that participants agree to "stay with the program" for a specified period of time. For those programs, the average was 3–6 months.

Some programs require that the youth take responsibility for the actions that resulted in their referral to the diversion program.¹⁰⁹ This is based upon the Balanced and Restorative Justice concept of "accountability," which proponents believe can contribute to the youth's positive development as well as their openness to influence by service programs. "Accepting responsibility" is also associated with requirements found in some programs regarding "demeanor" when in contact with the diversion program: for example, attending sessions on time and dressing appropriately. If a program requires that a youth take responsibility for his/her actions (for example, admit to the behavior that was the reason for the charges), it is important that information remain confidential, so as to not later punish a child for meeting the requirements of the program.

The requirement for the "absence of new arrests" was noted by some surveyed diversion programs. Some programs terminate the participation of a youth when the youth is apprehended on a new charge while participating in the program. Other programs allow for continuance in diversion as long as the new arrest is for behavior that continues to fit in the original eligibility criteria.

Ogle County Balanced and Restorative Justice Program

Illinois

Overview: The Ogle County, Illinois Juvenile Justice Council oversees the Balanced and Restorative Justice (BARJ) program. Established in 2008, the mission of this program is to “protect the community from crimes committed by minors through the promotions, establishment, education, and interagency coordination of community-based programs for families and minors designed to prevent unlawful and delinquent behavior, incorporating principles of the BARJ model which holds each youth accountable for his or her behavior.” The program is operated through the Ogle County Probation Department and the Ogle County Juvenile Justice Council.

Target Population: The program targets Ogle County youth ages 10–17 who are first-time offenders. Youth can be referred to the BARJ Program at their initial contact with law enforcement, at petitioning, or at the time of case processing review (juvenile arrest reports are reviewed twice a month).

Program Description: Once diverted, youth gain access to a variety of services which may include mentoring, family counseling, mental health or substance abuse treatment services, educational assistance, and life skills training. A BARJ Coordinator oversees the provision of services to the youth. A contract is made for the youth, which requires the completion of certain conditions. These may include: an apology letter to the victim; a victim-offender conference; accountability worksheets; community service; and the payment of restitution. Failure to adhere to the terms of their agreement may result in the youth’s discharge from the program and the filing of a petition. Program involvement typically lasts between 3–6 months. In 2009, approximately 188 youth were diverted to the BARJ Program and successfully completed the terms of their program.

Program Contact:

Ogle County Juvenile Justice Council, 106 5th St., Suite 100, Oregon, IL 61061

Phone: (815) 732-1180

Website: <http://www.oglejjc.org>

Youth and Caretaker Decisions to Participate or Refuse Participation: Diversion programs typically see youths’ participation as voluntary—they can decide to participate or not. Therefore, it is important that they are fully informed before they make the decision. Youth and caretakers participating in the diversion program must be clearly informed at the outset about:

(a) the program’s potential benefits;

(b) what will be required of the youth and caretaker;

(c) the potential consequences of failure to abide by required conditions if the youth chooses to participate; and

(d) the potential consequences if one decides not to participate in the program.

When youth and/or caretakers decide not to participate in diversion, some programs do not simply dismiss the charges, but rather proceed with formal processing of the charges through the juvenile justice system's normal adjudication process. Some youth and parents might see adjudication as preferable, if they believe that the youth was not responsible for the offense he or she was alleged to have done. But the decision to proceed with formal processing is a serious one that can have negative consequences for the youth.

Under such circumstances, programs face a legal uncertainty. Must the youth's decision about acceptance or refusal of the program meet legal requirements for "informed" consent? If youth decide to accept responsibility and participate in the diversion program, rather than to decide to defend themselves against the charges, is this tantamount to a decision to "plead guilty?" If so, then some jurisdictions would see the decision to accept or refuse diversion participation as requiring informed consent—that is, that it must be made knowingly and intelligently by a youth who is considered competent to decide.

How this question is handled will depend on local juvenile laws and policies, because there is no overarching legal precedent to provide an answer. We can only recommend, therefore, that planners consult local juvenile prosecutors and defense attorneys regarding a resolution of this question. Programs that do not formally process youth who choose not to participate are less likely to encounter this problem, because the immediate consequences of refusal to participate in such programs are not as serious as in programs in which refusal results in formal processing and potential adjudication of the charges.

Step 9. Services:

What services, if any, will be provided to the youth by the diversion program or through referral to community-based services, and how will those services be administered?

Background

The primary function of a diversion program depends on the program's objectives. Some youth will not require services and some diversion programs will not provide services to youth. But if an objective of a given diversion program is to resolve the underlying causes of delinquent behavior by engaging youth and caretakers in services and interventions, a useful step in developing the program is to create a coalition of community-based programs. Planners who are developing services-oriented diversion programs will want to consider what is available in their community and those services that are willing to work with their program. Additionally, when deciding what services will be provided through the diversion program, it is important for planners to consider conducting a community needs assessment with respect to their targeted diversion populations. This assessment may help planners determine what services the community needs to serve the population of youth to be diverted.

Once program planners identify the services the community needs and those that are available, they should determine how these services will be administered. Will the services be administered directly through the program or will the program refer youth to services operated by others? Some diversion programs might do a combination of both, providing some services in-house and creating a coalition of services in the community to administer other services through a referral process. These alternatives are described in the following section.

Options

Building Coalition: Many programs begin by taking inventory of what services the diversion population in the community likely needs and what the community actually has to offer by way of these services. The Workgroup's survey of diversion programs provides some examples of the types of services one may want to look for. Quite a few of the programs are associated with services in the following areas:

- Family interventions, including family counseling, Multi-Systemic Therapy, Functional Family Therapy, and other family-based interventions
- Substance use intervention, including everything from detox services to individual and group programs to reduce alcohol and drug use and dependence
- Mental health treatment, ranging from individual psychotherapy and counseling to more intensive mental health services, as well as services that are not “diagnostically specific”—for example, anger management programs
- Mentoring, referring to a range of services that focus on connecting youth with caring adults who can provide positive one-on-one “big brother” and “big sister” types of relationships
- Life-skills training, referring to programs that teach skills related to the workplace and to roles as caretakers and partners
- Educational assistance programs, including a range of services that assist youth in improving their study and comprehension skills
- Job placement services, which can help youth find summer and part-time jobs

The survey of diversion programs also provided a list of other types of programs that can augment the above services:

- Respite and support services for caregivers (especially caretakers of youth)
- Transportation services to other intervention services
- Financial aid to defray program costs, if any
- Wraparound services
- Medicaid assistance
- After school recreational and support programs

After services have been inventoried and examined for quality, some planners will want to build in a period of time for enlisting the involvement of the relevant community services. Typically this will involve making contacts with them and indicating the future program's interest in referring youth to them. The contact could include discussion of each service's specific requirements and exclusions regarding the youth referred to them.

Administering the Services: As mentioned previously, some diversion programs will choose to administer services directly to youth entering their program. They may have service providers in-house and youth would come to the location of the program to receive their recommended services. Other programs prefer to make referrals to services for youth. They will set up agreements with certain service providers in the community for diverted youth. This is where creating a coalition of services will have the most benefit. The diversion program would simply refer the youth to the specified service and set up some form of reporting to track the youth's progress in the service.

Combination of Both: Some diversion programs will combine the above two options. They could choose to establish a coalition of services in the community to which they refer youth and to provide some services through the diversion program in-house. There may be some services the diversion program is unable to provide, and that is when the coalition of services in the community can be of great assistance.

Considerations

The process of conducting a community needs assessment and inventory of community youth programs need not begin from scratch. Needs assessments and inventories often are already available in many communities. For example, child mental health services often have a list of resources in the community that might meet the more general needs of youth. Both public and not-for-profit organizations should be identified.

The process of obtaining collaborative agreements from community services that are willing to participate can typically be done through contacts during the inventory. Other mechanisms used by some diversion programs are Memoranda of Understanding (MOUs), which simply state the conditions for the diversion program to work with each of the community services. Typically the MOU will spell out the types of youth that the community service will accept on referral, as well as any agreements that are reached regarding the sharing of information and working with the diversion program in its monitoring and assistance of the youth and caretakers. Some programs convene a meeting of representatives from all of the participating community services, to identify their mutual commitment and to explain the policies and procedures of the diversion program.

If programs decide to create a coalition of community-based programs, several challenges may arise. Not the

least of these is the program's dependence on what is *available* in the community. In recent years, budgets have not been kind to agencies that provide community services to youth. On the other hand, many communities have found that when they explored what is available in both the public and private sector, they have been surprised at the range of services they can consider. Services may range from minor level services (skill building, after school recreational activities, and peer mentoring) to medium level (educational assistance and counseling) and higher level services (family interventions, substance use treatment, and mental health treatment).

When developing a coalition of community-based services, planners should be sure to utilize the information gathered in the community needs assessment to match the needs of the youth to the services the community offers. The importance of matching youth needs to the appropriate services cannot be overemphasized. Planners can go about doing this by getting a list of services each community provider offers and recognizing the specific needs of the youth in that community. A service matrix of some sort could be utilized, matching up needs to the appropriate services and providers.

The matter of availability is the starting point, but more is needed to arrive at a set of interventions for the program's portfolio. When an inventory of available programs is assembled, planners may want to contact experts to determine which of the resources are using "evidence-based" methods. This means that there has been research that indicates that the method has produced positive results. Typically it is best to contact local juvenile justice experts in academic settings or to contact one of the several national clearinghouses available to provide consultation on juvenile justice rehabilitation and treatment services. But planners

Juvenile Offender Services (JOS) Diversion

Colorado

Overview: Colorado's 4th Judicial District's Department of Juvenile Offender Services (JOS) Diversion program was established in 1978 and serves El Paso and Teller Counties. It is operated and funded by the 4th Judicial District Attorney's Office. The program's goals include holding juvenile offenders accountable for their behavior while providing intervention that results in improving the youth's self-esteem and ability to make healthy choices that will positively impact his/her life, and reducing court and prosecutor caseloads.

Target Population: The program targets first-time offenders, ages 10 – 18, who have been charged with a nonviolent/non-sexual offense. Youth are diverted into the program by a District Attorney referral and must admit to the charges in order to participate in services.

Program Description: Once referred into the program, screening and assessment is done to determine the youth's mental health, substance abuse, and risk needs; this information is used for service planning. A program case manager is responsible for overseeing the youth's "Individualized Program Requirements," which may include substance abuse treatment, family counseling, mental health treatment, mentoring, educational assistance, and life-skills training. Failure to complete or follow the program stipulations may alter the youth's Individualized Program Requirements and can result in a number of sanctions ranging from a warning to unsuccessful discharge from the program and the filing of a petition. Upon successful completion of the program, the charges against the youth are dropped and their record expunged. The average length of program participation is 7 months and cannot exceed 12 months. In 2009, 79% of the JOS Diversion Program participants successfully completed the program; successful completion is achieved by completing all program requirements and refraining from further law violations.

Program Contact:

Juvenile Offender Services Diversion Program, 4th Judicial District Attorney's Office, 105 E. Vermijo Avenue, Colorado Springs, CO 80903

Phone: (719) 520-6178

Website: <http://www.4thjudicialda.com/juvenileoffenders.aspx>

should not rigidly exclude services for which there is little or no research evidence. For some communities, these may be the only resources available. Some communities have not yet developed child community interventions that use evidence-based methods. Realistically, diversion programs in those communities would have mental health or substance use resources if they applied the evidence-based criterion in an absolute sense. If the services seem promising, we do not suggest refusing their use. The evidence-based recommendation

need not apply to all types of intervention programs. It is most relevant for mental health, substance use, and family services. Once resources have been discovered and reviewed, planners will want to determine the willingness of community-based service providers to take referrals from the proposed diversion program. There must also be a way to determine the types of youth the various services will consider to be appropriate in light of their own intake requirements and program features.

In some cases, certain services are targeted toward youth and family needs/issues and require the involvement of both the youth and his or her family. If a diversion program plans to provide services to youth, planners may want to consider this issue and develop strategies for encouraging caretaker and family involvement.

Step 10. Incentives:

Will the diversion program employ incentives to motivate youth and caretakers? If so, what forms of incentives will be used?

Background

Diversion programs typically use incentives to motivate youth and their caretaker(s) to fully engage in the diversion process.

Options

The primary incentives that diversion programs offer include:

No Further Action: Diversion programs often provide that once a program has been successfully completed, the original cause of action will be dismissed. No further action should be taken and the juvenile's participation in the program may not be used against him/her in future proceedings.¹¹⁰ In some states this is provided by statute and in others by local juvenile court policy.

Expunge Records: Diversion programs typically offer expungement of the youth's record upon successful completion of the diversion program. If this expungement is not automatic (that is, if it requires that the youth apply for expungement), youth who successfully complete diversion programs should be encouraged to pursue expungement of their juvenile court and law

enforcement records. As part of their diversion programs, planners should establish who will assist youth in getting their records expunged, preferably at minimal or no cost to the youth and family.¹¹¹

Diversion programs also sometimes employ the following incentives:

Reduced Program Requirements: Some of the diversion programs gradually reduce program requirements if the youth stays on track as the program proceeds. This can include decreased reporting, less supervision time, and reduced monitoring.

Other: A wide range of other incentives were noted in our survey of diversion programs, including awards/gifts and verbal accolades/praise. Programs can get creative in what they decide to use to motivate youth to fully engage and participate.

Considerations

When thinking about the incentives a diversion program will employ, program planners may want to consider the following:

- **Effectiveness:** Program planners should consider what leads to successful completion of the diversion program. What incentives have been effective in their community or other similarly situated communities?
- **Feasibility:** Program planners should consider if certain incentives are possible for their program to offer. Is the program able to provide the resources necessary for the incentive? For example, planners cannot simply agree to expungement of records; ultimately the juvenile court is the only authority that can offer this incentive. Is the staff able to keep track of the youth's progress to give certain incentives when appropriate?

Step 11. Consequences of Failure to Comply:

Will there be consequences for youth who fail to comply with program requirements and how will those consequences be specified?

Background

Planners must decide on the consequences that will apply if youth who choose to participate in diversion eventually do not abide by the program's requirements.

Options

Dismissal from Program with Formal Processing:

Many diversion programs respond to youths' failure to adhere to program requirements by "rescinding" diversion and returning the youth to formal juvenile justice processing. Typically this would mean that the youth is charged on the alleged offense for which formal processing was originally declined in favor of diversion.¹¹²

Dismissal from Program without Formal Processing:

Some diversion programs employ sanctions that simply recognize the youth's failure to abide by the requirements of the program. That is, if a youth is unreliable in accessing the services that were offered, the youth is simply dismissed from the program (without formal processing). Some programs add that the youth will be ineligible for diversion a second time if he or she is later arrested on other charges.

Program Adjustments: A substantial number of diversion programs that were surveyed responded to youths' failure to comply with program requirements (e.g., unreliable use of services) by increasing the frequency or intensity of monitoring, or by increasing the length of program participation.

Considerations

There is much to be said for limiting a diversion program's sanctions to program adjustments that create greater monitoring and/or dismissal and ineligibility for diversion in the event of a future arrest. The alternatives to these responses—immediately petitioning for formal processing upon dismissal from the program—present various difficulties that tend to defeat the purpose of diversion. For example, many youth in diversion programs are first-time minor offenders. If they do not obey diversion requirements, a policy that sends them back to juvenile court for adjudication gives them a delinquency record. Programs that do not return diverted youth to juvenile court when they disobey diversion rules may result in a few of those youth being arrested on future charges, but many will not be arrested in the future and will never have a delinquency record. Considering the consequences of these two approaches, the second seems to satisfy the purposes of diversion (to avoid adjudication when possible) better than the first.

Lancaster County Youth Aid Panels

Pennsylvania

Overview: In Lancaster County, Pennsylvania, Youth Aid Panels are used as a means for diverting youth who become involved with the juvenile justice system. Established in the early 1990s, the Youth Aid Panel program has two goals: to prevent youth from becoming more involved in delinquency and poor decision-making, and to make youth accountable for their actions through services to the victim and/or their community. The program is overseen by local law enforcement and the Lancaster County District Attorney's Office. Funding is received from the District Attorney's office and the Office of Juvenile Justice and Delinquency Prevention.

Target Population: To be eligible for this program, youth must be between the ages of 10 and 18, charged with committing a nonviolent offense, and admit to the charge. Diversion occurs at the youth's initial contact with law enforcement.

Program Description: The Youth Aid Panel comprises citizens of varying ages, professions, ethnicities, and socio-economic groups. They review the youth's case and determine a resolution for both the victim and the offender, utilizing the input of the offender and his/her family and resulting in some form of restitution to the victim. Diversion contracts may require youth to write an essay, perform community service, attend an educational class, provide a verbal or written apology letter to the victim, etc. For the youth to continue involvement in the program, they must participate in required services and maintain attendance at reporting sessions. Failing to do so might result in sanctions ranging from a warning to unsuccessful discharge from the program and the filing of a petition.

Program Contact:

Lancaster County Courthouse, 50 North Duke St., P.O. Box 83480, Lancaster, PA 17608

Phone: (717) 299-8100

Website: <http://www.co.lancaster.pa.us/da/cwp/view.asp?A=1102&Q=599924>

Step 12. Program Completion / Exit

Criteria:

How will "successful program completion" be defined? Will the diversion program employ certain exit criteria?

Background

Diversion programs will want to define the conditions under which youth exit the program. Jurisdictions that do not establish a list of exit criteria will likely have frustrated youth and frustrated program employees.

Options

There are several ways to address criteria for exiting the program:

Time-Based Criterion: Some diversion programs specify a length of time that all youth must participate in the program. This ensures that youth are not kept in the program for an overly extensive amount of time. In some cases, keeping a youth in a diversion program for too long may have negative consequences.

Performance-Based Criterion: In this approach, the youth's agreement establishes goals that are measurable

and are evaluated regularly (e.g., four weeks with no school absences, an agreed-upon restitution, making contact with and beginning a community service, etc.). When these goals have been accomplished, the youth exits the program.

Failure to Comply Criterion: Certain unacceptable behaviors may be stated, with an infraction regarding any of these behaviors signaling exit from the program (e.g., re-arrest, a number of absences from school, etc.).

Considerations

Exit from the diversion process is provided for in state diversion statutes in a variety of ways. Some statutes set a maximum time limit over which the diversion process may not extend.¹¹³ Other statutes provide that the diversion process may be terminated when and if a juvenile participant violates any of the terms and conditions of the diversion.¹¹⁴ The diversion process may also be terminated, according to some statutes, when designated stakeholders feel that diversion is no longer the appropriate process for a given juvenile.¹¹⁵

Note that some diversion programs may want to employ multiple exit criteria. For example, a program may have a performance-based criterion, while also providing that all youth will exit by some maximum time period (thus providing a time limit for youth who do not meet the performance-based criterion).

It is important to note that planners may not want to develop inflexible exit criteria. The program should have clear expectations that are explained to the youth and caretaker(s) at the outset of the program, but which also leave room for flexibility in terms of how well the youth is doing in the program. Program completion can depend on the program's exit criteria and the youth's progress in the program.

Most programs will want to monitor the youth and track their progress in the program to ensure they are improving. With some degree of monitoring established in the diversion agreement, programs can keep cases from falling through the cracks. Additionally, in programs where services are provided to the youth, monitoring can help diversion programs discover easily remedied reasons for a youth's failure to access or maintain contact with interventions or services. It is important to encourage youth throughout the program and monitor their progress to help them attain successful program completion. There are several ways a program can monitor youth, ranging from minimal monitoring to intense monitoring, with the purpose being to ensure the youth are following the terms of the diversion agreement and staying on the path to successful program completion.

- **Minimal Monitoring:** The program may choose not to employ any particular monitoring process outside of regular contacts with the youth and caretaker. Some youth may not need services, and therefore, the program just checks in occasionally to gauge how the youth is doing.
- **As-Needed Reporting:** If the program is one that links the youth to services, there could be an agreement that the provider will contact the diversion program whenever there is a loss of contact with the youth receiving services.
- **Formal Reporting of Progress:** There may be reporting arrangements with community-based services to which the youth is referred.
- **Referral Monitoring:** If the youth agrees to participate in a community-based service, the diversion program can have a procedure to determine whether the youth makes contact with the service provider.

E. Legal Protections

Step 13. Information Use:

What procedures and protocols will be in place to establish how information is collected during the youth's participation in the diversion program?

Background

From the initial screening and assessment through exit from the program, the diversion process includes many communications among youth, caretakers, and diversion program personnel. Some states require that program staff report on certain matters (e.g., suspected child abuse). In recent years, many jurisdictions have begun to address confidentiality in the diversion process by developing policies and/or passing legislation with regard to statements made and information shared during diversion.¹¹⁶

Confidentiality policies must be clearly revealed to the youth and caretakers in the process of explaining their obligations and the program's responsibilities (Step #9 Services) to realize the full benefits of such policies.

Options

Confidentiality with Incriminating Statements:

When developing a program, an important initial decision is what, if any, information will be kept confidential. While a few jurisdictions have required youth to consent to release all information related to their participation in the diversion program, most jurisdictions have formal and informal policies that generally deem certain statements or information divulged during diversion as confidential (subject to statutory and constitutional conditions). Approximately ten state diversion statutes provide that an incriminating statement made by a juvenile participant during

diversion or informal processing shall not be used later against the declarant.¹¹⁷

In nearly all jurisdictions that have confidentiality policies, the core component of the policy is that any potentially incriminating statements made by the youth will not be subsequently used against them. Some jurisdictions say this protection extends to the entire course of the diversion process (Vermont),¹¹⁸ while others limit it to the screening, assessment, and treatment elements of the diversion program.

Confidentiality When Required to Admit to Offense:

The issue of confidentiality is of the utmost relevance in diversion programs where the youth is required to admit to the offense as a prerequisite for the program. Many programs have such a requirement in order to hold the youth accountable for their actions (one of the basic premises of Balanced and Restorative Justice). These statements have the potential to be used against the youth should they fail to complete the program and the case be returned to court. However, such an "admission" could arguably be deemed "involuntary" at a suppression hearing and therefore inadmissible, so there is no real benefit in not allowing these statements to be kept confidential. In fact, certain diversion policies, and a number of state statutes, specifically bar the admission of such statements (for example, Cook County, Illinois; Georgia; Montana; Nevada).¹¹⁹

Programs can still require that participants accept responsibility for their actions. In fact, if there is denial by the youth that a crime has been committed, many programs do not see diversion as a viable option. However, the benefit (if any) of using an admission of guilt in any criminal case against the youth would be minimal and outweighed by the open exchange of information that would result if such information remained private.

Written Policies and MOUs Concerning

Confidentiality: The development of policies addressing confidentiality during diversion has been undertaken at many levels. Several states have developed statutes specifically describing what information collected during diversion may be released. For example, recent legislation passed in Pennsylvania provides that “no statements, admissions, or confessions made by, or incriminating information obtained from a child in the course of a screening or assessment that is undertaken . . . shall be admitted into evidence against the child on the issue of whether the child committed the delinquent act...or on the issue of guilt in any criminal proceeding.”¹²⁰

While statutes provide the most legal protection for these statements of guilt, many other jurisdictions have developed written policies about confidentiality that also serve to encourage the youth to share information openly. Finally, other jurisdictions have attempted to formalize these confidentiality policies by developing Memorandums of Understanding (MOUs) among relevant stakeholders (Ogle County, Illinois).

Therapist-Patient Confidentiality: Some jurisdictions have upheld confidentiality during diversion by extending the service provider the status of a mental health therapist, thereby invoking the therapist-patient privilege of confidentiality (Ogle County, Illinois). Most have simply outlined what types of information (such as information collected during screening, assessment, and treatment) should be kept confidential.

Considerations

Because of the importance of open communication in diversion programs, it is important that jurisdictions consider confidentiality provisions that encourage the free exchange of information in the context of diversion, especially when addressing potential behavioral

health issues and when discussing the youth’s past criminal history for the purposes of a risk assessment. Jurisdictions that do not provide any type of privacy protection run the risk of restricting the degree of information or collaboration obtained from the youth and caretaker during the course of the program and violating a child’s due process protections.

One common goal of programs is to address behavioral issues that may exist. By encouraging open communication during screening, assessment, and treatment, better outcomes for youth and the entire system are possible. When developing a program with some privacy protections, the benefits gained from open disclosure usually far outweigh any costs.

Step 14. Legal Counsel:

In the absence of a state statute or local policy, what will be the guidelines for the role of counsel?

Background

Since these guidelines encompass all pre-adjudication diversion, counsel will clearly play a role in cases where a petition is filed and the right to counsel has attached. But what role does counsel play in the cases that are diverted before a petition is filed? While a majority of states do not have statutes on this issue, approximately one dozen state laws set forth some role of counsel in diversion.¹²¹ Under the most common of these statutory schemes, the role of counsel during diversion is limited to the initial intake when the youth is deciding whether or not to participate.¹²²

There are jurisdictions in which the role of counsel is not addressed by statute, but covered by policies and guidelines. In Louisiana, for example, the *District Attorney’s Diversion Guidelines* provide that “the youth

TeamChild Advocacy for Youth

Washington

Overview: The TeamChild program in Washington State was established in 1995 under federal violence and delinquency prevention grant funds distributed by the Washington State Advisory Group. TeamChild attorneys provide free legal advocacy and community education to help justice-involved youth secure education, housing, healthcare, and other vital supports to achieve positive outcomes. The program started as a pilot in King County and currently provides services to youth in six additional counties, as well as training and technical support statewide. TeamChild currently receives funding from the state and county general funds as well as from private foundations.

Target Population: The program is targeted to low-income youth, ages 12-18, who are at risk of or already involved in the juvenile justice system. A youth can be referred to TeamChild at any point of the juvenile justice processing continuum and can also be referred by community providers.

Program Description: TeamChild was built on the simple premise that many youth can be diverted from delinquency and violence if their basic needs are met. Youth are referred to TeamChild to address a variety of civil legal needs. For example, TeamChild works with youth in danger of dropping out or getting pushed out of school by helping them understand and exercise their rights to an education. TeamChild also helps youth with disabilities access quality, appropriate, mental health services and helps youth without a place to live secure safe and stable housing. By securing community supports, TeamChild helps young people stay connected to their families and communities and gives courts viable alternatives to incarceration. An independent evaluation of the program found that TeamChild participants were almost four times less likely to come into contact with the juvenile justice system than those in a matched comparison group 6 months post-program involvement. Program participation is voluntary and lasts as long as is necessary to address a youth's complex needs. TeamChild has served over 9,500 children since its inception.

Program Contact:

TeamChild Advocacy for Youth, 1225 S. Weller, Suite 420, Seattle, WA 98144

Phone: (206) 322-2444

Website: <http://www.teamchild.org>

should have an opportunity to consult with an attorney.” Even where the right to counsel is not covered in state statute or other jurisdictional policy, some diversion programs provide for a wide range of defense counsel roles from the full right to counsel throughout program participation to little or no role for defense counsel.

Options

In the absence of a state statute or local policy provisions, programs have several options to consider when determining what role counsel will play. These include:

- Provide counsel throughout the diversion process
- Provide counsel for the participation decision

- Make no provision for counsel, but youth may retain counsel privately

Considerations

The confidentiality provisions of a program will affect the role counsel plays in these cases. The need for counsel is greater where all admissions, communications, screenings, assessments, evaluations, and reports conducted during diversion are not confidential and can be forwarded to the prosecutor, judge, probation officer, or any other official in a subsequent adjudication.

For youth to understand the choice they are making to enter into diversion, and appreciate the consequences should they fail to meet the requirements, it is crucial that they have a good understanding of the legal ramifications, conditions, and process of diversion. As noted in Step 8 (“Participant Requirements”), the decision to refuse to participate in diversion (which in many programs requires admission to the behavior that was charged) has significant legal implications if the alternative is potential adjudication. The argument for the need for legal counsel, therefore, is stronger in programs of that type. Having youth consult with an attorney ensures that the youth is properly informed. This problem is less at issue, of course, in jurisdictions that do not make formal processing a consequence of the youth deciding not to participate in diversion.

F. Quality

Step 15. Program Integrity:

How will the diversion program ensure quality and program fidelity?

Background

Diversion program planners should attend carefully to both development and maintenance in order to have a high quality program. In its development, program planners should start with the best available knowledge about the diversion process, build support from key stakeholders and participants, set out clear policies and procedures, create a training curriculum, and set up data collection procedures. In its maintenance, program planners should provide for quality assurance by creating monitoring processes, collecting and reporting data, reviewing policies and procedures and updating as necessary, providing for retraining, and checking for program fidelity.

It is encouraging to report that a majority of the programs we surveyed reported that they had written policies and procedures, training that is provided to program staff on these written policies and procedures, systematic monitoring of their program outcomes, and a management/oversight process in place to monitor quality assurance and fidelity to program policies and procedures.

Options

Program Development: As noted in Step 1 (Objectives), programs should proceed from a clear statement of their goals, objectives, and desired outcomes, which are the foundation upon which quality programming rests.¹²³ Once that foundation is established, planners can turn to the following elements to further establish the program's integrity in its development.

- **Design:** Most program planners will want to begin by surveying diversion programs and looking for evidence that the programs produce the outcomes sought for the youths to be served. The design of the program could involve several evidence-based components (e.g., Life Skills Training, Mentoring, Cognitive Behavioral Therapy) offered by one provider, or it may involve referring youth to one of several different service providers, each of which offers just one evidence-based component. The key is to identify those program efforts that show promise toward achieving the desired results and describe those efforts carefully in the program design.
- **Stakeholder Support:** It is critical to build support from entities that will refer youth to the program (e.g., law enforcement, prosecutor, probation) as well as defense counsel, victims, and those who will participate in the program (e.g., youth, parents). This can be done through traditional means of marketing using informational bulletins, flyers, or presentations, etc., once the program has been designed. However, it is also important to include representatives of consumer and family groups in the actual design of the program and its policies and procedures. It is also critical to build a base of support from funding sources or potential funding sources through sharing of information and solicitation of input regarding the program's design and operation.
- **Policies and Procedures:** Clear, well-reasoned policies and procedures are one of the hallmarks of quality programming. Developing these will guide the operation of the program on a daily basis, directing the practices of each individual working with the program. It is important to set out the policies and procedures in a manual to aid with training and implementation in a consistent

manner across diversion providers and over time. Planners may want to include information on the program's obligations to meet the needs of the youth, to be just and unbiased, and to be developmentally appropriate.

- **Training Curriculum:** It is important to provide training to all personnel who operate the program, as well as the providers of diversion services within the community. The training would cover the policies and procedures that govern the operation of the program. Training would also cover topics that help practitioners to understand the characteristics of, risks presented by, and service needs of youth served.
- **Data Collection:** Setting up a good data collection system is important to measure the performance of the program for integrity and to provide the foundation for program evaluation. Program planners could begin by reviewing the work they have done to develop their program and determine what questions they want to be able to answer regarding the performance of their diversion programs. This will allow them to determine what data elements they need to collect. Further, they may want to establish how, and in what formats, the information is to be collected, what their capacity is for automation of the data collection and subsequent generation of reports, and who is going to do the input for the data collection process. A related issue will be to decide whether to have standardized reports from program providers.

Quality Assurance: Quality assurance can be achieved by establishing a set of internal and external monitoring processes and conducting a process evaluation. Monitoring processes in this step relate to the program as opposed to the monitoring of a participant's progress.

An obvious part of the quality assurance process, to be carried out by the personnel who operate the diversion program, is to periodically update the policies and procedures manual and provide for periodic retraining of program personnel and providers to account for staff turnover.

- **Internal Monitoring Processes:** The most important monitoring process may be the production of periodic reports based on ongoing data collection that provides information about the program's conduct of work processes, client characteristics, program activities, and achievement of the program's goals. Other monitoring processes may involve site visits to program providers, interviews or surveys with program participants, program audits of providers' program records, and the providers' submission of periodic reports. Although tracking outcomes may be a subject more appropriate for program evaluation, it can also be a part of the monitoring or performance measurement in quality assurance.
- **Process Evaluation:** Monitoring program fidelity may also be a part of quality assurance. The performance of the program's activities could be measured against the program's descriptions of goals and purposes, policies and procedures, and treatment regimens. Data could be collected on such items as the number of youth referred, number of youth accepted, length of time in the program, and the characteristics of the youth participating in the program to help determine whether the program is reaching the intended target population. Specific data also could be collected regarding adherence to the program's policies and procedures. Examples of such items could include whether youth are screened and assessed using the prescribed instruments,

whether youth receive copies of their agreements, whether the referring entity (e.g., District Attorney, probation intake) receives timely notice of youth participation and performance in the program, or whether youth appear for their weekly reporting sessions.

- **External Monitoring Processes:** One effective external monitoring process is the use of an advisory board or panel. The provision of periodic reports to an advisory board or panel, the funding sources, and local governing bodies (e.g., County Boards, City Councils, Juvenile Justice Commissions, etc.) is a good method of external monitoring to achieve quality assurance. This might be accomplished best by establishing a requirement that these reports be generated periodically, inviting the external entities to critique the program's performance and enforcing external accountability for the diversion program. Another method of external monitoring is to bring the consumers into a program review process, giving them access to the program's reports of its progress and/or using survey instruments or focus groups to gain insights about the program's daily operation.

Considerations

Most diversion program planners will want to consider political issues that may need to be addressed to secure a base of support for the highest quality of programming. Too often, underperforming program providers stay funded because they have effectively lobbied elected officials or funding sources who then are reluctant to take funds away despite a program's inadequate performance. The entities that operate the diversion program may need to educate public officials and funding sources regarding best practices and the tools employed to conduct quality assurance. In fact, the

more public this knowledge, the more likely it is that the community will support quality programs.

Another area of consideration in this context is how one gets the best performance out of service providers. Some jurisdictions have accomplished this by instituting performance-based contracting. This can be a useful tool for diversion programming. For example, a service provider contracts and pays for the number of youth who enter the program and avail themselves of services, as opposed to the number of youth who were referred.

Step 16. Outcome Evaluation:

What kind of record keeping and data collection system is necessary to provide for periodic evaluation of the program's achievement of its goals and objectives?

Background

Every diversion program should have a way to determine whether it is meeting its goals and objectives. Program evaluation is important for many reasons. One of its greatest values is to determine the need for program adjustments over time. Good program evaluations not only indicate whether objectives are being met, but also identify when, why, and for whom they are not. This provides guidance for periodic modifications to improve outcomes. Ultimately, of course, program evaluations that manifest positive outcomes can be used to argue for funding that sustains the program and its benefits for the community. Program evaluations that manifest poor outcomes over a significant period of time may sometimes signal the need for the community to invest its resources in more promising programs.

Program evaluation typically requires a systematic way of collecting data throughout some period of time of the diversion program's operation. Therefore, while we list

this as the last step, a plan for program evaluation must be in place before the program begins. The outcomes to be evaluated will depend on the original objectives of the diversion program. As such, examples of options for collecting evaluation data will be described in relation to each of the example objectives described previously. One way to prepare for good program evaluation is to have a template and guide that provides a foundation for such. The development of a logic model for the program is one way to accomplish this. A logic model is a commonly used tool for assuring program integrity by clarifying and depicting the logical connections between a program's purpose and ultimate outcomes. Many different logic model formats exist, but they all contain the same core concepts.

1. A clear *mission or purpose* for the program: a clear, brief statement that specifies the organization's primary focus or thrust;
2. Mission-driven *goals*: statements that define what an organization is trying to accomplish relative to its mission;
3. Unambiguous *objectives*: specific and measurable strategies or implementation steps to attain the identified goals (effective objectives include a defined completion date);
4. Specific *activities*: tasks conducted in support of program objectives;
5. Program *inputs*: resources, contributions, investments that are required for the program to operate;
6. Program *outputs*: activities, services, events and products that reach people who participate or who are targeted by the program;
7. Program *outcomes*: the results or changes for individuals, groups, communities, organizations, communities, or systems.

Figure 3 on the following page is an example of what a logic model for diversion programs might look like.

Options

Some diversion programs may have more than one objective or a combination of different goals; thus, more than one of the following may apply:

Evaluating Reduction in Recidivism: First, planners should operationalize what is meant by recidivism. The Council of Juvenile Correctional Administrators (CJCA) recently attempted to standardize the definition of recidivism and how it is measured by various jurisdictions throughout the United States.¹²⁴ According to CJCA, recidivism is defined as the "commission of an offense that would be a crime for an adult, committed by an individual who has previously been adjudicated delinquent." The CJCA report also points out that "because most delinquent offenses and crimes are not known to the justice system, recidivism is typically measured in terms of actions taken by justice system officials." Evaluating this outcome may require collecting recidivism data on each youth during some period of time after they have completed the diversion program, and then comparing it to recidivism data of similar youth (e.g., types of offense) in the community in past years. Past recidivism data may be available in some communities and not in others. It can be obtained, however, if funding can be found to retrieve data from a random sample of existing juvenile justice records for recent years. This will also require attention to examining the re-arrest rates of youth who enroll and complete the diversion program and those who do not.

Evaluating Provision of Services: A program that wishes to evaluate whether youth received services they would not otherwise have obtained might want to keep a running account of the proportion of youth in the program who do access services. It will also be

Figure 3. Jail Diversion Program Logic Model

Process	Goals	Objectives	Outputs	Outcomes
<p>Establish a strategy to avoid formal processing of youth in the juvenile justice system designed to achieve one or more of the following:</p> <ul style="list-style-type: none"> ▪ Reduce recidivism ▪ Provide services ▪ Avoid labeling ▪ Reduce system costs ▪ Increase successful outcomes ▪ Increase accountability 	<p>Define the purpose of the diversion program</p>	<p>Convene key stakeholders</p> <p>Achieve consensus on purpose</p>	<p>A clearly defined statement of the purpose and goal of diversion</p>	<p>Process</p> <p>Planning Committee convened</p> <p>Implementation of funding strategy</p> <p>Diversion candidates referred</p> <p>MOUs completed</p> <p>Training program established</p> <p>Short-Term</p> <p>Number of juveniles referred and number diverted</p> <p>Number of juveniles successfully completing terms of diversion</p> <p>Amount of restitution ordered/paid</p> <p>Hours of community service assigned/completed</p> <p>Number of diverted youth who commit new offenses while on diversion status</p> <p>Long-Term</p> <p>Number of diverted juveniles who re-offend after diversion is completed</p> <p>Retention in school and school progress</p> <p>Documentation of cost-benefits of diversion programs</p>

necessary to identify the extent to which the community services experienced an increase in youth served, compared to their records for the year or two prior to the start of the diversion program.

Evaluating Reduction in System Costs: Evaluation of the financial impact of programs can be complex since it is difficult to define or identify all of the costs a program incurs or saves. Some simple statistics, however, are possible to examine. For example, diversion might decrease the number of youth who are placed in detention awaiting their adjudication, and most detention centers keep track of monthly admission statistics. Moreover, many detention centers know the average per diem financial cost of housing a youth. So a reduction in the number of youth detained before and after the start of a diversion program can be translated into financial costs without much difficulty. Some cost reductions can be described in non-financial terms. For example, reductions in formal processing can be calculated. These reductions might not translate into dollar figures. However, juvenile court personnel may be able to provide insight into how the reduction of cases that needed to be processed contributed to the quality of attention the court was able to provide to those youth who were processed.

Evaluating Increased Successful Outcomes for the Child: Successful outcomes for youth can involve increasing their school engagement, helping them develop positive skills, increasing their prosocial activities, and providing other opportunities for success in their life. Typically, a diversion program itself will not be able to evaluate this last outcome effectively because it requires long-term follow up with youth and complex measures of “outcomes.”

Evaluating Increased Accountability: This objective focuses on assuring that youth understand

the seriousness of their actions, as well as the effects that their behaviors have on the victim(s), themselves, and their community. Evaluating whether or not youth are being held accountable can be achieved simply by keeping records of the number of youth who were provided “accountability” requirements during their diversion programming. On the other hand, evaluating whether it in fact increased their sense of responsibility would require complex research methods that are beyond the reach of most diversion programs.

Evaluating Reduction in Labeling and Its Effects on Delinquency: This is a laudable objective, but typically it will not be feasible to evaluate the psychological effects of the diversion program on youth. This type of evaluation would require psychological testing or clinical interviewing of a sample of youth who have been served by the program, and comparing to similar testing results of youth who were not provided diversion services. This requires a level of complexity and expertise that exceeds the resources of most communities.

Evaluating Reduction in Unnecessary Social Control: Recall that this objective focuses on assuring that youth are subjected to no more state intervention than is necessary, and that caretakers (rather than the state) are responsible for their children whenever possible. Evaluating this type of objective may require examination of data on youth who were formally processed (before and after the start of the diversion program), with special attention to the proportion of those that received placements in secure facilities after adjudication.

Considerations

Planners need not examine their programs in relation to all of these objectives. A program can select its most important objective(s) and focus on obtaining data related to their evaluation.

Many diversion programs seek the guidance of a specialist in program evaluation to help them sort out the nature of data they need in order to evaluate their objectives. Specialists in program evaluation can often be found in psychology or sociology departments in local academic settings.

The description of program evaluation offered here has focused on quantitative evaluations—things that can be measured and given numeric value. But there are other important types of evaluation that can rely on qualitative information—that is, information that cannot be reduced

to numbers but offers a perspective on a program's success. For example, a program can engage in follow-up interviews with caretakers and youth some months after the youth has completed the diversion program. The youth's reflections on the meaning of the diversion program in their own life, when multiplied by a sufficient number of cases, can offer valuable information about the degree to which the program has been meeting its objectives.

Miami-Dade Civil Citation

Florida

Overview: Florida's, Miami-Dade Civil Citation program intervenes with first and second time misdemeanor offenders. Eligible participants receive an assessment and application of appropriate, targeted interventions. The county-wide initiative began in April 2007 and currently all 37 local arresting agencies refer youth to the Miami Dade Civil Citation Program.

Target Population: The program targets youth, 17 years and younger, charged with a misdemeanor offense. Certain misdemeanor offenses (e.g., gang-related, sexual related behavior, and weapon offenses) are not eligible.

Program Description: Police officers may refer eligible youth to the Juvenile Services Department (JSD) where they will receive an assessment and application of appropriate, targeted interventions. When an assessment is completed a treatment plan is generated and if deemed appropriate, referrals to mental health treatment, substance abuse treatment, mentoring, family counseling, educational assistance programs, and community service are made by a case manager. Case-management services are provided for approximately 3 months, to ensure the completion of all services and sanctions in the youth's treatment plan. If successful, the youth avoids the stigma of a formal arrest. According to outcome data, over 8,000 youth have participated in the program since April 2007. As a result of the Civil Citation initiative, juvenile arrests have been reduced by 21%. An independent economic study of the program concluded that civil citation costs less than half the cost of detention. In addition, intake and screening time has been reduced by over 60%, and paperwork has been significantly reduced, resulting in savings of time and money.

Program Contact:

Miami Dade Juvenile Services Department, 275 NW 2nd Street, 2nd Floor, Miami, FL 33128

Phone: (305) 755-6120

Website: <http://www.miamidade.gov/jsd>

Conclusion

While the concept of diversion and what constitutes diversion have presented numerous questions and concerns within the juvenile justice field in recent years, it has been the aim of this Guidebook to answer those questions and address the concerns that many jurisdictions have had with regard to starting up or improving upon a juvenile diversion program or process. These 16 Steps represent the foundation upon which diversion planners can build. While there is no one roadmap for creating a juvenile diversion program, this Guidebook provides the needed guidance and direction to communities and motivates planners to think about the important questions to ask and the various options to consider when structuring or improving on a diversion program or process.

Endnotes

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- 63 See A.R.S. § 8-321; A.C.A. § 9-27-323; C.R.S.A. § 19-2-303; F.S.A. § 985.125; I.C. § 20-511; MD Code, Human

- Services §§ 8-601 8-604; M.C.L.A. §§ 722.821 722.831; M.S.A. § 388.24; Neb.Rev.St. §§ 43-260.02 43-260.07; N.H. Rev. Stat. § 169-B:10; N.C.G.S.A. § 27-20-10; O.R.S. § 419C.225; RI ST § 42-72-33; RCW § 13.40.080; W.Va. Code § 49-5-2a.
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- 65 705 ILCS 405 § 5-305.
- 66 W.S.A. 938.245.
- 67 Okl.St.Ann. § 2-2-404.
- 68 F.S.A. § 985.12.
- 69 N.R.S. 62C.230; W.S.A. 938.32.
- 70 O.R.S. § 419C.230.
- 71 KRS § 635.010.
- 72 A.R.S. § 8-321; N.C.G.S.A. § 7B-1701; ORS 419C.230.
- 73 A.R.S. § 8-321; DC ST § 16-2305.01.
- 74 See DC ST § 16-2305.01 (Juvenile must previously had little or no contact with the juvenile justice system.); MCA § 41-5-1302 (A consent adjustment may not be used to dispose of a youth's alleged second or subsequent offense if: (a) the youth has admitted to or has been adjudicated for a prior offense that would be a felony if committed by an adult; (b) the subsequent offense would be a felony if committed by an adult and was committed within 3 yrs of a prior offense; or (c) the subsequent offense would be a misdemeanor if committed by an adult and was committed within 3 yrs of a prior offense, other than a felony); 10A Okl.St.Ann. § 2-2-404; ORS § 419C.230; RI ST § 42-72-33(c); V.T.C.A. Family Code § 52.031(a); RCW § 13.40.080.
- 75 Ga. Code. Ann. § 15-11-69(a)(2); MCA § 41-5-1301(1)(b); N.H. Rev. Stat. § 169-B:10(V)(III)(b)(Referral to diversion or other community resource after filing is appropriate if . . . [r]eferral of the case is in the best interest of the public and the minor.); NDCC § 27-20-10(1)(b); 42 Pa.C.S.A § 6323(b)(1); T.C.A. § 37-1-110(a)(2); W.Va. Code § 49-5-3a(a)(2); W.S.A. 938.245(1) (a).
- 76 See M.C.L.A. § 722.824; Neb. Rev. St. § 43-260.04.
- 77 M.C.L.A. § 722.824(Sec. 4).
- 78 See M.S.A. § 388.24 (subd. 2); Neb.Rev.St §43-260.03; 10A Okl.St.Ann. § 2-2-404(D) (A program for juveniles identified .as having committed acts not serious enough to warrant adjudication, but which do indicate a need for intervention to prevent further development toward juvenile delinquency).
- 79 RI ST § 42-72-33(a).
- 80 MD Code, Human Services, At Risk Youth Prevention and Diversion Services § 8-601.
- 81 See C.R.S.A. § 19-2-303(1); 705 ILCS 405 § 5-310(1) (.The goal is to make juveniles understand the seriousness of his/ her actions and the effect that a crime has on the minor, his/ her family, victim and community); M.S.A. § 388.24(subd.2); O.R.S. § 419C.225.
- 82 M.S.A. § 388.24 (subd. 2); Neb.Rev.St §43-260.03.
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- 86 F.S.A. § 985.125; 705 ILCS 405 § 5-310.
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- 89 It should be noted that while the Guidebook refers to a Diversion Program, diversion is a system or a process; not always a specific program.
- 90 Scott & Steinberg, note 1.
- 91 Moffitt, note 2.

- 92 For more information on Collateral Consequences, see The Pennsylvania Juvenile Collateral Consequences Checklist on www.modelsforchange.net.
- 93 See M.S.A. § 388.24 (subd. 2); Neb.Rev.St §43-260.03; 10A Okl.St. Ann. § 2-2-404(D F.S.A. § 985.125; 705 ILCS 405 § 5-310(1); RI ST § 42-72-33(a); MD Code, Human Services, At Risk Youth Prevention and Diversion Services § 8-601).
- 94 C.R.S.A. § 19-2-303(1); M.S.A. § 388.24 (subd. 2); Neb. Rev.St §43-260.03; F.S.A. § 985.12(1); F.S.A. § 985.125; 705 ILCS 405 § 5-310.
- 95 See C.R.S.A. § 19-2-303(1); 705 ILCS 405 § 5-310(1) (The goal is to make juveniles understand the seriousness of his/ her actions and the effect that a crime has on the minor, his/ her family, victim and community); M.S.A. § 388.24(subd.2); O.R.S. § 419C.225.
- 96 ARJP Rule 15(c); A.R.S. § 8-321(A); F.S.A. § 985.12(1); Ga. Code. Ann. § 15-11-69(a) (Before a petition is filed, parties may receive counsel with a view to an informal adjustment if ..); HRS § 571-31.4; KRS § 635.010(1)(c); M.C.L.A. 722.823(1)(b); Miss. Code. Ann. § 43-21-405(1); N.R.S. 62C.200; N.C.G.S.A. § 7B-1706(B)(5) (requiring that a diversion contract indicate that all parties agree that the juvenile's successful completion of the contract shall preclude the filing of a petition); NDCC §27-20-10(1); 42 Pa. C.S.A. §6323(2); W. Va. Code § 49-5- 2a(a); W.S.A. 938.245.
- 97 F.S.A. § 985.12(1) (.any law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation).
- 98 DC ST § 16-2305.01(3) (defining diversion as a noncriminal alternative to adjudication); RI ST § 42-72-33(c); W.S.A. 938.32.
- 99 Neb. Rev. St. § 43-260.04(4) ([a] juvenile pre-trial diversion program shall [b]e offered to the juvenile prior to an adjudication but after the arrest of the juvenile .if a decision has been made .that the offense will support the filing of a juvenile petition or criminal charges.);10A Okl. St. Ann. § 2-2- 404(A); 3 V.S.A. § 163(c)(1).
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- 107 SAMHSA/CSAT Treatment Improvement Protocols, note 105.
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- 109 See A.R.S. §8-321; A.C.A. § 9-27-323(1); F.S.A. §985.12; HRS §§ 571-31.4(a), 571-31.5(a); I.C. § 20-511; 705 ILCS 405 § 5-310; I.C.A. § 232.29(1)(a); N.R.S. 62C.200(1)(a); 10A Okl. St. Ann. § 2-2-404(A)(2) ([a] court may defer delinquency proceedings for 180 days if the child: (2) waives the privilege against self-incrimination and testifies that the allegations are true).
- 110 A.R.S. § 8-321(G) (If the juvenile successfully complies with the conditions set forth by the probation officer, the county attorney shall not file a petition in juvenile court and the program's resolution shall not be used against the juvenile in any further proceeding and is not an adjudication of incorrigibility or delinquency.); A.C.A. § 9-27-323(h)(3); F.S.A. § 985.125(3); Neb.Rev.St § 43-260.04(7); O.R.S §§ 419C.239(1)(e); TN Rules of Juvenile Procedure Rule 23(d); 3 V.S.A § 163(9)(e).
- 111 *Guide to Developing Pre-Adjudication Diversion Policy and Practice in Pennsylvania*. (2010). Prepared by the Diversion Subcommittee of the Mental Health/Juvenile Justice state work group of the Models for Change Initiative in Pennsylvania.
- 112 See Ala.Code 1975 § 12-15-119; HRS §§ 571-31.4(d), 571-31.5(b); KRS § 635.010(f),(g); M.C.L.A. §§ 722.825(5)(f).

- the minor fails to comply with the terms of the diversion agreement and the referral plan, the law enforcement official or the court intake worker may revoke the diversion agreement. If the diversion agreement is revoked, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law.); N.C.G.S.A. § 7B-1706(b); O.R.S. §§ 419C.239(1)(d), 419C.242(1); TN Rules of Juvenile Procedure Rule 23(c); V.T.C.A. Family Code § 52.031(j)(1); W.S.A. 938.32(2)(a).
- 113 See ARJP Rule 15(D) (setting forth that the informal-adjustment process shall not continue beyond a period of 6 months from its commencement); A.C.A. § 9-27-323; Ind. Code § 31-37-9-7; M.S.A. § 388.24; Miss. Code. Ann. § 43-21-405; N.H. Rev. Stat. § 169-B:10; N.C.G.S.A. § 7B-1706 ([a]fter six months the juvenile court counselor shall close the diversion plan or contract file); NDCC § 27-20-10; 42 Pa. C.S.A. § 6323(c); W.Va. Code. § 49-5-3a.
- 114 Ala. Code. 1975 § 12-15-119; F.S.A. § 985.12(4); KRS § 635.010(f); N.C.G.S.A. § 7B-1706(b); O.R.S. § 419C.239; M.C.L.A. 722.825(5); TN Rules of Juv. Proc. Rule 23; V.T.C.A. Family Code § 52.03.
- 115 Ala. Code. 1975 § 12-15-199 (providing that the juvenile intake court officer may terminate the informal-adjustment process if at any time the child appears to have received all possible benefit); HRS § 571-31.4.
- 116 Ga. Code. Ann. § 15-11-69(c); 705 ILCS 405 § 5-305(3); M.C.L.A. § 722.825(2); MCA § 41-5-1303; Neb.Rev.St § 43-260.04(5); N.R.S. 62C.200(6); NDCC § 27-20-10(3); 42 Pa.C.S.A § 6323(e).An incriminating statement made by a participant to the person giving counsel or advice and in the discussions incident thereto shall not be used against the declarant over objection in any criminal proceeding or hearing under this chapter.); V.T.C.A. Family Code § 52.031(k); 3 V.S.A § 163(5); W.S.A. 938.245(5).
- 117 See note 116.
- 118 V.S.A § 163(5).
- 119 Ga Code. Ann. § 15-11-69(c); Mont. Code Anno. § 41-5-1303; N.R.S. 62C.200(6).
- 120 42 Pa.C.S. § 6338.
- 121 See ICA § 232.29;Miss. Code. Ann. § 43-21-405(2); MCL § 722.825; Missouri Sup. Ct Rules 112.01, 112.03;NDCC § 27-20-26(1); R.R.S. Neb. § 43-260.04; Nev. Rev. Stat. Ann. § 62C.200; O.R.S § 419C.225; RCWA § 13.40.080(11); 3 V.S.A § 163(2).
- 122 R.R.S. Neb. § 43-260.04; Nev. Rev. Stat. Ann. § 62C.200; ICA § 232.29; MCL § 722.825; 3 V.S.A. § 163 (2010).
- 123 For further discussion, see Phase I, Mobilization and Advocacy, from Wiig, Janet K. with Tuell, John A., *Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration: A Framework for Improved Outcomes*, CWLA Press, 2004, Revised 2008, pp. 1-17.
- 124 For further discussion, see Harris, P.W., Lockwood, B., & Mengers, L. (2009). A CJA white paper: *Defining and measuring recidivism* [White paper]. Retrieved from <http://www.cjca.net>.

Appendix A: Models for Change

In Models for Change, there is an understanding that there is no one single model per se, rather multiple models grounded in the core principles of the Models for Change initiative. These core principles include: fairness (for youth, families, victims, and communities), the recognition of developmental differences between youth and adults, individual differences (in development, culture, strengths and needs), youth potential, responsibility (youth must accept responsibility for their actions as well as accept the consequences of their actions), and safety (rights of individuals and communities to feel safe). Each state participating in the Models for Change initiative identified various areas in need of reform. These included: mental health, increasing the availability of evidence-based practices and community-based services, addressing the issue of disproportionate minority contact, aftercare services, juvenile court jurisdiction, and alternatives to formal processing. The Models for Change initiative advances the notion that “In a model system, responses to delinquency should be local and informal whenever possible, and all but a limited number of youth should be supervised, sanctioned, and treated in community settings” (www.modelsforchange.net). Its overarching goal is to hold youth accountable for their actions, and provide for rehabilitation and protection from harm, while increasing their life chances.

In addition to the original four Models for Change states, multi-state Action Networks have been established. These Networks are collaborative partnerships between the original four Models for Change states and 12 additional partner states. The Networks provide a forum for peer-to-peer support, as well as for the exchange of ideas and information in support of juvenile justice reform. These states have been working together to create and implement models of reform, strategies, and tools that can be disseminated to other states and communities around the country interested in reform. The focus is on the common goal of supporting the MacArthur Foundation’s investment in juvenile justice reform. The multi-state Action Networks are targeting their reform efforts in the areas of mental health and juvenile justice, disproportionate minority contact, and indigent defense. As a result, Models for Change is now an initiative that spans across 16 states.

Appendix B: Juvenile Diversion Workgroup

The Models for Change Executive Committee established a Juvenile Diversion Workgroup with representatives from members of the National Resource Bank (NRB). The NRB is made up of key leading organizations specializing in juvenile justice advocacy, research, and reform that provide technical assistance and training to the Models for Change states and Action Network sites. The Diversion Workgroup is represented by experts from:

Center for Juvenile Justice Reform: The Center for Juvenile Justice Reform at Georgetown University's Public Policy Institute is designed to support public agency leaders in the juvenile justice and related systems of care.

National Center for Mental Health and Juvenile Justice: The Center was established to assist the field in developing improved policies and programs for youth with mental health disorders in contact with the juvenile justice system, based on the best available research and practice.

National Juvenile Defender Center: The Center was created to respond to the critical need to build the capacity of the juvenile defense bar and to improve access to counsel and quality of representation for children in the justice system.

National Youth Screening Assessment Project: The National Youth Screening & Assessment Project (NYSAP) is a technical assistance and research center at University of Massachusetts Medical School focused on juvenile justice and mental health services.

Robert F. Kennedy Children's Action Corps: RFKCAC serves children in both the child welfare and juvenile justice systems, providing innovative and comprehensive programming (residential treatment, education services, community-based services, and therapeutic support) and promoting the integration and coordination of those two systems.

Appendix C: Advisory Board Members

Bruce Knutson

Director, Juvenile Court Services
Department of Youth Services (Washington)

Robert Listenbee

Chief, Juvenile Unit
The Juvenile Defender’s Association of Pennsylvania

Jim Rieland

Director of Juvenile Probation, Retired
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Joseph Ryan

Associate Professor, Faculty Fellow, Child and Family Research Center
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Doug Thomas

Senior Research Associate
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Wansley Walters

Director
Miami-Dade County Juvenile Services Department (Florida)*

* Currently Secretary for the Florida Department of Juvenile Justice

APPENDIX D: Models for Change

Juvenile Diversion Survey Data

Summary

Overview

Due to growing concern about the often unnecessary involvement of youth into the juvenile justice system, many state and local jurisdictions across the country have established programs and practices that divert youth from the juvenile justice system. While these efforts share the common goal of preventing further contact with the juvenile justice system, the means and structure used to accomplish that goal are often very different. Diversion programs can vary widely in terms of the target population, who makes diversion decisions, the point in the system at which youth are diverted, how charges are handled, consequences and benefits of successful and unsuccessful program completion, and services that are provided. Furthermore, some jurisdictions do not establish formal “diversion programs” and instead have “diversion processes.” As a result, while the growth of diversion programs and practices across the country is an important trend that has the potential to improve the lives of youth and their families, the variations in what is meant by “diversion” has at the same time caused considerable confusion in the field.

In response, the John D. and Catherine T. MacArthur Foundation, as part of its Models for Change initiative, has established a Diversion Work Group.¹ Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states. This initiative is underway in Illinois, Pennsylvania, Louisiana, and Washington, and through action networks focusing on key issues in California, Colorado, Connecticut, Florida, Kansas, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Texas, and Wisconsin. The Work Group is developing a technical assistance report designed to provide states and local jurisdictions with guidance and information on diversion practices and programs. The publication will outline some of the critical issues that should be considered when planning a diversion program, the various options for structuring diversion, and the implications of each option.

Purpose of this Survey

In an effort to learn more about the range of diversion programs and practices in place within the Models for Change states, the Work Group is conducting a survey of diversion programs within those states. Your program has been identified by the Models for Change Lead Entity or Action Network Team Leader within your state. The survey is designed to collect basic information about how the program is structured, funded, and operated; the characteristics of the target population; the types of services provided; and screening and assessment practices within the program. The goal of this survey is to assist the Work Group in understanding the current state of diversion within Models for Change, and to identify practical program and practice examples that can be included within the report.

1 This Work Group includes representatives from the Center for Juvenile Justice Reform, Child Welfare League of America, National Center for Mental Health and Juvenile Justice, National Juvenile Defender Center, and National Youth Screening and Assessment Project.

N=36

I. General Description of Program

1. What are the primary objectives of the program (check all that apply)?

- Decrease recidivism: **83% (30)**
- Improve system efficiency: **75% (27)**
- Reduce the level of system involvement or penetration: **92% (33)**
- Lower costs: **72% (26)**
- Reduce unnecessary restriction of freedom: **36% (13)**
- Help youth and their families access needed services and programs: **81% (29)**
- Reduce burden on justice system: **78% (28)**
- Use available research and best practices: **72% (26)**
- Early identification of needs to prevent youth from becoming repeat offenders: **75% (27)**
- Other: **33% (12)**

Includes: Reduce DMC (3 Programs); Educate juveniles and parents on dangers of criminal behavior; Deter juveniles from offending by providing legal education, activities, adult role models in safe and healthy learning environment; Reduce criminalization of mental illness; Refer youth to treatment/education programs; Accountability and restorative justice, as well as substance abuse prevention; Divert youth with mental health needs from jj system and provide community-based services; Divert first-time misdemeanor offenders; Provide multi-modal comprehensive out-patient counseling; Generate Best Practice knowledge

- No Answer: **3% (1)**

2. What is the mission statement of the program?

Many of the programs indicated in their missions the concept of holding juvenile offenders accountable for their actions, preventing further involvement in the juvenile justice system by providing community-based services to reduce recidivism while stressing the importance of community safety.

3. What is the geographic service area/jurisdiction served by the program?

- County/Parish: **58% (21)**
- Judicial District (can include multiple parishes or counties): **14% (5)**
- Partial County: **8% (3)**
- Schools: **6% (2)**
- Serves More than one County/Locality: **11% (4)**
- Statewide: **3% (1)**

4. What year was the program established?

- Within the last year: **11% (4)**
- Within the last 2-3 years: **17% (6)**
- Within the last 5 years: **6% (2)**
- Within the last 5-10 years: **11% (4)**
- More than 10 years ago: **56% (20)**

5. How many youth participated in the program last year? (On Average)

- Less than 50: **17% (6)** **Avg.: 23 participants**
- 50-150: **25% (9)** **Avg.: 80 participants**
- 150-500: **22% (8)** **Avg.: 237 participants**
- More than 500: **25% (9)** **Avg.: 1,038 participants**
- No Available Data: **11% (4)**

6. How many youth successfully completed the diversion program last year? (On Average)

- In Programs with less than 50 Participants: **Average: 74%**
- 50-150 Participants: **Average: 80%**
- 150-500 Participants: **Average: 82%**
- More than 500 Participants: **Average: 76%**
- No Available Data: **12 Programs**

II. Eligibility Criteria / Referral Process

1. Please indicate whether or not the program has established eligibility criteria along each of the dimensions below. If yes, please describe the restrictions/requirements.

Dimension	Established Criteria?	Eligibility Restrictions
Age	<input type="checkbox"/> No – 6 <input type="checkbox"/> Yes – 30	<ul style="list-style-type: none"> - Regular court offenders/members (Grades 7-12) (1) - Pre-court offenders (Grades 4-6) (1) - 7th/8th graders within schools (1) - Middle school students at identified schools (1) - Youth aged 7-17 (1) - Youth aged 10-16 (3) - Youth aged 10-17 (9) - Youth aged 10-18 (3) - Youth aged 10-21 (1) - Youth aged 12-15 (1) - Generally youth aged 12-17 (2) - Youth aged 13 and up (1) - Youth aged 12-18 (1) - Youth aged 13-18 (1) - Youth aged 14-18 (1) - Generally youth aged 16-18 (1) - Crime must be committed prior to youth's 18th birthday (2)
Gender	<input type="checkbox"/> No – 36 <input type="checkbox"/> Yes – 0	
First-Time Offenders	<input type="checkbox"/> No – 16 <input type="checkbox"/> Yes – 20	<ul style="list-style-type: none"> - Primarily first-time offenders, but repeat offenders who were not previously referred are accepted (1) - Do not have to be a 1st time offender (1) - 1st and 2nd time offenders accepted (3rd time offenders accepted at referring officer's judgment) (1) - Low level misdemeanor offenses, gross misdemeanor, Class C felony offenses (1) - Must be a 1st time offender (8) - 1st time property offender (1) - 1st and 2nd time behavior-based school offenses (1) - Must be for drug court; otherwise at court's discretion (1) - Youth can participate in program two times a year (1)

Dimension	Established Criteria?	Eligibility Restrictions
Status Offenders	<input type="checkbox"/> No – 26 <input type="checkbox"/> Yes – 10	<ul style="list-style-type: none"> - No status offenders accepted (5) - Truant minors (1) - Accepts status offenders (3) - Depends on type of offense (1)
Youth charged with specific crimes	<input type="checkbox"/> No – 10 <input type="checkbox"/> Yes – 26	<ul style="list-style-type: none"> - Misdemeanor offenses (2) - Exclude weapons charges, arson, and usually sex-related offenses (1) - Generally only accept nonviolent, non-sexual offenses but some exceptions may be made (1) - Generally only accept minors in possession of alcohol; small marijuana possession; possession of paraphernalia (1) - Delinquent level offenses, misdemeanor, or felony offenses (1) - Gang-related crimes not accepted, animal cruelty charges on case by case basis, -battery charges require the victim’s approval (1) - Accept all misdemeanors and 3rd degree felonies (1) - Only nonviolent, drug-related offenses (1) - Cannot be charged with a violent crime or crime-causing injury (court can override by own discretion) (1) - Youth who are not attending school (1) - Serious forcible felonies and any other heinous crimes (murder) not accepted (1) - Accept domestic battery charges (1) - Exceptions to acceptance include violent/sexual/drug/gang related or weapons related offenses, as well as residential burglary (1) - Minor drug/alcohol offenses on school grounds, minor weapons offenses, theft, battery between students, gang affiliated behavior (1) - Accept only property crimes (1) - Accept delinquent behaviors/nonviolent offenders (1) - No violent or serious offenses accepted (1) - Excluding murder or any class A offense against a person under Maine Criminal Code (1) - Must be nonviolent offense (1) - Cannot be charged with a felony (1) - Cannot be serious or aggravated offense (1) - Excludes any violent or sex-related offense (1) - Low level misdemeanors (1)

Dimension	Established Criteria?	Eligibility Restrictions
Youth with mental health disorders	<input type="checkbox"/> No – 22 <input type="checkbox"/> Yes – 14	<ul style="list-style-type: none"> - No restrictions unless they can be better served through court system (1) - Try to avoid taking youth with mental health needs (1) - Not allowed (diverted to mental health court) (1) - Not admitted for Conduct Disorder alone, unless diagnosed with an additional MH disorder (1) - Targeted population but not limited to youth with MH disorders (1) - Discretion based on severity of disorder (1) - Youth with a diagnosable mental health disorder (1)
Youth with substance abuse disorders	<input type="checkbox"/> No – 21 <input type="checkbox"/> Yes – 15	<ul style="list-style-type: none"> - Only those involving alcohol and/or marijuana (1) - Must participate in drug/alcohol program (1) - Must have a substance abuse disorder (1) - Occasionally permitted but usually diverted to Drug Court (1) - Not admitted for substance abuse disorder alone unless accompanied with a co-occurring MH disorder (1) - There is a specialized drug diversion program - Would have to have a co-occurring mental health disorder (1) - Discretion based on severity of abuse (1)
Other	<input type="checkbox"/> Yes – 9	<p>Includes: No gang activity or pattern of violence; Youth must be in need of some service (mental health, behavioral health, family in need of services, etc.); Youth on probation with not enough credits to graduate; Criminal acts against schools when school requests diversion; Family agreement to participate; Must be pre-adjudicated youth; Youth with mental retardation not permitted; Youth who would otherwise be placed on probation</p>

2. At which point(s) in the juvenile justice processing continuum are youth diverted to your program (check all that apply)?

- Initial contact with law enforcement: **39% (14)**
- Intake: **47% (17)**
- Petitioning: **42% (15)**
- Adjudication hearing: **28% (10)**
- Detention: **14% (5)**
- Other: **33% (12)**

Includes: DA Referral; County Court; Truancy Officer; Intake at ERC; Formal station adjustment prior to petition; Case processing review; Referred by schools; ADA's screen cases and assign to diversion; Pre-Trial; Probation officer/attorney referral; Court referral; Following behavioral health screening at detention center; Prosecution through court (voluntary)

3. Are youth / caretakers afforded the right to obtain the advice of indigent defense counsel during their participation in the diversion program?

- Yes = **64% (23)**
- No = **36% (13)**

4. Must a youth admit to the charges against him/her in order to participate?

- Yes = **58% (21)**
- No = **42% (15)**

5. Must a youth's family agree to participate in the program?

- Yes = **81% (29)**
- No = **19% (7)**

III. Program Structure / Features

1. Please indicate which agency(s) operates and/or funds the diversion program (check all that apply).

Agency	Operates	Funds
Local law enforcement agency:	4	2
Juvenile/Community assessment center:	3	3
Mayor's Office/ City Council:	1	1
Private/community-based service agency:	9	4
Municipal/county/state court (criminal and family):	8	10
Prosecutor/public defender's office:	9	7
County juvenile corrections/probation agency:	14	12
County child welfare agency:	0	1
County substance abuse agency:	1	0
County mental health agency:	1	1
State juvenile corrections agency/detention center:	1	3
State child welfare agency:	0	0
State substance abuse agency:	0	3
State mental health agency:	0	0
State Advisory Group:	0	2
Office of Juvenile Justice and Delinquency Prevention:	1	3
Other: State Department of Juvenile Justice:	1	1
Other: Nonprofit:	1	0
Other: County Commissions/County Commissioner	0	2
Other: State Department of Criminal Justice	0	1
Other: State Legislation (SB94)	0	1
Other: Restitution Earned Income Funds	0	1
Other: State Law Enforcement Agency	0	1
Other: State/County/Parish Department of Juvenile Justice:	1	1
Other: County Public Schools:	0	1
Other: Juvenile Court Programs Unit:	1	0
Other: Private Foundation Grant:	0	1
Other: SAMHSA	0	1
Other: Grant	0	1
Other: Domestic Violence Shelter	1	0
Other: IL DHS/ IL State Commissioner	0	2
Other: Michigan State University	1	1
Other: County Human Services		1

2. For youth who are accepted into the program, which of the following are required for continued participation in the program (check all that apply)

- Youth must participate in services: **92% (33)**
- Caretakers must participate in services: **64% (23)**
- Attendance at reporting sessions: **58% (21)**
- Absence of new arrests: **44% (16)**
- Youth must pass urinalysis screening: **19% (7)**
- Other: **42% (15)**

Includes: Must show up at mediation and reach an agreement; Participation requirements are individualized and vary on a case-by-case basis; Parents must participate in diversion intake; Youth must maintain appropriate school grades; Youth must show up to services; Follow guidelines/requirements indicated by DA; Absence of probation violations; violation of requirements by ERC does not terminate diversion services; drug testing; Follow conditions outlined in diversion contract; participation is voluntary

3. What is the average length of program involvement for those youth who successfully complete the program's requirements (in months)?

- Less than 1 month: **8% (3)**
- 1-3 Months: **22% (8)**
- 3-6 Months: **44% (16)**
- 6-12 Months: **19% (7)**
- No Answer: **6% (2)**

3a. Is there a minimum length of participation that is required?

- Yes = **47% (17)**
- No = **47% (17)**
- No Answer: **6% (2)**
- Less than 1 month: **6% (2)**
- 1-3 Months: **17% (6)**
- 3-6 Months: **19% (7)**
- 6-12 Months: **3% (1)**

3b. Is there a maximum length of participation that is allowed?

- Yes= **56% (20)** No= **44% (16)**
- Less than 1 month: **3% (1)**
- 1-3 Months: **11% (4)**
- 3-6 Months: **22% (8)**
- One Year: **17% (6)**

4. What incentives are used to motivate youth and caretakers to fully participate in the diversion program?

- Verbal accolades/praise: **86% (31)**
- Awards/gifts: **17% (6)**
- Reduced program requirements (e.g. decreased reporting): **42% (15)**
- Record expunged/charges dropped upon successful program completion: **75% (27)**
- Other: **47% (17)**

Includes: Parent/Adolescent Mediation or taking AYC law class for reduced hours; Incentives tailored to individual youth; Awarded with activities such as skiing, rafting, wilderness activities; Reduced sentencing/probation instead of detention; Youth advocate joins youth in court which often results in reduced sentencing; School suspension not recorded/no expulsion; Food/meals provided at some program activities; Assistance with job/school placement; field trips; Connection with diversion manager/suspension of judgment/building of relationship/partnering to reach a positive goal for youth and parents; Engage youth in setting the goals of representation

5. What are the potential consequences for youth who fail to complete or follow the stipulations of the diversion program (check all that apply)?

- Filing of petition: **86% (31)**
- Temporary detention: **31% (11)**
- Increased frequency/intensity of monitoring: **44% (16)**
- Increased length of program participation: **42% (15)**
- Unsuccessful discharge from the program: **78% (28)**
- Warning: **50% (18)**
- Other: **50% (18)**

Includes: Intake officers may refer youth for additional consequences, more closely monitored program; Change program requirements/implement or increase drug screening; Graduated sanctions; Increase in treatment services; Filing of arrest charges leading to criminal record; Placed on probation; Ordered to attend another round of the program; Ceasing of services; Counseling; Additional supervision; Suspension/expulsion; Going to court to see judge/ Community service/Essays/ Administrative hearing/ Home Detention; Potential loss of driver's license if alcohol-related offense; Filing of charges; Reassessment by case manager and supervising staff/meeting with DA/readjustment of diversion plan; If youth decides not to use TeamChild, they can drop out

IV. Screening/Assessment

1. Does the diversion program use standardized screening/ assessment instruments?

- Yes = 61% (22)
- No = 39% (14)

1a. If yes, please use the table below to provide the specific names of the instruments used (under the appropriate category of instrument), and indicate the purpose(s) for which the instrument is administered.

Instrument Category	Instrument Name (please do not use abbreviations)	For what purpose?
Mental Health	CYOLSI = Colorado Youthful Offender Level of Service Instrument (2) MAYSI-2 = Massachusetts Youth Screening Instrument (8) GAIN-Q = Global Appraisal of Individual Needs (1) PACT= Positive Assessment Change Tool (1) BERS= Behavioral and Emotional Rating Scale (1) BASC= Behavior Assessment System for Children (1) PADDI= Practical Adolescent Dual Diagnostic Interview (1) DSM IV-TR (1) Youth Outcomes Questionnaire- Version SR (1) YASI Pre-screen= Youth Assessment and Screening Instrument (1) *Some programs utilized more than one instrument and one program respondent did not know the instrument used.	<input type="checkbox"/> Determine eligibility <input type="checkbox"/> Service planning <input type="checkbox"/> Readiness for program completion <input type="checkbox"/> Assess program outcomes <input type="checkbox"/> Other _____

Instrument Category	Instrument Name (please do not use abbreviations)	For what purpose?
Risk/Need	Colorado Juvenile Risk Assessment (1) YLS= Youth Level of Service Inventory (2) YLS-CMI = Youth Level of Service Case Management Inventory (Long form) (2) PACT= Positive Achievement Change Tool (1) MAYSI-2= Massachusetts Youth Screening and Instrument (3) YASI Pre-screen= Youth Assessment and Screening Instrument (2) YOS Self Report (1) NCAR= North Carolina Assessment of Risk (1) Mental Health Evaluation (1) Juvenile Inventory for Functioning (1) SAVRY= Structured Assessment of Violence Risk in Youth (1) Texas Juvenile Probation Commission’s Risk/Needs Instrument (1) YouthZone Screening for Positive Youth Development (1) *Some programs utilized more than one instrument and 3 programs used an internally developed instrument.	<input type="checkbox"/> Determine eligibility <input type="checkbox"/> Service planning <input type="checkbox"/> Readiness for program completion <input type="checkbox"/> Assess program outcomes <input type="checkbox"/> Other _____

Instrument Category	Instrument Name (please do not use abbreviations)	For what purpose?
Substance Abuse	SUS= Substance Use Survey (2) MAYSI-2= Massachusetts Youth Screening Instrument (3) GAIN-Q= Global Appraisal of Individual Needs- Quick (1) PACT= Positive Assessment Change Tool (1) CRAFFT 2 out of 5= Car, Relax, Alone, Forget, Friends, Trouble) (1) TASI= Teen Addiction Severity Index (1) JASAE= Juvenile Automated Substance Abuse Evaluation (1) ASAM=American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders (1) CASI= Comprehensive Adolescent Severity Inventory (1) YASI Pre-screen= Youth Assessment and Screening Instrument (1) SASSI= Substance Abuse Subtle Screening Inventory (1) YouthZone Screening for Positive Youth Development (1) *Some programs utilized more than one instrument	<input type="checkbox"/> Determine eligibility <input type="checkbox"/> Service planning <input type="checkbox"/> Readiness for program completion <input type="checkbox"/> Assess program outcomes <input type="checkbox"/> Other _____
Suicide	CYOLSI = Colorado Youthful Offender Level of Service Instrument (2) MASYI-2= Massachusetts Youth Screening Instrument (4) GAIN-Q= Global Appraisal of Individual Needs- Quick (1) PACT= Positive Achievement Change Tool (1) BASC= Behavioral Assessment System for Children (1) YASI Pre-screen= Youth Assessment and Screening Instrument (1) *One program indicated that if the MH Assessment score came back high, they would be referred to psych analysis to get clearance for program participation	<input type="checkbox"/> Determine eligibility <input type="checkbox"/> Service planning <input type="checkbox"/> Readiness for program completion <input type="checkbox"/> Assess program outcomes <input type="checkbox"/> Other _____

Instrument Category	Instrument Name (please do not use abbreviations)	For what purpose?
Other	Sex Offender Instrument (2) SHOCAP Scoring Table= Serious Habitual Offender Comprehensive Action Program (1) Additional Psych Evaluations for screening IQ, Cognitive Impairment, etc. (2) Level of Supervision (1) OHIO Scales (2) Behavioral Health Screening (1) Test of Verbal Intelligence (1) BASC= Behavioral Assessment System for Children (pre and post test for youth and parents) (1) Domestic Violence Behavior Checklist (1) *One program stated that first-time offender eligibility was determined by computer system, as well as by police officers/agencies (for a specific program offered)	<input type="checkbox"/> Determine eligibility <input type="checkbox"/> Service planning <input type="checkbox"/> Readiness for program completion <input type="checkbox"/> Assess program outcomes <input type="checkbox"/> Other _____

2. Are written policies in place regarding the use of information collected from youth and families during the administration of screening/assessment instruments, or during program participation?

- Yes = **75% (27)**
- No = **17% (6)**
- N/A = **8% (3)**

2a. If yes, are the policies clearly explained to youth and their families prior to acceptance into the program?

- Yes = **72% (26)**
- No = **3% (1)**

V. Services

1. Which services/ programs are available to youth / caretakers through the diversion program/practice (either by direct service provision or referral)?

- Mental health treatment: **72% (26)**
- Substance abuse treatment: **75% (27)**
- Educational assistance programs: **61% (22)**
- Caregiver respite /support: **28% (10)**
- Life skills training: **64% (23)**
- Family counseling: **72% (26)**
- Mentoring: **64% (23)**
- Other: **64% (23)**

Includes: Transportation; Financial Aid; Educational Classes/Workshops; Victim Impact/Victim-Offender Mediation; Job Placement Services; Wraparound Services; Advisement of available community resources; Anger Management; Parent-Coach Liaisons; Medicaid Assistance; Individual Therapy; Support Groups; Restorative Justice; Wilderness Therapy; Teen Media Project; After-school Art Program; Step-Up Group Counseling; Individual Counseling; Aftercare Planning; Parent and youth coaching; Parent classes; Employment education; Child management/Child Advocacy; Housing; Legal Advocacy

2. Who is responsible for overseeing the provision of services?

- Probation officer: **25% (9)**
- Court appointed person: **3% (1)**
- Caregiver: **3% (1)**
- Case Manager: **42% (15)**
- Other: **53% (19)**

Includes Sentencing Coordinator; Diversion Officers/Diversion Unit; Program Manager/Director; Youth Advocate; Clinician; Hearing Officer/Police Staff; BARJ Coordinator; Panel Member; Juvenile Diversion Counselor; Staff Attorney

3. Do youth in the diversion program have access to evidence-based practices?

- Yes = **69% (25)**
- No = **31% (11)**

3a. If yes, please list the evidence-based practices available to youth in the program.

Includes: Victim-Offender Mediation; Restorative Justice; Teen Court; Botvin Life Skills; Arise Life Skills; Mentoring; Motivational Interviewing; Functional Family Therapy; Multi-Dimensional Family Therapy; Brief Strategic Family Therapy; Multi-Systemic Therapy; Multi-Dimensional Treatment Foster Care; Thinking For A Change; W.A.I.T.; Insight; Peer Jury; Cognitive Behavioral Therapy; Positive Adolescent Choice Training; Student Created Aggressive Replacement Ed.; Strengthening Families; Cannabis Youth Treatment Series; A.R.T.; Solution-Focused Therapy; A-CRA; ACC; Project Toward No Drug Use; Reconnecting Youth; Systems of Hope; Parenting with Love and Limits

VI. Outcome Monitoring/Quality Assurance

1. Are program outcomes monitored systematically?

- Yes = **92% (33)**
- No = **8% (3)**

2. Have written policies and procedures been developed?

- Yes = **92% (33)**
- No = **8% (3)**

3. Is training provided to program staff on written policies and procedures?

- Yes = **97% (35)**
- No = **3% (1)**

4. Does the program have a management/oversight process in place to monitor quality assurance and fidelity to program policies and procedures?

- Yes = **89% (32)**
- No = **11% (4)**

5. Has an evaluation been conducted of the diversion program?

- Yes = **64% (23)**
- No = **36% (13)**

APPENDIX E: 50 State Statutory Review

50 State Statutory Review

The chart below represents a non-exhaustive 50 state review of laws governing the diversion process

Alabama

Ala.Code 1975 § 12-15-119 Informal adjustment of certain cases prior to filing of juvenile petition; ARJP Rule 15 Informal Adjustment

Policy Goals:

Criteria for Eligibility/ Conditions

Upon termination of the informal-adjustment process and dismissal of a child without further proceedings, the juvenile probation officer who has been designated to be a juvenile court intake officer shall notify the child and his/her parent(s)/legal guardian(s) thereof and report that action to the juvenile court. Rule 15 (E). A juvenile probation officer who has been designated a juvenile court intake officer may either terminate the informal-adjustment process and dismiss a child without further proceedings or terminate the informal-adjustment process and file a petition in the juvenile court if at any time: (1) child appears to have received all possible benefit from informal adjustment; (2) child or guardian declines to participate in informal adjustment process; (3) child fails to comply with process ... (8) Other sufficient reasons exist for terminating the informal-adjustment process. Ala. Code 1975 § 12-15-119. The informal-adjustment process shall not continue beyond a period of 6 months from its commencement. Rule 15 (D)

Incentives & Outcomes

Upon termination of the informal-adjustment process and dismissal of a child without further proceedings, the juvenile probation officer who has been designated to be a juvenile court intake officer shall notify the child and his/her parent(s)/legal guardian(s) thereof and report that action to the juvenile court. Rule 15 (E). A juvenile probation officer who has been designated a juvenile court intake officer may either terminate the informal-adjustment process and dismiss a child without further proceedings or terminate the informal-adjustment process and file a petition in the juvenile court if at any time: (1) child appears to have received all possible benefit from informal adjustment; (2) child or guardian declines to participate in informal adjustment process; (3) child fails to comply with process ... (8) Other sufficient reasons exist for terminating the informal-adjustment process. Ala. Code 1975 § 12-15-119. The informal-adjustment process shall not continue beyond a period of 6 months from its commencement. Rule 15 (D)

Discretion & Oversight

After a verified complaint has been filed and before a petition alleging delinquency or in need of supervision is filed, the juvenile court intake officer, subject to the direction of the juvenile court, may give counsel and advice to the parties for the purpose of an informal adjustment pursuant to the rules of procedure adopted by the Supreme Court of Alabama. Rule 15 (C)

Services Provided

Informal adjustment may also include, with the consent of the child and parent(s)/guardian(s), supervision by the juvenile probation officer and temporary placement of the child with persons other than his or her parent(s)/legal guardian(s). Referrals may be made by the juvenile probation officer to public and private agencies, which may provide assistance or services to the child and his/her parent(s)/legal guardian(s).Rule 15(B)

Performance Measurement

Additional Information:

Comprehensive Statutory Chart *continued*

Alaska

AS § 47.12.060. Informal action to adjust matter

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) Section applies to a minor who is alleged to be a delinquent and for whom the department or an entity selected by it has made a preliminary inquiry. (b) If the department elects informal adjustment, the adjustment must (1) be made with the consent of the minor and his/her parents to the terms and conditions of the adjustment; (3) include a juvenile's restitution if there is a victim involved in the alleged offense</p>	<p>(b)(4) for a violation of habitual minor consuming or in possession or control under AS 04.16.050(d) . . . the [minor's] driver's license or permit, privilege to drive, or privilege to obtain a license be revoked for an additional 6 months if the informal adjustment is not successful because the minor has failed to perform community work as ordered, or has failed to submit to evaluation or successfully complete the education or treatment recommended; the dept or entity selected by the dept shall notify the agency responsible for issuing driver's licenses of an informal adjustment under this paragraph or of an unsuccessful adjustment</p>	<p>Following a preliminary inquiry (1) the department or the entity selected by it may dismiss the matter with or without prejudice; or (2) may take informal action to adjust the matter</p>	<p>(b) (4) for a violation of habitual minor consuming or in possession or control under AS 04.16.050(d) must include an agreement that the minor perform 96 hours of community work, provide that the minor's driver's license or permit, privilege to drive, or privilege to obtain a license be revoked for six months ...</p>	

Additional Information:

Comprehensive Statutory Chart *continued*

Arizona

A.R.S. § 8-321 Referrals; diversions; conditions; community based alternative programs

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>A.R.S. § 8-321 Referrals; diversions; conditions; community based alternative programs</p>	<p>Juvenile must acknowledge responsibility for delinquent act; A juvenile is not eligible if he/she commits a dangerous crime; is a chronic felony offender; has committed a number of enumerated offenses (see statute); is alleged to have committed an offense involving the purchase, possession or consumption of liquor and has previously participated in a community based alternative program or diversion program at least 2 times within 24 months before the alleged offense.</p>	<p>(G) If Juvenile successfully completes program no petition shall be filed and the program's resolution shall not be used against the juvenile in future proceedings, is not an adjudication of incorrigibility or delinquency, does not impose any civil disabilities and does not disqualify the juvenile in any civil service application or appointment (J) After holding a meeting the participants in the community based alternative program may agree on any legally reasonable consequences that the participants determine are necessary to fully and fairly resolve the matter except confinement.</p>	<p>(A) ... before a petition is filed or an admission or adjudication hearing is held, the county attorney may divert the prosecution of a juvenile accused of committing a delinquent act or a child accused of an incorrigible act to a community based alternative program or to a diversion program administered by the juvenile court (C) ... the county attorney has sole discretion to decide whether to divert or defer prosecution of a juvenile offender. The county attorney may designate the offenses that shall be retained by the juvenile court for diversion or that shall be referred directly to a community based alternative program authorized by the county attorney</p>	<p>(F) ... If the juvenile acknowledges responsibility for the delinquent/in corrigible act, the juvenile probation officer shall require the juvenile comply with one or more of the following conditions: (1) unpaid community restitution work; (2) a court approved counseling program designed to strengthen family relationships and prevent repetitive juvenile delinquency; (3)(4) a court approved education program to prevent further delinquent behavior or that deals with alcohol or drug abuse; (5) nonresidential program of rehabilitation or supervision (6) (7) payment of victim restitution or a monetary assessment</p>

Additional Information:

17B A.R.S. Juv.Ct Rules of Proc., Rule 22 Pre-Petition Investigation and Diversion

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>C. If the juvenile is accepted into a diversion program, the court administering the program shall notify the victim, as provided by law.</p>	<p>C. The prosecutor shall have sole discretion to divert or defer the prosecution of a juvenile accused of an incorrigible or a delinquent act to a community based alternative program or to a diversion program administered by the juvenile court.</p>		

Comprehensive Statutory Chart *continued*

Arkansas

A.C.A. § 9-27-323 Diversion--Conditions--Agreement--Completion

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>Diversion of a case is subject to the following conditions:(1) The juvenile has admitted his or her involvement in delinquent act; (2)The intake officer advises the juvenile and his/her guardian of their right to refuse diversion and demand formal filing and adjudication; (3) Any diversion agreement shall be entered into voluntarily and intelligently by the juvenile; (4) The diversion agreement shall provide for the supervision of a juvenile or the referral of the juvenile to a public or private agency for services not to exceed 6 months; (5) All other terms of a diversion agreement shall not exceed 9 months; and (6) The juvenile and his/her guardian have the right to terminate the diversion agreement at any time</p>	<p>(f)(1) If a diversion of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period for which the agreement was entered into (2) If a petition is filed within this period, the juvenile's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court. (h) Upon the satisfactory completion of the diversion period:(1) The juvenile shall be dismissed without further proceedings; (2) The intake officer shall furnish written notice of dismissal to the juvenile and his or her parent/guardian; and (3) The complaint and the agreement, and all references thereto, may be expunged by the court from the juvenile's file.</p>	<p>(a) If the prosecuting attorney, after consultation with the intake officer, determines that a diversion of a delinquency case is in the best interests of the juvenile and the community, the officer with the consent of the juvenile and his or her parent, guardian, or custodian may attempt to make a satisfactory diversion of a case.</p>	<p>(e) Diversion agreements shall be limited to providing for: (1) Nonjudicial probation under the supervision of the intake officer/probation officer during which the juvenile may be required to comply with specified conditions concerning conduct and activities; (2) Participation in a court-approved program of education, counseling, or treatment; (3) Participation in a court-approved teen court; and (4) Participation in a juvenile drug court program.</p>	

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
California				
Cal. Welf. & Inst. Code § 654 Programs of supervision				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>In any case in which a minor is under the jurisdiction or about to be under the jurisdiction of the juvenile court, the probation officer may decide to create a specific program of supervision. Must be done with consent of minor and guardians, cannot exceed six months, must be designed for the purpose of diverting the minor from the juvenile justice system.</p> <p>A minor may be required to make restitution to his victims. Charles S. v. Superior Court of Los Angeles Cnty, 187 Cal. Rptr. 144 (App. 2 Dist. 1982).</p> <p>Probation officers must make an individualized assessment of each minor's eligibility for diversion. Probation officers cannot make a categorical rule that minors must admit guilt. Kody P. v. Superior Court, 40 Cal. Rptr. 3d 763 (App. 3 Dist. 2006).</p> <p>"[W]hen in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed" with diversion. Welf. & Inst. § 654.</p>		<p>Whether to enter a minor into a diversion program is totally up to the discretion of the probation officer and this authority may not be delegated. See Charles S. v. Superior Court of Los Angeles Cnty, 187 Cal. Rptr. 144 (App. 2 Dist. 1982); Alsavon M. v. Superior Court of Los Angeles Cnty, 177 Cal. Rptr. 434 (App. 2 Dist 1981).</p>	<p>Sheltered-care facilities, crisis resolution homes, parent and child counseling services, parent and child education programs, drug rehabilitation and counseling programs.</p>	<p>"If the probation officer determines that the minor has not involved himself or herself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney . . . At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken." Welf. & Inst. § 654.</p>
Additional Information:				

Comprehensive Statutory Chart *continued*

Colorado

C.R.S.A. § 19-2-303 Juvenile diversion program--authorized; 19-2-704 Diversion

Policy Goals: (1) Program should integrate restorative justice practices to provide community-based alternatives to formal court systems to reduce juvenile crime and recidivism, promote accountability, support the rights of victims, heal the harm to relationships and the community caused by juvenile crime, and reduce costs in the juvenile justice system

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>Program may serve as an alternative to filing a petition, an adjudicatory hearing, or dispositions finding a juvenile delinquent</p>	<p>The district attorney may agree to allow a juvenile to participate in a diversion program</p>	<p>(2) . . . to effectuate the program, the division may contract with governmental units and nongovernmental agencies to provide services for eligible youth through community-based projects providing an alternative to a petition, an adjudicatory hearing, or dispositions of a juvenile delinquent . . . "Services" may include, but is not limited to, provision of diagnostic needs assessment, general counseling and counseling during a crisis situation, specialized tutoring, job training and placement, restitution programs, community service, constructive recreational activities, day reporting and day treatment programs, and follow-up activities. (C.R.S.A. 19-2-103) (8) The director may implement a mental illness screening program to screen juveniles who participate in the juvenile diversion program.</p>	<p>(5) When applying for a contract with the division of criminal justice to provide juvenile diversion services, a community project shall submit for review a list of the project's objectives, a list of the restorative justice practices, if applicable, included in the project, a report of the progress made during the previous year if applicable toward implementing the stated objectives, an annual budget (6)(a) Each project providing services shall develop objectives and report progress toward such objectives as required by rules and regulations promulgated by the director (b) The director shall regularly monitor these diversion projects to ensure that progress is being made to accomplish the objectives of this section.</p>

Additional Information: C.R.S.A 19-2-704 provides: As an alternative to a petition filed pursuant to section 19-2-512, an adjudicatory trial pursuant to part 8 of this article, or disposition of a juvenile delinquent pursuant to section 19-2-907, the district attorney may agree to allow a juvenile to participate in a diversion program established in accordance with section 19-2-303.

Comprehensive Statutory Chart <i>continued</i>				
Connecticut				
C.G.S.A. §46b-121; §10-19m; §46b-133; Connecticut Family Court Criminal Rule 6A				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>Juveniles may be diverted to a juvenile probation officer for non-judicial handling or to a Youth Services Bureau.</p> <p>The Court Support Services Division, which runs the state's juvenile probation program, has established regulations for non-judicial handling of juvenile cases. Non-judicial handling applies to first or second time summons/referrals for minor delinquency issues. Child and parents must admit responsibility and agree to program. Supervision or treatment program may last for up to six months.</p>	<p>Probation Officers in the Court Support Services division can dismiss juvenile cases after successful completion of a supervision program.</p>		<p>Services to be provided by the Court Support Services Division: "(1) A peer tutoring project designed for juvenile offenders required to perform community services; (2) Specialized residential services for juvenile offenders on probation who have been expelled from school; (3) Social services and counseling for female juvenile offenders; (4) Training in cognitive skill building; (5) A self-supporting entrepreneurship program; and (6) A mentoring program designed to match juveniles with positive adult role models." § 46b-121</p> <p>Services to be provided by local Youth Service Bureaus: "(1) Individual and group counseling; (2) parent training and family therapy; (3) work placement and employment counseling; (4) alternative and special educational opportunities; (5) recreational and youth enrichment programs; (6) outreach programs to insure participation and planning by the entire community for the development of regional and community-based youth services; (7) preventive programs, including youth pregnancy, youth suicide, violence, alcohol and drug prevention; and (8) programs that develop positive youth involvement." §10-19m</p>	
Additional Information:				

Comprehensive Statutory Chart *continued*

Delaware

Delaware Family Court, Internal Policy Memorandum No. 08-002

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>The Attorney General's office is responsible for sending cases to arbitration proceedings. Judges and hearing officers can refer a case to the Attorney General for consideration for arbitration.</p> <p>Criteria for Eligibility outlined by the Chief Judge of Family Court: first-time offenders, charged with misdemeanors, who have not previously gone through the arbitration program are generally appropriate for arbitration.</p> <p>Cases to be excluded from arbitration: (1) any felony charge, (2) cases where restitution is owed to a private citizen, not including business entities, (3) any graffiti charge, (4) charges against a juvenile who has any other pending charges.</p> <p>Cases presumed to be excluded from arbitration but may be referred on a case-by-case basis: (1) misdemeanor contempt of judicial order or breach of condition of releases, (2) misdemeanor assault, (3) terroristic threatening, (4) any sexual offense including indecent exposure, (5) distribution of a controlled substance, (6) resisting arrest or escape, (7) any motor vehicle violation.</p>	<p>Any agreement as the result of arbitration shall be reduced to writing. If the juvenile successfully completes the conditions of the arbitration agreement, the charges shall be dismissed.</p> <p>Even if charges are dismissed as a result of arbitration, they are still counted as a prior offense.</p>	<p>When appropriate, the arbitration officer may grant a continuance for the juvenile to complete the terms of his arbitration agreement.</p>	

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
District of Columbia				
DC ST §§ 16-2305.01 - 16-2305.2				
Policy Goals: Program is reformative and protective in nature; Program is a noncriminal alternative to adjudication 16-2305.01				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(c) Juvenile must previously had little or no contact with the juvenile justice system, be in need of supervision, must not present a danger to the public safety and the pending offense must be nonviolent 16-2305.01; (c) to determine if case is suitable for adjustment, the DSS, in consultation w/ the Office of the Corporation Counsel, shall consider the following circumstances, among others: (1)Age of child; (2)If the conduct allegedly involved: (A)An act(s) causing or threatening to cause death, or serious physical injury to another; (B)The use or knowing possession of a dangerous instrument; (C)The use or threatened use of violence to compel a person to engage in sexual contact; (D) The use/threatened use of violence to obtain property; (E)The use/threatened use of deadly physical force w/ intent to restrain liberty of another; (F)The intentional starting of a fire or explosion resulting in damage; (G)A serious risk to the welfare/safety of the community; or (H)An act which seriously endangered the safety of another person; (3)there is a substantial likelihood that the child will not appear at scheduled conferences ; Whether there is: (4)a substantial likelihood that the child will not participate in the diversion programs or cooperate during the adjustment process; (5)a substantial likelihood that the child would require services that could not be administered effectively in less than 6 months; (6)a substantial likelihood that the child will, during the adjustment process: (A)Commit an act which, if committed by an adult, would be a crime; or (B)Engage in conduct that endangers the physical or emotional health of the child or a member of the child's family or household; or (C)Harass the person seeking to have a delinquency petition filed, or a member of that person's household, where demonstrated by prior conduct or threats; Whether: (7)another proceeding involving the child is pending; (8) there have been prior adjustments or adjournments; (9)there has been a prior adjudication of delinquency; (10)there is a substantial likelihood that the adjustment process would not be successful unless the child is temporarily removed from his/her home; (11) a proceeding will be instituted against another person for acting jointly with the child; and (12)the juvenile case would otherwise have been petitioned by the Office of the Corporation Counsel.</p> <p>16-2305.2</p>	<p>(d) At the preliminary inquiry, the Director of Social Services shall inform each person entitled to be present of the function and limitations of, and the alternatives to, the adjustment process, and that: (1) He or she has a right to participate in the adjustment process, which may include, but is not limited to, periodic drug testing, attendance at parenting classes, or participation in counseling, treatment, or educational programs; (2) The Social Services Division is not authorized to and cannot compel any person to appear at any conference, produce any papers, or visit any place absent court order;(5) Statements made to the Social Services Division or the Office of the Corporation Counsel by the child or his or her parent shall not be admissible for any purpose during any subsequent court proceeding and are subject to the confidentiality provisions contained in this chapter; and (6) If the adjustment process is commenced and not successfully concluded, the persons participating therein may be notified orally or in writing of that fact by the Social Services Division, that the case will be referred to the Office of the Corporation Counsel and that oral notification must be confirmed in writing. 16-2305.2</p>	<p>(b) Where the Director of Social Services (DSS) recommends, after a preliminary inquiry is conducted, that it is not in the best interests of the child or public to recommend the filing of a delinquency petition, the DSS shall so recommend to the Office of the Corporation Counsel, and the Corporation Counsel shall make a determination of the suitability of the case for adjustment, which may include diversion.</p>	<p>Services Provided</p>	<p>Performance Measurement</p>
<p>Additional Information: The Director of Social Services shall permit any participant who is represented by a lawyer to be accompanied by the lawyer at any preliminary conference 16-2305.2(b)</p>				

Comprehensive Statutory Chart *continued*

Florida

F.S.A. § 985.12 Civil Citation

Policy Goals: (1) To provide an efficient and innovative alternative to custody of children who commit nonserious delinquent acts and to ensure swift and appropriate consequences

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
Juvenile must admit to committing the misdemeanor;	(4) If a juvenile fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or commits a third or subsequent misdemeanor, the officer shall issue a report alleging the child has committed a delinquent act, at which point a juvenile probation officer shall perform a preliminary determination	(1) . . . The civil citation program may be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. Under this program, any law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation	(2) Specialized residential services for juvenile offenders on probation who have been expelled from school;	(3) The child shall report to the community service performance monitor within 7 working days after the issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact reported and the expected date upon which completion of the work assignment will be accomplished.

F.S.A. § 985.125 Prearrest or postarrest diversion programs

Policy Goals: To provide a system by which children who commit delinquent acts may be dealt with in a speedy, informal manner at the community level in an attempt to reduce ever-increasing instances of delinquent acts and permit the judicial system to deal effectively with more serious cases

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582. As a result of program, juvenile may be required to surrender his/her driver's license for a period that may not exceed 90 days	(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest or postarrest diversion program.		

Additional Information

Comprehensive Statutory Chart *continued*

Georgia				
Ga. Code Ann. § 15-11-69 Counsel and advice with view to informal adjustment				
Policy Goals:				
Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
(a) Before a petition is filed, parties may receive counsel and advice with a view to an informal adjustment if it appears: (1) the admitted facts bring the case within the court's jurisdiction; (2) Counsel and advice without an adjudication would be in the best interest of the public and the child; and (3) The child and his/her parents/guardian consent with knowledge that consent is not obligatory.	(c) An incriminating statement made by a participant to the person giving counsel or advice and in the discussion or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against such declarant after conviction for the purpose of a presentence investigation.	(a) Before a petition is filed, the probation officer or other officer of the court designated by the court, subject to the court's direction, may give counsel and advice to the parties with a view to an informal adjustment	(3) Social services and counseling for female juvenile offenders;	
Additional Information: (d) If a child is alleged to have committed a designated felony act as defined in Code Section 15-11-63, the case shall not be subject to informal adjustment, counsel, or advice without the prior written notification of the district attorney or his or her authorized representative.				
Hawaii				
HRS § 571-31.5 Informal adjustment, status offenders				
Policy Goals:				
Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
(a) When a child reasonably believed to come within section 571-11(2) is referred to the court or other designated agency, informal adjustment may be provided to the child by an intake officer only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding.	(b) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.	(a) When a child reasonably believed to come within section 571-11(2) is referred to the court or other designated agency, informal adjustment may be provided to the child by an intake officer duly authorized by the family court	(4) Training in cognitive skill building;	
Additional Information:				

Comprehensive Statutory Chart *continued*

Idaho

I.C. § 20-511 Diversion or informal disposition of the petition

Policy Goals:

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>For an informal adjustment of the petition, the juvenile must admit to the allegations contained in the petition</p>		<p>(1) Prior to the filing of a petition, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. (2) After the petition has been filed and where, at the admission or denial hearing, the juvenile admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition.</p>		

Additional Information:

Comprehensive Statutory Chart *continued*

Illinois

705 ILCS 405 § 5-305 Probation Adjustment				
Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	(3) No statement made during a preliminary conference in regard to the offense that is the subject of the conference may be admitted into evidence at an adjudicatory hearing or at any proceeding against the minor under the criminal laws of this State prior to his or her conviction under those laws.	(1) The court may authorize the probation officer to confer in a preliminary conference with a minor who is alleged to have committed an offense, his or her parent, guardian or legal custodian, the State's Attorney, and other interested persons concerning the advisability of filing a petition, with a view to adjusting suitable cases without filing a petition, except when the State's Attorney insists on court action or when the minor demands a judicial hearing and will not comply with a probation adjustment.	(5) A self-supporting entrepreneurship program; and	

705 ILCS 405 § 5-310 Community Mediation Program

Policy Goals: (1) To deal with minors who commit delinquent acts in a speedy and informal manner at the community level. The goal is to make juveniles understand the seriousness of his/her actions and the effect that a crime has on the minor, his/her family, victim and community while offering a method to reduce ever-increasing instances of delinquent acts while permitting the judicial system to deal effectively with more serious cases.				
Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
Minors who are offered the opportunity to participate in the program must admit responsibility for the offense to be eligible for the program.		Cases are informally heard as part of the community mediation program following a referral by a police officer as a station adjustment, or a probation officer as a probation adjustment, or referred by the State's Attorney as a diversion from prosecution.		

Additional Information:

Comprehensive Statutory Chart *continued*

Indiana

Ind. Code §§ 31-37-9-1 -- 31-37-9-10 Program of Informal Adjustment

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>Sec. 2. The child and his/her parent/guardian, custodian, or attorney must consent to the program of informal adjustment. 31-37-9-2</p>	<p>Sec. 3 If (1) the child is alleged delinquent and (2) the child's parent/guardian fails to participate in the program of informal adjustment; the probation department or the department may file a petition for compliance. Sec. 4(a) Upon filing a petition for compliance and after notice and a hearing on the petition for compliance, the juvenile court may order the parent/guardian to participate in a program of informal adjustment (b) A parent/guardian who fails to participate in a program of informal adjustment ordered by the court may be found in contempt of court. Sec. 7 A program of informal adjustment may not exceed 6 months, except by approval of the juvenile court. The juvenile court may extend a program of informal adjustment an additional 3 months.</p>	<p>Sec. 1. (a) After the preliminary inquiry and upon approval by the juvenile court, the intake officer may implement a program of informal adjustment if the officer has probable cause to believe that the child is a delinquent child and the child is not removed from the child's home. 31-37-9-1</p>	<p>(6) A mentoring program designed to match juveniles with positive adult role models.</p>	

Additional Information:

Comprehensive Statutory Chart *continued*

Iowa

I.C.A § 232.29. Informal adjustment

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(1) The informal adjustment of a complaint is permissible provided: (a) The child has admitted involvement in a delinquent act; (b) The intake officer advises the child and parent/guardian of the right to refuse an informal adjustment (c) the informal adjustment agreement is entered into voluntarily and intelligently by the child with the advice of the child's attorney, or with the consent of a parent/guardian if the child is not represented;</p>	<p>(1) (h) If an informal adjustment of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period of six months from the date the informal adjustment agreement was entered into. If a petition is filed within this period the child's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court (3)The intake officer shall notify the superintendent of the school district, or the authorities in charge of the child's nonpublic school, of any informal adjustment regarding the child, 14 years of age or older, for an act which would be an aggravated misdemeanor or felony if committed by an adult.</p>		<p>(2) An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.</p>	<p>(1) (i) The person performing the duties of intake officer shall file a report at least annually with the court listing the number of informal adjustments made during the reporting time, the conditions imposed in each case, the number of informal adjustments resulting in dismissal without the filing of a petition, and the number of informal adjustments resulting in the filing of a petition upon the original complaint.</p>

Additional Information:

Comprehensive Statutory Chart *continued*

Kansas

K.S.A. 38-2346 Immediate intervention programs

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>"[E]ach county or district attorney may adopt a policy and establish guidelines for an immediate intervention program by which a juvenile may avoid prosecution." K.S.A. 38-2346(a).</p> <p>Juveniles are ineligible for immediate intervention for violations of the DUI law (K.S.A. 8-1567) if they have already participated in immediate intervention for DUI, have been convicted of DUI in Kansas or any other state, or the DUI incident involved a collision resulting in personal injury.</p> <p>Juveniles are also ineligible for "a violation of an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes or drug severity level 1 or 2 felony for drug crimes." K.S.A. 38-2346(b)(2).</p> <p>Immediate intervention programs may require that the juvenile admit to the alleged crime and this admission can later be used against him if he fails to fulfill the terms of the program. K.S.A. 38-2346(c).</p> <p>The juvenile's parents may also be required to participate in the immediate intervention program. K.S.A. 38-2346(d).</p>				
<p>Additional Information:</p>				

Comprehensive Statutory Chart <i>continued</i>				
Kentucky				
KRS § 635.010 Complaint; duties of county attorney and court-designated worker				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>(f) If the terms of the agreement are successfully completed, the court-designated worker shall dispose of the complaint, the charges shall be considered dismissed and further prosecution is prohibited. If the child fails to comply with the terms of the agreement, the court-designated worker shall provide 10 days' written notice to the child and his/her parent/guardian and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court-designated worker shall meet and confer with the child and his/her parent/guardian and counsel to consider from the child's viewpoint why a petition should not be filed; and (g) the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. If a petition is filed based upon the determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with.</p>	<p>1(c) If the court-designated worker determines that the interests of the child and public will be best served, with the written approval of the county attorney, he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency with investigative jurisdiction of the offense of the recommendation and the reasons therefor and that each may submit within 10 days from receipt of notice a complaint to the county attorney for special review</p> <p>(d) The county attorney, upon receipt of a request for special review, shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before the county attorney makes a final decision as to whether a public offense petition shall or shall not be filed.</p>	<p>1(e) A diversion agreement may include: an informal plan of services provided by the court or its staff; referral of the child to a public or private organization, agency, or person to assist the child and his/her family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of KRS 635.080(2); restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; and other such programs or efforts which might reasonably benefit the community and the child.</p>	
Additional Information:				

Comprehensive Statutory Chart *continued*

Louisiana

Louisiana Children's Code, Ch. 8., Arts. 839-41.

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>Art. 839. Availability of an Informal Adjustment Agreement:</p> <p>A. Prior to the filing of a petition, the district attorney or the court with the consent of the district attorney may authorize an informal adjustment agreement.</p> <p>B. After the filing of a petition but before the attachment of jeopardy pursuant to Article 811, the court may authorize the district attorney or probation officer to effect an informal adjustment agreement if the child and district attorney have no objection. The court may, with concurrence of the district attorney, dismiss the petition or allow the petition to remain pending during the period of informal adjustment.</p> <p>C. When entering an informal adjustment agreement, the court may, with concurrence of the district attorney, utilize or initiate a teen or youth court program and may assess a fee to a participant in the program to offset costs.</p>	<p>Art. 841. Effect of Agreement:</p> <p>A. An informal adjustment agreement shall not be considered an adjudication. Evidence of the existence of such an agreement shall not be used against the child over objection in any adjudication hearing or criminal trial. Such evidence may be used in a disposition hearing in the juvenile court or for the purpose of a presentence investigation after a criminal conviction.</p> <p>B. An informal adjustment agreement suspends the proceedings on the delinquent acts charged in the complaint/petition. If any of the terms of the agreement are violated, the case may proceed to an adjudication hearing on the charges. If the child satisfies the terms of the agreement, he shall be discharged from further supervision, and the pending complaint/petition shall be dismissed with prejudice.</p> <p>C. Any incriminating statement made by the child to the person giving counsel/ advice and in the discussions incident to the informal adjustment agreement shall not be used against the declarant, over objection, in an adjudication hearing or criminal trial. Any such statement may be used in a disposition hearing in the court or for the purpose of a presentence investigation after a criminal conviction.</p>	<p>Art. 840 Form of Agreement</p> <p>A. An informal adjustment agreement shall set forth in writing the terms and conditions of the child's supervision during the term specified in the agreement. It shall be signed by the district attorney or the probation officer and by the child and his parents.</p> <p>B. It must demonstrate that the child and his parents understand the child's right to an adjudication hearing on the offense. It must also demonstrate that they consent to the terms of the adjustment agreement with knowledge that their consent is not obligatory and with knowledge of the effect of the agreement as set out hereinafter in Article 841.</p> <p>C. The initial period of informal adjustment shall not exceed six months; however, the court may extend the agreement for additional periods of six months, not to exceed a total of two years.</p> <p>D. If a petition has been filed, the adjustment agreement shall be filed in the record.</p>		
<p>Additional Information:</p>				

Comprehensive Statutory Chart <i>continued</i>				
Maine				
M.R.S.A. § 3301 Preliminary investigation, informal adjustment and petition initiation				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>A juvenile community corrections officer may decide to “make whatever informal adjustment is practicable without a petition. The juvenile community corrections officer may effect whatever informal adjustment is agreed to by the juvenile and the juvenile’s parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and performance of community service. Informal adjustments may extend no longer than 6 months. . . .” M.R.S.A. § 3301(5)(B).</p> <p>The juvenile and the juvenile’s legal guardian must be advised of their constitutional rights, the facts must establish prima facie jurisdiction of the juvenile court, and the juvenile’s legal guardian must consent in writing to the informal adjustment plan.</p> <p>Process not applicable for juveniles charged with crimes defined in M.R.S.A. § 3103(1)(E)-(F) (DUJ, hunting while intoxicated, failure to aid an injured person while hunting.)</p>	<p>“(A)n[y] admission made in connection with this informal adjustment may not be used in evidence against the juvenile if a petition based on the same facts is later filed” M.R.S.A. § 3301(5)(B)(2).</p> <p>Records of informal adjustment are confidential. M.R.S.A. § 3301(6)(A).</p>		<p>May include restitution to the victim and community service.</p>	<p>A juvenile community corrections officer may decide to “make whatever informal adjustment is practicable without a petition. The juvenile community corrections officer may effect whatever informal adjustment is agreed to by the juvenile and the juvenile’s parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and performance of community service. Informal adjustments may extend no longer than 6 months. . . .” M.R.S.A. § 3301(5)(B).</p> <p>The juvenile and the juvenile’s legal guardian must be advised of their constitutional rights, the facts must establish prima facie jurisdiction of the juvenile court, and the juvenile’s legal guardian must consent in writing to the informal adjustment plan.</p> <p>Process not applicable for juveniles charged with crimes defined in M.R.S.A. § 3103(1)(E)-(F) (DUJ, hunting while intoxicated, failure to aid an injured person while hunting.)</p>
Additional Information:				

Maryland

Citation: MD Code, Human Services, At Risk Youth Prevention and Diversion Services §§ 8-601 - 8-604

Policy Goals: At-risk youth prevention diversion program are services provided to school-aged youth and their families to prevent or divert youth from entering the juvenile justice system and to help make them ready for adulthood by age 21 § 8-601

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
		At-risk youth prevention and diversion programs shall be coordinated, monitored, and supported by local management boards § 8-603		(b) A local management board shall: (3) monitor and evaluate at-risk youth prevention and diversion program performance; (6) measure at-risk youth prevention and diversion program outcomes; § 8-603

Additional Information:

Michigan

M.I.C.A. §§ 722.821 - 722.831 Juvenile Diversion Act

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
Sec. 4. Before a decision is made to divert a minor, all of the following factors shall be examined: (a) The nature of the alleged offense; (b) The minor's age; (c) The nature of the problem that led to the alleged offense; (d) The minor's character and conduct; (e) The minor's behavior in school, family, and group settings; and (f) Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement. 722.824	Sec. 5 (1)(d) if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized (2)... Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with the court or has been authorized, shall not be used against the minor. (4) If a conference is held and an agreement under subsection (3) is not reached, a petition may be filed with the court and may be authorized. (5) If the minor fails to comply with the terms of the diversion agreement and the referral plan, the law enforcement official or court intake worker may revoke the diversion agreement. If the agreement is revoked, a petition may be filed with the court and authorized. 722.825	Sec. 3. (1) If in the course of investigating an alleged offense by a minor a petition has not been filed with the court, or if a petition has not been authorized, a law enforcement official or court intake worker may (b) Divert the matter by making an agreement pursuant to section 5 to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. 722.823		

Additional Information: Sec. 5 (1) ... The law enforcement official shall inform the minor, and his/her parent/guardian (b) That an attorney may accompany the minor and the minor's parent, guardian, or custodian at the conference held to consider alternatives to the filing of a petition. 722.825

Comprehensive Statutory Chart *continued*

Minnesota

M.S.A. § 388.24 Pretrial diversion programs for juveniles

Policy Goals: Subd. 2 An alternative to adjudication emphasizing restorative justice; reduce the costs & caseloads of juvenile court; minimize recidivism; promote the collection of victim restitution; develop collaborative use of demonstrated successful culturally specific programming

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>Subd. 1 A referral to pre-trial diversion is based on the condition that either the delinquency petition will be dismissed or the petition will not be filed after a specified period of time if the offender successfully completes the program</p>	<p>Subd. 1 The prosecutor decides whether to refer an offender to a diversion program</p>	<p>Subd. 3 Program may: (1) provide screening services to the court and the prosecuting authorities to help identify candidates for pretrial diversion; (3) perform chemical dependency assessments of diverted offenders where indicated, make appropriate referrals for treatment, and monitor treatment and aftercare; (4) provide individual, group, and family counseling services; (6) assist diverted offenders in identifying and contacting appropriate community resources; (7) provide educational services to diverted offenders to enable them to earn a high school diploma or GED</p>	<p>Subd. 3 A diversion program may (2) establish goals for diverted offenders and monitor performance of these goals; and (8) provide accurate information on how diverted offenders perform in the program to the court, prosecutors, defense attorneys, and probation officers.</p>

Additional Information:

Comprehensive Statutory Chart *continued*

Mississippi

Miss. Code. Ann. § 43-21-405. Informal adjustment conference and agreement

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>C. When entering an informal adjustment agreement, the court may, with concurrence of the district attorney, utilize or initiate a teen or youth court program and may assess a fee to a participant in the program to offset costs.</p>	<p>(3)(c) during the informal adjustment process no petition will be filed;</p>	<p>(1) The informal adjustment process shall be initiated with an informal adjustment conference conducted by an informal adjustment counselor appointed by the judge or his designee.</p>	<p>(4) The informal adjustment counselor shall then discuss with the child and his parent, guardian or custodian:(a) Recommendations for actions or conduct in the interest of the child to correct the conditions of behavior or environment which may exist; (b) Continuing conferences and contacts with the child and his parent, guardian or custodian by the informal adjustment counselor or other authorized persons; and (c) The child's general behavior, his home and school environment and other factors bearing upon the proposed informal adjustment. (6) The informal adjustment process shall not continue beyond a period of six (6) months from its commencement unless extended by the youth court for an additional period not to exceed six (6) months by court authorization prior to the expiration of the original 6 month period.</p>	
<p>Additional Information: (2) If the child and his parent/guardian appear at the informal adjustment conference without counsel, the informal adjustment guardian indicates a desire to be represented by counsel, the counselor shall adjourn the conference to afford an opportunity to secure counsel.</p>				

Comprehensive Statutory Chart *continued*

Missouri

V.A.M.S. 211.081 Preliminary Inquiry as to Institution of Proceedings; V.A.M.S. 211.083 Informal Adjustments

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
		<p>211.081(1) . . . the court shall make or cause to be made a preliminary inquiry to determine the facts and to determine whether or not the interests of the public or of the child or person seventeen years of age require that further action be taken. On the basis of this inquiry, the juvenile court may make such informal adjustment as is practicable without a petition or may authorize the filing of a petition by the juvenile officer.</p>	<p>Whenever an informal adjustment is made under the provisions of section 211.081, the juvenile court may allow the child:(1) To make restitution or reparation for the damage or loss caused by his offense. Any restitution or reparation shall be reasonable in view of the child's ability to make payment or perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment agreed upon; (2) To complete a term of community service under the supervision of the court or an organization selected by the court.</p>	

Additional Information:

Comprehensive Statutory Chart *continued*

Missouri Supreme Court Rules 112.01-112.04

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>b. The juvenile and the juvenile's parents, guardian or custodian shall be informed that their attendance at the informal adjustment conference is voluntary and that each may be represented by counsel at the conference. Rule 112.02; a. If the juvenile and juvenile's parents/guardian appear at the initial informal adjustment conference without counsel, the juvenile officer shall inform them at the commencement of the right to counsel under Rule 115.01 and the right of the juvenile to remain silent. If the juvenile or the juvenile's parents/guardian requests to be represented by counsel, the juvenile officer shall adjourn the informal adjustment conference to afford an opportunity to consult counsel. Rule 112.03</p>	<p>c. The juvenile and his parents/guardian should be advised by the juvenile officer (JO) that, though their attendance at the informal adjustment conference is voluntary, their failure to participate may terminate the informal adjustment process and may result in the filing by the JO of a petition in the interest of the juvenile. Rule 112.02; a. The JO may terminate the informal adjustment process and either dismiss the juvenile without further proceedings or file a petition in the interest of the juvenile, if at any time: (1) the JO determines that the juvenile or his parents/guardian has received maximum benefit from informal adjustment; (2) the juvenile or his parents/guardian declines to participate further in the process; (3) the juvenile or his parents/guardian denies the jurisdiction of the court to act; (4) the juvenile or his parents/guardian requests that the facts be determined by the court at an evidentiary hearing; (5) the juvenile or his parents/guardian fails without reasonable excuse to attend a scheduled informal adjustment conference; (6) the JO determines that the juvenile or his parents/guardian is unable/unwilling to benefit from the informal adjustment process; (7) the JO determines based on new or additional information that further efforts at informal adjustment are not in the best interests of the juvenile, his parents/guardian or the community; or (8) other sufficient reasons exist for terminating the informal adjustment process.</p>	<p>c. Referrals may be made by the juvenile officer to public and private agencies that may provide beneficial guidance or services to the juvenile and the juvenile's parents, guardian or custodian. Rule 112.01; a. When the juvenile officer determines an informal adjustment conference to be appropriate, the juvenile officer shall request the juvenile and the juvenile's parents, guardian or custodian, by letter, telephone or otherwise, to attend the informal adjustment conference at a designated date, time and place. Rule 112.02</p>		

Additional Information: b. The juvenile and the juvenile's parents, guardian or custodian shall be informed that their attendance at the informal adjustment conference is voluntary and that each may be represented by counsel at the conference. Rule 112.02; a. If the juvenile and juvenile's parents/guardian appear at the initial informal adjustment conference without counsel, the juvenile officer shall inform them at the commencement of the right to counsel under Rule 115.01 and the right of the juvenile to remain silent. If the juvenile or the juvenile's parents/guardian requests to be represented by counsel, the juvenile officer shall adjourn the informal adjustment conference to afford an opportunity to consult counsel. Rule 112.03

Comprehensive Statutory Chart <i>continued</i>				
Montana				
Informal Proceeding MCA §§ 41-5-1301 - 41-5-1304				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(1) the juvenile probation officer may enter into a consent adjustment if: (b) counsel and advice without filing petition would be in the best interests of child, family, and the public; and (c) the youth may be in need of intervention and the juvenile probation officer believes the parents or guardian exerted all reasonable efforts to mediate or control the youth's behavior and the youth continues to exhibit behavior beyond the control of the parents. 41-5-1301 A consent adjustment may not be used to dispose of a youth's alleged second or subsequent offense if: (a) the youth has admitted to or has been adjudicated for a prior offense that would be a felony if committed by an adult; (b) the subsequent offense would be a felony if committed by an adult and was committed within 3 yrs of a prior offense; or (c) the subsequent offense would be a misdemeanor if committed by an adult and was committed within 3 yrs of a prior offense, other than a felony, 41-5-1302</p>	<p>An incriminating statement relating to any act or omission constituting delinquency or need of intervention made by the participant to the person giving counsel or advice in the discussions or conferences incident thereto may not be used against the declarant in any proceeding under this chapter, nor may the incriminating statement be admissible in any criminal proceeding against the declarant. This section does not apply to the use of voluntary and reliable statements that are offered for impeachment purposes. 41-5-1303. (2) If the youth violates a parole agreement as provided for in 52-5-126, the youth must be returned to the court for further disposition. A youth may not be placed in a state youth correctional facility under a consent adjustment. 41-5-1304</p>	<p>After a preliminary inquiry, the juvenile probation officer or assessment officer upon determining that further action is required and that referral to the county attorney is not required may:(1) provide counseling, refer the youth and the youth's family to another agency providing appropriate services, or take any other action or make any informal adjustment that does not involve probation or detention MCA 41-5-1301</p>	<p>(1) The following dispositions may be imposed by consent adjustment:(a) probation;(b) placement of the youth in substitute care in a youth care facility;(c) placement with a private agency responsible for the care and rehabilitation of the youth; (d) restitution; (e) placement under home arrest; (f) confiscation of the youth's driver's license by the juvenile probation officer for a specified period of time, not to exceed 90 days; (g) counseling services;(h) placement in a youth assessment center for up to 10 days;(i) placement in detention for up to 3 days on a space-available basis; (j) community service; (k) participation in victim-offender mediation; (n) any other condition ordered by the court to accomplish the goals of the consent adjustment, including but not limited to mediation or youth assessment MCA 41-5-1304</p>	
Additional Information:				

Comprehensive Statutory Chart *continued*

Nebraska

Neb.Rev.St §§ 43-260.02 - .07

Policy Goals: To provide an alternative to adjudication; to reduce recidivism among diverted offenders; to reduce costs and caseloads of juvenile court; and to promote collection of victim restitution. Neb.Rev.St §43-260.03

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>A juvenile is permitted to participate on a voluntary basis only, the juvenile is allowed to consult with counsel prior to a decision to participate in the program; diversion is offered to the juvenile prior to adjudication but after arrest or issuance of a citation. Neb.Rev.St §43-260.04</p>	<p>(5) If completed successfully, diversion will result in dismissal of the juvenile petition or criminal charges (7) information received by the program regarding the juvenile is required to remain confidential unless a release of information is signed upon admission to the program or is otherwise authorized by law. Neb.Rev.St §43-260.04</p>	<p>The county or city attorney shall determine whether a specific offender should be diverted based on: the juvenile's age; the nature of the offense; the juvenile's previous juvenile to persons or property; or the recommendations of the referring agency, victim, and advocates for the juvenile Neb.Rev. St §43-260.04</p>	<p>A juvenile pretrial diversion program may:(1) Provide screening services to the court and county/city attorney to help identify likely candidates for the program;(3) Perform chemical dependency assessments of diverted juvenile offenders when indicated, make appropriate referrals for treatment, and monitor treatment and aftercare;(8) Provide accurate information on how diverted juvenile offenders perform in the program to the juvenile courts, county attorneys, city attorneys, defense attorneys, and probation officers. 43-260.05</p>	<p>A juvenile pretrial diversion program may:(2) Establish goals for diverted juvenile offenders and monitor performance of the goals;(3) Perform chemical dependency assessments of diverted juvenile offenders when indicated, make appropriate referrals for treatment, and monitor treatment and aftercare;(8) Provide accurate information on how diverted juvenile offenders perform in the program to the juvenile courts, county attorneys, city attorneys, defense attorneys, and probation officers. 43-260.05</p>

Additional Information: A juvenile pretrial diversion program shall:(3) Allow the juvenile to consult with counsel prior to a decision to participate in the program; 43-260.04

Comprehensive Statutory Chart <i>continued</i>				
Nevada				
Informal Supervision; Supervision and Consent Decree: N.R.S. 62C.200 - N.R.S. 62C.230				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>1. When a complaint is made alleging that a child is delinquent ... the child may be placed under the informal supervision of a probation officer if: (a) The child voluntarily admits participation in the acts alleged in the complaint ... 3. The child enters into an agreement for informal supervision voluntarily and intelligently (a) With the advice of the attorney for the child; or (b) If the child is not represented by an attorney, with the consent of the parent or guardian of the child. N.R.S. 62C.200</p>	<p>6. The DA may not file a petition based on acts for which a child was placed under informal supervision unless the DA files the petition not later than 180 days after the child entered informal supervision. If the DA files a petition within that period, the child may withdraw the admission made pursuant to S. 1. 7. If a child successfully completes the terms and conditions of an informal supervision agreement, the court may dismiss any petition filed based on any acts for which the child was placed under informal supervision. 62C.200 2. If a child is placed under the juvenile court's supervision pursuant to a supervision and consent decree, the court may dismiss the petition if the child successfully completes the terms and conditions of the decree. 3. If the petition is dismissed: (a) The child may respond to any inquiry concerning the events which brought about the proceedings as if they had not occurred; and (b) The records concerning a supervision/ consent decree may be considered in a subsequent juvenile court proceeding regarding that child. 62C.230</p>	<p>1. If the district attorney files a petition with the juvenile court, the juvenile court may: (a) Dismiss the petition without prejudice and refer the child to the probation officer for informal supervision pursuant to NRS 62C.200; or (b) Place the child under the supervision of the juvenile court pursuant to a supervision and consent decree, without a formal adjudication of delinquency, if the juvenile court receives: (1) The recommendation of the probation officer; (2) The written approval of the district attorney; and (3) The written consent and approval of the child and the parent or guardian of the child. N.R.S. 62C.230</p>	<p>1. An agreement for informal supervision may require the child to: (a) Perform community service or provide restitution to any victim of the acts for which the child was referred; (b) Participate in a program of restitution; (c) Complete a program of cognitive training and human development pursuant to NRS 62E.220; and (d) Engage in any combination of the activities set forth in this subsection. N.R.S. 62C.210</p>	<p>Upon the request of the juvenile court, a probation officer shall file with the juvenile court a report of: 1. The number of children placed under informal supervision during the previous year; 2. The conditions imposed in each case; and 3. The number of cases that were successfully completed without the filing of a petition. N.R.S. 62C.220</p>
Additional Information:				

Comprehensive Statutory Chart *continued*

New Hampshire

N.H. Rev. Stat. § 169-B:10 Juvenile Diversion

Policy Goals:

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>V. During referral, the court may require further conditions of conduct on the part of the minor and the minor's parents III. Referral to diversion or other community resource after filing is appropriate if: (a) The facts bring the case within the jurisdiction of the court; (b) Referral of the case is in the best interest of the public and the minor; and (c) The minor and minor's parent/guardian consent with the knowledge that consent is not obligatory.</p>	<p>II. Referral to a diversion program may be made prior to or following the filing of a petition ... When the arresting or prosecuting agency, or juvenile probation and parole officer suspects that a minor has a disability, an administrator at the responsible school district shall be notified. IV. Referral after filing shall stay the proceedings for a period not to exceed 3 months from the date of referral, unless extended by the court for an additional period not to exceed 3 months and does not authorize the detention of the minor.</p>	<p>II. Referral to a court-approved diversion program may be made by the arresting or prosecuting agency or juvenile probation and parole officer without court referral prior to filing a petition with the court, or after the filing by such agency or by the court or any party's motion ... The administrative judge of the district court shall have the authority to approve diversion referral procedures for use in all juvenile matters throughout the state.</p>		

Additional Information:

Comprehensive Statutory Chart <i>continued</i>					
New Jersey					
N.J.S.A. §§ 2A:4A-72 - 2A:4A-75					
Policy Goals:					
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement	
<p>New Jersey has three different juvenile diversion programs.</p> <p>(1) Station House Adjustment: local police officers resolve minor disputes without filing a complaint. The juvenile may be required to make restitution for damaged property and promise not to commit future offenses.</p> <p>(2) Intake Service Conference: A court intake service worker (Family Court Probation Officer) will assess the all the circumstances of the alleged crime to determine the appropriate sanction. Obligations imposed will be submitted as a court order approved by the presiding judge. Sanctions can last a maximum of six months. § 2A:4A-74</p> <p>(3) Juvenile Conference Committee: local committees created by the state Supreme Court. The committee will reach a resolution to the matter and supervise compliance. Juvenile Conference Committees have the same authority as Intake Service Conferences to impose sanctions. § 2A:4A-75.</p>	<p>(1) Station House Adjustment: After the adjustment and possible completion of community service, the case is over. There is no criminal record or court proceedings.</p> <p>(2) Intake Service Conference: "At the end of the diversion period a second court intake services conference may be held with all parties to the written agreement present to ascertain if the terms of the agreement have been fulfilled. If all conditions have been met, the intake worker shall so inform the presiding judge in writing who shall order the complaint dismissed. A copy of the order dismissing the complaint shall be sent to the juvenile. If the conditions of the written agreement have not been met, the intake worker may refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to court intake services for further action. Based on the evaluations required under this paragraph, the intake conference agreement may be extended beyond the six-month maximum if all parties agree. In no case shall an intake conference agreement exceed nine months." § 2A:4A-74(e).</p> <p>(3) Juvenile Conference Committee: "The committee shall provide for the resolution of the matter and shall supervise and follow up compliance with its recommendations in the same manner and under the same limitations and with the same sanctions as the court intake service conference." § 2A:4A-75(e).</p>		<p>(1) Station House Adjustment: May include community service or a written essay.</p> <p>(2) Intake Service Conference: "The resolution from the conference may include but shall not be limited to counseling, restitution, referral to appropriate community agencies, or any other community work programs or other conditions consistent with diversion that aids in providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. . . ." § 2A:4A-74(d).</p> <p>(3) Juvenile Conference Committee: "The committee shall provide for the resolution of the matter and shall supervise and follow up compliance with its recommendations in the same manner and under the same limitations and with the same sanctions as the court intake service conference." § 2A:4A-75(e).</p>		
Additional Information:					

Comprehensive Statutory Chart *continued*

New Mexico

N.M.S.A. § 32A-2-7

Policy Goals:

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
"During the preliminary inquiry into a delinquency complaint, the matter may be referred to another appropriate agency and conferences may be conducted for the purpose of effecting adjustments or agreements that will obviate the necessity for filing a petition." N.M.S.A. § 32A-2-7(B)				

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
New York				
9 NYCRR § 354.1-354.9				
Policy Goals: To regulate the provision of intake services in order that suitable cases are resolved non-judicially and all others are either immediately referred for petition for court intervention, or referred to other agencies where appropriate. § 354.2				
Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>A suitable case shall meet all the following conditions:</p> <ul style="list-style-type: none"> i. probation intake determines that the case is in the apparent jurisdiction of the Family Court; ii. probation intake advises the persons seeking to originate the court proceeding that a petition may be filed any time prior to or during the Adjustment period and the persons seeking to have a juvenile delinquency petition filed that they may not be prevented from access to the presentment agency for this request; iii. the potential petitioner, the person seeking to have a juvenile delinquency petition filed, the potential respondent and other interested persons, including the victim or injured person, if made a part of the adjustment process, all understand that such process and any agreement derived therein is entirely voluntary and such persons agree to proceed with the adjustment process; iv. it appears to probation intake that the case can be adjusted within the time periods required by The Family Court Act and the uniform Family Court rules; v. all circumstances in determining whether or not the case is suitable for adjustment under the provisions of The Family Court Act and the uniform Family Court rules have been considered; and vi. The Family Court Act, the Uniform Family Court rules, a court order, or this Part do not exclude the case from an adjustment. § 354.5(e) 	<p>1. A case where the adjustment process was not commenced and which was excluded from any opportunity for adjustment and referred for petition, shall be closed with the designation "referred for petition immediately".</p> <p>2. A case in which a potential petitioner failed to pursue the complaint or withdrew the complaint, for any reason, either before the commencement of the adjustment process or during such process, shall be closed with the designation "terminated matter not pursued and not referred for petition" ... All juvenile delinquency cases which are not pursued shall be referred to the appropriate presentment agency and closed "referred for petition immediately".</p> <p>3. A case in which the satisfactory resolution of the complaint was derived without court intervention shall be closed with the designation "adjusted".</p> <p>4. A case in which the resolution of the complaint did not occur because, after the commencement of the adjustment process, the potential petitioner filed a petition, or the adjustment process was incomplete or unsuccessful and the potential petitioner was notified that a petition may be filed, shall be closed with the designation "terminated without adjustment and referred for petition". This category includes juvenile delinquency cases where the adjustment process is incomplete or unsuccessful and cases terminated because the person who sought filing insists access to the presentment agency. In these cases, the appropriate presentment agency shall be notified of the termination.</p>	<p>The Family Court Act gives probation departments the authority to determine eligibility criteria for adjustment services at intake.</p>		
Additional Information:				

Comprehensive Statutory Chart *continued*

North Carolina

N.C.G.S.A. § 7B-1706 Diversion Plans and Referral

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>N.C.G.S.A. § 7B-1701 lists offenses for which a petition must be filed and therefore which cannot be diverted. Upon a finding of legal sufficiency, as part of a diversion plan, the juvenile court counselor may enter into a diversion contract with the juvenile and the juvenile's parent/guardian; provided, a diversion contract requires the consent of the juvenile and the juvenile's parent, guardian, or custodian.</p>	<p>(b) At any time during the term of the contract if the juvenile court counselor determines that the juvenile has failed to comply substantially with the terms of the contract, the counselor may file the complaint as a petition. Unless the juvenile court counselor has filed the complaint as a petition, the juvenile court counselor shall close the juvenile's file in regard to the diverted matter within six months after the date of the contract. The juvenile's successful completion of the contract shall preclude the filing of a petition (d) Diversion plans and contracts shall be destroyed when the juvenile reaches the age of 18 years or when the juvenile is no longer under the jurisdiction of the court, whichever is longer.</p>	<p>Upon a finding of legal sufficiency, the juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted, or the case resolved with no further action. No later than 20 days after the complainant is notified, the prosecutor shall review the juvenile court counselor's determination that a juvenile petition should not be filed. At the conclusion of the review, the prosecutor shall affirm the decision of the juvenile court counselor or direct the filing of a petition and notify the complainant.</p>	<p>Upon a finding of legal sufficiency the juvenile court counselor may divert the juvenile pursuant to a diversion plan, which may include any of the following resources:(1) An appropriate public or private resource; (2) Restitution; (3) Community service;(4) Victim-offender mediation;(5) Regimented physical training;(6) Counseling; or (7) A teen court program</p>	<p>(e) No later than 60 days after the juvenile court counselor diverts a juvenile, the court counselor shall determine whether the juvenile and the juvenile's parent have complied with the diversion contract. In making this determination, the counselor shall contact any referral resources to determine whether the juvenile and his parent/guardian complied with recommendations for treatment or services made by the resource. If the juvenile and his parent/guardian have not complied, the counselor shall reconsider the decision to divert and may authorize the filing of a petition within 10 days after making the determination. If the court counselor does not file a petition, the counselor may continue to monitor the case for up to 6 months from the diversion contract. At any point during that period if the juvenile and his parent/guardian fail to comply, the counselor shall reconsider and may authorize the filing of the complaint as a petition. After 6 months, the juvenile court counselor shall close the diversion file.</p>

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
North Dakota				
NDCC § 27-20-10 Informal Adjustment				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>1. The director of juvenile court or other officer designated may counsel parties with a view to an informal adjustment. If a. The admitted facts bring the case within the jurisdiction of the court;</p> <p>b. Counsel, advice, and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and c. The child and the child's parents/guardian consent thereto with knowledge that consent is not obligatory.</p>	<p>2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond 9 months from the day commenced unless extended by the court for an additional period not to exceed 6 months and does not authorize the detention of the child if not otherwise permitted by this chapter. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01, the child may be required to pay a fine as a condition imposed under this section. 3. An incriminating statement made by a participant to the person giving counsel and in the discussions incident thereto may not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against the declarant after conviction for the purpose of a presentence investigation</p>	<p>1. Before a petition is filed, the director of juvenile court or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if statutory criteria are met</p>		
<p>Additional Information: 1. Except as otherwise provided in this section, a party who is indigent and unable to employ legal counsel is entitled to counsel at public expense at custodial, post-petition, and informal adjustment stages of proceedings under this chapter. During the informal adjustment stage of a proceeding only the child, if determined to be indigent, is entitled to counsel at public expense. NDCC § 27-20-26</p>				

Comprehensive Statutory Chart *continued*

Ohio

Ohio Rules of Juvenile Procedure, Rule 9

Policy Goals:

Criteria for Eligibility / Conditions
 "(A) Court action to be avoided. In all appropriate cases formal court action should be avoided and other community resources utilized to ameliorate situations brought to the attention of the court."

Specific eligibility criteria and programs are established locally.

Additional Information:

Oklahoma

10A Okl.St. Ann. § 2-2-404 Order of adjudication Deferral of delinquency proceedings

Policy Goals:

Criteria for Eligibility / Conditions

A. A court may defer delinquency adjudication proceedings for 180 days if the child: (1) is alleged to have committed an offense that would be a misdemeanor if committed by an adult; (2) waives the privilege against self-incrimination and testifies that the allegations are true; and (3) has not previously been adjudicated delinquent

Incentives & Outcomes

C. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the requirements of the court have been successfully completed

Discretion & Oversight

Services Provided

B. During deferral, the court may require: 1 Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which would be beneficial to the child and family; 2 the child to undergo a behavioral health evaluation and, if warranted, undergo appropriate care or treatment; 3 Restitution; 4 An alternative diversion program; or 5. Any other programs and services that may be provided through public or private agencies and as approved by the court.

Performance Measurement

Additional Information: D. A program for juveniles identified by law enforcement personnel, the district attorney, or the court as having committed acts not serious enough to warrant adjudication, but which do indicate a need for intervention to prevent further development toward juvenile delinquency

Comprehensive Statutory Chart <i>continued</i>				
Oregon				
Diversion Programs + Formal Accountability Agreements O.R.S §§ 419C.225 - 419C.245				
Policy Goals: Programs are meant to provide consequences and reformation and prevent future delinquent acts 419C.225				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>A youth is not eligible to participate in diversion program if the youth: is alleged to have committed offenses enumerated in ORS 419C.230; is being referred to the county juvenile department for a second or subsequent time for commission of an act that if committed by an adult would constitute a felony. ORS 419C.230</p>	<p>(3) A diversion program for a youth who is alleged to have violated ORS 813.010 must include an agreement that the youth will not use intoxicants while participating in the diversion program. 419C.225; (1) A formal accountability agreement shall: (d) Be revocable by the juvenile department if the dept has reasonable cause to believe the youth has failed to carry out the terms of the formal accountability agreement or has committed a subsequent offense; (e) Not be used as evidence against the youth at any adjudicatory hearing; (h) Become part of the youth's juvenile dept record 419C.239; (1) If a formal accountability agreement is revoked, the juvenile dept shall either extend the agreement or file a petition with the juvenile court, and an adjudicatory hearing may be held. (2) In lieu of revoking, the dept may modify the agreement and extend the period for an additional 6 months with the consent of the youth and the youth's counsel, if any. 419C.242</p>	<p>(1) Following a review of a police report and other relevant information, a county juvenile department may refer a youth to an authorized diversion program if the youth is eligible to enter into a formal accountability agreement under ORS 419C.230.</p>	<p>(2) An authorized diversion program may include a youth court, mediation program, crime prevention or chemical substance abuse education program or other program established for the purpose of providing consequences and reformation and preventing future delinquent acts. 419C.225; (1) A formal accountability agreement may require participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training, any other legal activity which in the opinion of the counselor would be beneficial to the youth, or restitution. 419C.236; the agreement may provide for the youth to undergo psychiatric, psychological or mental health evaluation and, if warranted by the mental condition of the youth, undergo appropriate care or treatment. 419C.237</p>	<p>(i) When the youth has been charged with possession or delivery of marijuana for the first time, the formal accountability agreement shall, unless the juvenile department determines that it would be inappropriate in the particular case: (A) Require the youth to participate in a diagnostic assessment and an information or treatment program as recommended by the assessment. (B) Monitor the youth's progress in the program which shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the juvenile department stating the youth's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. 419C.239</p>
<p>Additional Information: The juvenile department counselor shall inform a youth and the youth's parents or guardian of the youth's right to counsel and to appointed counsel at state expense, if the youth is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. The right to counsel shall attach prior to the youth's entering into a formal accountability agreement. 419C.245</p>				

Pennsylvania

42 Pa.C.S.A § 6323 Informal Adjustment

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
(b) Social agencies and the probation officer or other officer of the court may give counsel and advice to the parties with a view to an informal adjustment if it appears:(1) counsel and advice without an adjudication would be in the best interest of the public and the child; (2) the child and his parents/guardian consent thereto with knowledge that consent is not obligatory; and (3) the admitted facts bring the case within the jurisdiction of the court.	(c)The giving of counsel and advice shall not extend beyond 6 months from the day commenced unless extended by an order of court for an additional period not to exceed 3 months; (d)Nothing contained in this section shall authorize the detention of the child; (e)An incriminating statement made by a participant to the person giving counsel or advice and in the discussions incident thereto shall not be used against the declarant over objection in any criminal proceeding or hearing under this chapter	(2) Before a petition is filed, the probation officer may in the case of a delinquent child, or a dependent child where the jurisdiction of the court is permitted, refer the child and his parents to an agency for assisting in the matter. (3) The agency may return the referral to the probation officer or other officer for further informal adjustment if it is in the best interests of the child.		

Additional Information:

Rhode Island

RI ST § 42-72-33 Youth diversion program

Policy Goals: (a) A Community based program providing outreach and advocacy services to youth ages 9-17 who may be at risk for committing wayward or disobedient acts

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
(c) Prior to a hearing on a petition alleging a first offense wayward or disobedient act as defined above, the family court shall ensure that a referral has been made to the appropriate local youth diversion program.	Upon regular reports from a diversion program to the court of progress and positive outcomes of the services, the reports shall become a part of the record and used by the family court in disposing of the petition	The Youth Diversion Program is part of the Department of Children, Youth, and Families; (c) Prior to a hearing on a petition alleging a first offense wayward or disobedient act as defined above, the family court shall ensure that a referral has been made to the appropriate local youth diversion program.	(a) Referrals to the youth diversion-ary program shall be served for a maximum of 90 days and include, but are not limited to: (1) An assessment of the needs of the child and family; (2) Development of a plan and provision of services to include educational and vocational support services and employment linkages; (3) Counseling; (4) Family mediation; (5) Crisis intervention; (6) Advocacy on the child's behalf with schools, police, employment resources and other community agencies; (7) Short-term respite limited to 3 days during crisis periods; and (8) Follow-up and after-care services as needed.	(c) Prior to a hearing on a petition alleging a first offense wayward or disobedient act as defined above, the family court shall ensure that a referral has been made to the appropriate local youth diversion program. A report by that program shall be submitted to the court at least one week prior to the adjudication hearing. The report shall identify the problems in the family, services provided, progress, and outcomes of the services, and recommendations for future intervention. The report shall become a part of the record and be used by the family court in disposing of the petition.

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
South Carolina				
Code 1976 § 63-19-350 Community Services				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
After a juvenile is arrested or referred to the Department of Juvenile Justice, the Department makes a recommendation to the Circuit Solicitor's Office as to how the case should be pursued. The Solicitor may choose to send the juvenile to a diversion program such as a drug court or the juvenile arbitration program. These programs require the juvenile to make restitution in the form of payment for damages, written apologies, repairing damage, or community service.	If the juvenile is diverted to the Juvenile Arbitration Program, the punishment will be determined by an arbitrator working with the juvenile, the victims, the juvenile's parents, law enforcement, and other community members. If the juvenile is diverted to a Drug Court, the juvenile may be required to complete drug treatment and education programs.			
Additional Information:				
South Dakota				
SDCL §§ 26-7A-10 Preliminary investigation by state's attorney--Authorized procedure on basis of investigation; 26-7A-11 Prerequisites to referral for informal action				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
The state's attorney must make a preliminary investigation and will then determine what, if any, further action is required. The states attorney may "refer the matter to a court services officer for any informal adjustment to the supervision of the court that is practicable without a petition or refer the matter to a court-approved juvenile diversion program for any informal action outside the court system that is practicable without the filing of a petition. . . ." SDCL § 26-7A-10(1). The juvenile and his parents must agree to the informal adjustment. The program may last no longer than six months.				
Additional Information:				

Comprehensive Statutory Chart *continued*

Tennessee

T.C.A. § 37-1-110 Informal Adjustment

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) Before or after a petition is filed, the probation officer or other officer of the court designated by the court may give counsel and advice to the parties with a view to an informal adjustment if:(1) The admitted facts bring the case within the jurisdiction of the court;(2) Counsel and advice without an adjudication would be in the best interest of the public and the child; and (3) The child and the child's parents/guardian consent thereto with knowledge that consent is not obligatory.</p>		<p>(a) Before or after a petition is filed, the probation officer or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties with a view to an informal adjustment if statutory criteria are met</p>		
TN Rules of Juvenile Procedure Rule 23 Pretrial Diversion in Delinquent and Unruly Cases				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) If a designated court officer determines that a child does not wish to contest the allegations of the petition, and that a court hearing is not necessary, the parties, following advisement of rights to the child and the child's parent, may agree to pretrial diversion that would suspend the proceedings and continue the child under supervision under terms and conditions negotiated with the designated court officer and approved by the court.</p>	<p>(c) If prior to discharge by the court or expiration of the pretrial diversion period, a new delinquent or unruly petition is filed against the child, or the child otherwise fails to fulfill express terms and conditions of the pretrial diversion agreement, the petition under which the child was continued under supervision may be reinstated and the case may proceed to adjudication just as if the agreement had never been entered. If failure to comply with the pretrial diversion agreement is alleged, the child shall be given written notice of the alleged violation and an opportunity to be heard on that issue, prior to the reinstatement of proceedings under the original charge. (d) The petition of a child who is discharged or who completes a period of continuance under supervision without reinstatement of the original petition shall be dismissed and the child shall not again be proceeded against in any court for the same offense based upon the same conduct.</p>	<p>(a) If a designated court officer determines in an unruly or delinquent case that the child does not wish to contest the allegations of the petition, and that a court hearing is not necessary, the parties, following advisement of rights to the child and the child's parent, may agree to pretrial diversion that would suspend the proceedings and continue the child under supervision</p>		

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
Texas				
V.T.C.A. Family Code §§ 52.03 Disposition Without Referral to Court; 52.031 First Offender Program				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody for: (1) conduct indicating a need for supervision; or (2) delinquent conduct other than felonious conduct. 52.031</p>	<p>(b) No disposition authorized by this section may involve: (1) keeping the child in law-enforcement custody, or (2) requiring periodic reporting of the child to a law-enforcement officer, law-enforcement agency, or other agency. 52.03; (i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court, (j) The child shall be referred to juvenile court if: (1) the child fails to complete the program; (2) the child or the parent/guardian terminates the child's participation in the program before completion; or (3) the child completes the program but is taken into custody before the 90th day after the program's completion for conduct other than the conduct for which the child was referred to the program. (k) A statement made by a child to a person giving advice or supervision or participating in the first offender program may not be used against the child in any proceeding under this title or any criminal proceeding. 52.031</p>	<p>a) A law-enforcement officer authorized to take a child into custody may dispose of the case of a child taken into custody without referral to juvenile court, if: (1) guidelines for such disposition have been adopted by the juvenile board of the county in which the disposition is made; (2) the disposition is authorized by the guidelines; and (3) the officer makes a written report of his disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody was authorized. 52.03; (a) A juvenile board may establish a first offender program under this section (b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, which may be law enforcement agencies, to process a child under the first offender program. 52.031</p>	<p>(c) A disposition authorized by this section may involve: (1) referral of the child to an agency other than the juvenile court; (2) a brief conference with the child and his parent, guardian, or custodian; or (3) referral of the child and the child's parent/guardian for services under § 264.302, which include: crisis family intervention; emergency short-term residential care for children 10 years of age or older; family counseling; parenting skills training; youth coping skills training; advocacy training; and mentoring. 52.03; (h) Disposition under a first offender program may include: (1) voluntary restitution by the child or the parent/guardian to the victim; (2) voluntary community service restitution by the child; (3) educational, vocational training, counseling, or other rehabilitative services; and (4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred. 52.031</p>	<p>(d) Statistics indicating the number and kind of dispositions made by a law-enforcement agency under the authority of this section shall be reported at least annually to the office or official designated by the juvenile board, as ordered by the board. 52.03; (h) Disposition under a first offender program may include: (4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred. 52.031</p>
Additional Information:				

Comprehensive Statutory Chart *continued*

V.T.C.A. Family Code § 53.03 Deferred Prosecution

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) If the preliminary investigation results in a determination that further proceedings in the case are authorized, the probation officer or other designated officer of the court, subject to the direction of the juvenile court, may advise the parties for a reasonable period of time not to exceed six months concerning deferred prosecution and rehabilitation of a child if: (1) deferred prosecution would be in the interest of the public and the child; (2) the child and his parent, guardian, or custodian consent with knowledge that consent is not obligatory; and (3) the child and his parent, guardian, or custodian are informed that they may terminate the deferred prosecution at any point and petition the court for a court hearing in the case. (g) Prosecution may not be deferred for a child alleged to have engaged in conduct that (1) is an offense under Sec 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code; or (2) is a third or subsequent offense under 106.04 or 106.041, Alcoholic Beverage Code. (h) If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 28.08, Penal Code, deferred prosecution under this section may include: (1) voluntary attendance in a class with instruction in self-responsibility and empathy for a victim of an offense conducted by a local juvenile probation department, if the class is available; and (2) voluntary restoration of the property damaged by the child</p>	<p>(c) An incriminating statement made by a participant to the person giving advice and in the discussions or conferences incident thereto may not be used against the declarant in any court hearing.</p>	<p>(e) A prosecuting attorney may defer prosecution for any child. A probation officer or other designated officer of the court: (1) may not defer prosecution for a child for a case that is required to be forwarded to the prosecuting attorney under Section 53.01(d); and (2) may defer prosecution for a child who has previously been adjudicated for conduct that constitutes a felony only if the prosecuting attorney consents in writing.</p>		
<p>Additional Information:</p>				

Comprehensive Statutory Chart <i>continued</i>				
Utah				
U.C.A. 1953, § 18A-6-1203 Youth Court-Authorization-Referral				
Policy Goals: (1) A diversion program which should provide an alternative disposition for cases involving juvenile offenders in which youth participants may serve in various capacities in the courtroom				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(1)(a) Youth who appear before youth courts have been identified as having committed acts which indicate a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process (3) Youth Courts have authority over youth:(a) referred (b) who, along with a parent/guardian, voluntarily and in writing, request Youth Court involvement; (c) who admit having committed the referred offense; (d) who, along with a parent/guardian waive any privilege against self-incrimination and right to a speedy trial; and (e) who, along with their parent, guardian, or legal custodian, agree to follow the Youth Court disposition of the case.</p>	<p>(9) The Youth Court may transfer a case back to the referring source for alternative handling at any time. (10) Referral of a case of Youth Court may not prohibit the subsequent referral of the case to any court</p>	<p>(2) Any person may refer youth to a Youth Court for minor offenses. Once a referral is made, the case shall be screened by an adult coordinator to determine whether it qualifies as a Youth Court case. (7) Youth Courts may decline to accept a youth for Youth Court disposition for any reason and may terminate a youth from Youth Court Participation at any time.</p>		
Additional Information:				
U.C.A. 1953, § 78A-6-602 Petition--Preliminary inquiry--Nonjudicial adjustments--Formal referral--Citation--Failure to appear				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(c) ... In its discretion, the court may, through its probation department, enter into a written consent agreement with the minor and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case if the facts are admitted and establish prima facie jurisdiction. (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of the nonjudicial closure: (i) payment of a financial penalty of not more than \$250 to the Juvenile Court; (ii) payment of victim restitution; (iii) satisfactory completion of compensatory service; (iv) referral to an appropriate provider for counseling or treatment; (v) attendance at substance abuse programs or counseling programs; (vi) compliance with specified restrictions on activities and associations; and (vii) other reasonable actions that are in the interest of the child or minor and the community.</p>		<p>(c) ... In its discretion, the court may, through its probation department, enter into a written consent agreement with the minor and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case if the facts are admitted and establish prima facie jurisdiction. Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.</p>		
Additional Information:				

Comprehensive Statutory Chart *continued*

Vermont

3 V.S.A § 163 Juvenile court diversion project

Policy Goals: The diversion project is meant to assist juveniles charged with delinquent acts and encourage development of similar projects in local communities through grants of financial assistance to municipalities, private groups or local organizations

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>The diversion project will only accept juveniles against whom charges have been filed and the court has found probable cause, but are not yet adjudicated.</p>	<p>(5) All information gathered in the course of the diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not require or establish the identity of individual participants are allowed).</p> <p>(6) Information related to the present offense that is divulged during the diversion program shall not be used in the prosecutor's case. However, the fact of participation and success, or reasons for failure may become part of the prosecutor's records. (9)(e) Within 30 days of the 2 year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court records applicable to a juvenile court diversion proceeding unless, upon motion, the court finds: (1) the participant has been convicted or charged of a subsequent felony/ misdemeanor during the 2 year period, or proceeding; or (2) rehabilitation of the participant has not been attained to the satisfaction of the court.</p>	<p>(4) The state's attorney, in cooperation with the diversion project, shall develop criteria for deciding what types of offenses and offenders will be eligible for diversion, and the state's attorney shall retain final discretion over the referral of each case for diversion</p>		

Additional Information: (2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the diversion contract, so that the candidate may give his informed consent

Comprehensive Statutory Chart <i>continued</i>				
Virginia				
6 VAC 35-150-335 Informal Supervision				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
Court service unit personnel may supervise a juvenile without a court order for a maximum term of 90 days.				
Washington				
RCW § 13.40.080 Diversion agreement--Scope--Limitations--Restitution orders--Divertee's rights--Diversion unit's powers and duties--Interpreters--Modification--Fines				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
To divert a case, the alleged offense must be a misdemeanor or gross misdemeanor or violation and must be the offender's first offense	A diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7).	(1) A diversion agreement may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.	(2) A diversion agreement shall be limited to one or more of the following: (a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;(b) Restitution limited to the amount of actual loss incurred by any victim; (c) Attendance at up to 10 hours of counseling and/or up to 20 hours of educational or informational sessions at a community agency, which may include sessions relating to respect for self, others, and authority, victim awareness, accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills;(d) A fine, not to exceed one hundred dollars;(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas. (10) The diversion unit may refer a juvenile to community-based counseling or treatment programs.	
Additional Information: (11) The right to counsel shall inure prior to the initial interview to advise a juvenile as to whether she desires to participate in the diversion process or to appear in juvenile court. A juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. A juvenile shall be fully advised at intake of her right to an attorney. For purposes of this section, intake interviews mean all interviews regarding the diversion agreement process.(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether they are accepted for diversion or whether the diversion program is successfully completed.				

Comprehensive Statutory Chart *continued*

West Virginia

W.Va. Code § 49-5-2a Prepetition Diversion to Informal Resolution; 49-5-3a Informal Adjustment Counseling by Probation Officer

Policy Goals:

Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(a) Before a petition is formally filed with the court, the probation officer or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties with a view to an informal adjustment if it appears: (1) The admitted facts bring the case within the jurisdiction of the court;(2) Counsel and advice without an adjudication would be in the best interest of the public and the juvenile; and (3) The juvenile and his parents, guardian or other custodian consent thereto with knowledge that consent is not obligatory. 49-5-3a</p>	<p>(b) The giving of counsel and advice pursuant to this section may not continue longer than six months from the day it is commenced unless extended by the court for an additional period not to exceed six months. 49-5-3a</p>	<p>Before a juvenile petition is formally filed with the court, the court may refer the matter to a state department worker or probation officer for preliminary inquiry to determine whether the matter can be resolved informally without the formal filing of a petition with the court. 49-5-2a</p>		

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
Wisconsin				
W.S.A. 938.32 Consent Decree				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
	<p>(2)(a) A consent decree shall remain in effect for up to 1 year unless the juvenile, parent/guardian is discharged sooner by the court (3) If, prior to discharge by the court or to the expiration of the consent decree, the court finds that the juvenile or parent/guardian has failed to fulfill the express terms and conditions of the consent decree or that the juvenile objects to the continuation of the consent decree, the hearing under which the juvenile was placed on supervision may be continued to conclusion as if the consent decree had never been entered.(4) A juvenile who is discharged by the court or who successfully completes the period of supervision may not be proceeded against in any court for the same offense alleged in the petition or an offense based on the same conduct, and the original petition shall be dismissed with prejudice. (5) A court which elicits information about a juvenile which would be inadmissible in a hearing on the allegations of the petition may not, over objections of one of the parties, participate in any subsequent proceedings if:(a) The court refuses to enter into a consent decree, the allegations in the petition remain to be decided, and the juvenile denies the allegations of delinquency; or (b) A consent decree is granted but the petition is subsequently reinstated.</p>	<p>(a) At any time after the filing of a petition for a proceeding relating to s. 938.12 or 938.13 and before the entry of judgment, the court may suspend the proceedings and place the juvenile under supervision in the juvenile's own home or present placement.</p>	<p>(1g) If the petition alleges the juvenile committed an alcohol or drug abuse violation and if the multidisciplinary screen conducted shows that the juvenile is at risk of having needs and problems related to the use of alcohol beverages or controlled substances the court may establish:(a) That the juvenile participate in outpatient treatment from an approved treatment facility for alcohol and other drug abuse, if an alcohol and other drug abuse assessment was completed (b) That the juvenile participate in a court-approved pupil assistance program provided by the juvenile's school board or a court-approved alcohol or other drug abuse education program,subject to the approval of the juvenile's school board. (1p) The court may establish (1) that the juvenile report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision(1t) restitution may also be required (b) The court may require the juvenile to participate in a supervised work program or other community service work (1x) If the petition alleges that the juvenile committed graffiti crimes and has attained 10 years of age, the court may require that the juvenile participate for not less than 10 hours nor more than 100 hours in a supervised work program</p>	

Comprehensive Statutory Chart *continued*

W.S.A. 938.245 Deferred Prosecution

Criteria for Eligibility / Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>(1) An intake worker may enter into a written deferred prosecution agreement with all parties if all of the following apply:(a) The intake worker has determined that neither the interests of the juvenile nor of the public require filing of a petition; (b) The facts persuade the intake worker that the jurisdiction of the court, if sought, would exist; (c) The juvenile, parent, guardian and legal custodian consent.</p>	<p>(6) A deferred prosecution agreement arising out of an alleged delinquent act is terminated if the district attorney files a delinquency petition within 20 days after receipt of notice of the deferred prosecution agreement under s. 938.24(5). If a petition is filed, statements made to the intake worker during the intake inquiry are inadmissible.(7) (a) If at any time during the period of a deferred prosecution agreement the intake worker determines that the obligations imposed under it are not being met, the intake worker may cancel the agreement. Within 10 days after the agreement is cancelled, the intake worker shall notify the district attorney, corporation counsel, or other official of the cancellation and may request that a petition be filed. In delinquency cases, the district attorney may initiate a petition within 20 days after the date of the notice regardless of whether the intake worker has requested that a petition be filed. (8) If the obligations imposed under the deferred prosecution agreement are met, the intake worker shall so inform the juvenile and a parent/guardian in writing. No petition may be filed or citation issued on the charges that brought about the agreement and the charges may not be the sole basis for a petition</p>	<p>(1) An intake worker may enter into a written deferred prosecution agreement with all parties as provided in this section if all the criteria for eligibility are met (1m) If a juvenile is alleged to be delinquent, an intake worker shall, as soon as practicable but before entering into a deferred prosecution agreement, offer all of the victims of the juvenile's alleged act who have so requested an opportunity to confer with the intake worker concerning the proposed deferred prosecution agreement.</p>	<p>(2) A deferred prosecution agreement may provide for: 1 'Counseling' for the juvenile and his/her parent/guardian on an individual, family or group basis. 2 'Compliance with obligations,' including supervision, curfews, and school attendance requirements. 3 'Alcohol and other drug abuse assessment,' conducted by an approved treatment facility for an examination of the juvenile's use of alcohol beverages or controlled substances, and any medical, personal, family, or social effects caused by its use. 4 'Alcohol and other drug abuse treatment and education. 5 'Restitution.' 6 'Supervised work program.' or other community service work. 7 'Volunteers in probation.' under conditions the intake worker determines are reasonable and appropriate, if the juvenile is alleged to have committed an act that would constitute a misdemeanor if committed by an adult. 8 'Teen court program.' 9 'Youth report center.' after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision.</p>	

Additional Information:

Comprehensive Statutory Chart <i>continued</i>				
Wyoming				
WY ST §§ 7-13-1201 -- 7-13-1205				
Policy Goals:				
Criteria for Eligibility/ Conditions	Incentives & Outcomes	Discretion & Oversight	Services Provided	Performance Measurement
<p>"In any case involving the commission of a minor offense by a teen defendant, the supervising court may, without entering a judgment of guilt or conviction, defer further proceedings and order the defendant to participate in a teen court program, provided:" (1) the teen pleads guilty in open court with consent of parents; (2) the supervising court has determined the amount of restitution owed; (3) the defendant requests to participate in the teen court program; (4) court determines that the juvenile will benefit from the program. §7-13-1203(c).</p>	<p>"(d) If the supervising court determines that the teen defendant has successfully completed the teen court program, the supervising court may discharge the defendant and dismiss the proceedings against him. (e) If the defendant fails to successfully complete the prescribed teen court program, the supervising court shall enter an adjudication of guilt and conviction and proceed to impose sentence upon the defendant for the offense originally charged. (f) Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for any purpose." §7-13-1203.</p>	<p>(vii) The teen court jury shall impose restitution, if any, in the amount established by the supervising court; (viii) The supervising court, in accordance with the rules and regulations promulgated by the Wyoming supreme court, shall establish a range of sentencing alternatives for any case referred to teen court. Sentencing alternatives shall include, but not be limited to: (A) Community service as authorized by the supervising court; (B) Mandatory participation in law related education classes, appropriate counseling, treatment or other education programs; (C) Require the teen defendant to participate as a juror or other teen court member in proceedings involving teen defendants; (D) Fines, not to exceed the statutory amount. (ix) The teen court jury shall not have the power to impose a term of imprisonment.</p>		
Additional Information:				

Juvenile Diversion Workbook

Prepared by the Models for Change Juvenile Diversion Workgroup

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Quick Reference: 16 Steps for Planning a Diversion Program

A. Purpose

- 1) **Objectives:** The main purpose(s) for developing a diversion program will need to be identified.
 - What will be the primary objectives of the diversion program?
 - In your community, what stakeholders from the juvenile justice public/private youth services systems will be involved to provide input and support in shaping the development of your diversion program?
- 2) **Referral Decision Points:** There are various points within the juvenile justice processing continuum where youth can be targeted for diversion.
 - At what point or points will referral decisions be made?
 - Who, within the processing spectrum, will be responsible for making the decision to divert youth?
- 3) **Extent of Intervention:** The diversion program must consider the kind and degree of intervention it will have in the youth's life.
 - What degree of intervention(s) will the program utilize?
 - Will the program provide the youth with a written contract (either formal or informal)?

B. Oversight

- 4) **Operations:** It is necessary to determine who will have primary responsibility for implementing and operating the diversion program and what the level of community oversight will be.
 - What agency or entity will establish and maintain the program policies, provide staffing, and take responsibility for program outcomes?
 - Will an advisory board or panel be developed to oversee the development of policies and procedures for the diversion program?
 - How will the engagement and buy-in of stakeholders be obtained?
- 5) **Funding:** Jurisdictions developing or implementing a diversion program must determine how the program will be funded and sustained for both the short and the long run.
 - How will the diversion program be funded?
 - Are secure funding streams currently in place that can help to sustain the program in the future?
 - Has the possibility of using other local, state, or federal resources to help support the diversion program or key aspects of the program been explored?

C. Intake Criteria

- 6) **Referral and Eligibility:** A diversion program will need to establish criteria that specify who is eligible for entry into the diversion program.
 - What youth will be eligible for diversion?
 - What offenses will be accepted for diversion?
 - Are there any offenses that might make a youth ineligible and will there be options for discretion?

Quick Reference: 16 Steps for Planning a Diversion Program *continued*

7) Screening and Assessment: Diversion programs may utilize evidence-based screening and assessment tools to assess risk, needs, and behavioral or mental health problems.

- Will any screening and/or assessment methods/tools be used to determine a youth's eligibility, and if so, how will these tools be chosen and who will administer them?
- For what purposes will screening and assessment be used??
- Are there any protocols in place to deal with the sensitive nature of information collected and how, if at all, it can be shared among child-serving agencies?

D. Operation Policies

8) Participant Requirements: It is important to determine the conditions and responsibilities youth will have to follow in order to ensure meaningful program participation.

- What obligations and conditions will the program require for the youth's participation and successful completion?
- How will requirements focus on youths' strengths, address behavioral health needs, satisfy victim concerns, and involve community efforts?

9) Services: The diversion program will need to consider what services, if any, will be provided to the youth by the program or through referral to community-based services, as well as how those services will be administered.

- What services will be provided for the youth while participating in the diversion program?
- Will the diversion program need to perform an inventory of community services, and if so, who will be responsible for this effort?
- Will the diversion program encourage or require the youth's family to participate in services?
- Are there any agreements in place or Memoranda of Understanding (MOU) among the program and community service providers that will better facilitate services to the youth?

10) Incentives: Incentives should be employed by a diversion program in order to motivate youth and caretakers to meet the terms of the diversion program and to ensure successful program completion.

- Will the diversion program use any incentives to motivate youth and/or caretakers throughout the diversion process? If so, what forms of incentives will be used?
- Is the use of incentives economically feasible for the diversion program and what funding source will support incentives?
- Will the court agree to dropping charges against the youth or expunging records once the youth successfully completes the terms of diversion?

11) Consequences of Failure to Comply: Consequences must be specified for youth since some may have trouble fulfilling the terms of their diversion, either by failing to comply with the program's requirements or by declining to participate altogether.

- Will there be any negative consequences for youth who fail to comply with the diversion program's requirements? If so, what will these sanctions be?
- Will the youth ultimately be formally processed for failing to comply with diversion

Quick Reference: 16 Steps for Planning a Diversion Program *continued*

12) Program Completion/Exit Criteria: Criteria must be established that will define when a youth has successfully completed the terms of their diversion and is ready to exit the program.

- How will the diversion program monitor a youth's success or failure during program participation?
- How will successful program completion be defined, and will there be established exit criteria?

E. Legal Protections

13) Information Use: The diversion program will need to consider what procedures and protocols should be in place that will establish how sensitive information is collected and will be kept confidential.

- What will be the conditions/guidelines for the use of information obtained during the youth's participation in the diversion program?
- How will policies concerning the collection and use of information be clearly established and conveyed to youth and caretakers prior to participation in diversion?

14) Legal Counsel: In the absence of a state statute or local policies, the program should have established guidelines for the role of counsel.

- What role will defense counsel play? Are there local policy provisions in place or statutory guidelines that establish the role of counsel?
- Will the diversion program make counsel available to youth and family?

F. Quality

15) Program Integrity: It is important to carefully attend to the diversion program's development and maintenance to ensure continued quality and program fidelity.

- Are there clear policies and procedures that will be put into manual form for program personnel to maintain program quality and fidelity?
- How will training be developed and delivered for diversion program personnel?
- How will information be collected and in what formats?
- Will the program conduct a process evaluation?

16) Outcome Evaluation: To ensure the diversion program is meeting its objectives and goals, a record-keeping and data collection system should be in place to assist in providing periodic evaluations.

- What kind of record keeping and data collection will be used to provide periodic evaluations of the diversion program and monitor achievement of goals and objectives?
- What youth and program outcomes will be used to measure success?

- Will the program provide the youth with a written contract (either formal or informal) outlining any or all of the following:
 - ▶ the program objectives
 - ▶ duration
 - ▶ what constitutes successful program completion
 - ▶ possible incentives and/or sanctions

B. Oversight

It is important to establish what agency or entity will be overseeing the diversion program, as well as how the program will be funded and sustained.

Step 4) Operations: It is necessary to determine the office or agency that will have primary responsibility for implementing and operating the diversion program and what the level of community oversight will be. Collaborations among multiple agencies may be necessary.

- What agency or entity will establish and maintain the program policies, provide staffing, and take responsibility for the program's outcomes? Some examples identified by diversion programs include:
 - ▶ local law enforcement agency
 - ▶ county/state court
 - ▶ county juvenile corrections or probation agency
 - ▶ prosecutor or public defender's office
 - ▶ private/community-based service agency

- Will an advisory board or panel be developed to oversee the development of policies and procedures for the diversion program? Consider legal, social service, and consumer representatives.

- How will the engagement and buy-in of the above mentioned stakeholders be obtained?

Step 5) Funding: Jurisdictions developing or implementing a diversion program must determine how the program will be funded and sustained for both the short and long run. Some of the more popular sources of funding identified by diversion program survey responders include:

- ▶ county juvenile corrections or probation agency
 - ▶ municipal/state/county court
 - ▶ prosecutor's office
- How will your diversion program be funded (both for program start-up and sustainability)? Consider local, state, and federal sources.

- Are secure funding stream(s) currently in place that can help to sustain the program in the future?

- Has the possibility of using other local, state or federal resources (Medicaid, local business/community agencies, county/community grants, etc.) to help support the program or key aspects of the program been explored? If not, is there a plan to have this reviewed? Who will take the lead?

Step 7) Screening and Assessment: Diversion programs may utilize evidence-based screening and assessment tools in order to assess a youth’s risk, needs, and to determine any behavioral or mental health problems. A tool that is evidence-based is standardized, relevant, reliable, and valid.

- Will any screening and/or assessment methods/tools be used to determine the youth’s eligibility? If so, how will the screening and/or assessment tool be chosen and who will administer the tool(s)?

- For what purposes will screening and assessment be used? Screening and assessment tools may be important for: risk, mental health, and substance abuse screenings.

- Are there any protocols in place to deal with the sensitive nature of the information collected and how if at all it can be shared among other child-serving agencies? Confidentiality of the information obtained through screening and assessment is an important consideration.

D. Operation Policies

A diversion program will want to clearly convey to the youth their expectations for the youth's participation in the diversion program, what, if any services will be provided during diversion, and what will ultimately determine the youth's successful completion of the program. In addition, programs may outline what incentives and sanctions will be employed for successful and unsuccessful program participation.

Step 8) Participant Requirements: It is important to determine the conditions and responsibilities youth will have to follow in order to ensure meaningful program participation.

- What obligations and conditions will the program require for the youth's participation and successful completion of the diversion program? Some examples of participation requirements identified in the Diversion Guidebook include:
 - ▶ participation in screening and assessment
 - ▶ participation in community service programs
 - ▶ attendance at scheduled diversion program appointments
 - ▶ continued participation for specified length of time
 - ▶ restitution
 - ▶ absence of new arrests while participating

- How will requirements focus on the youth’s strengths, address any behavioral needs, satisfy victim concerns, and involve the community in an effort to bring about positive change?

Step 9) Services: The diversion program will need to consider what services, if any, will be provided to the youth by the program or through referral to community-based services, as well as how those services will be administered.

- What services will be provided for the youth while in the diversion program? Some services identified by diversion programs include:
 - ▶ family interventions
 - ▶ substance use intervention
 - ▶ mental health treatment
 - ▶ life-skills training
 - ▶ educational assistance programs
 - ▶ job placement services

- Will the program need to perform an inventory of community services? If so, who will be responsible for this effort?

- Will the diversion program require the youth's family to participate in services as a term of diversion? If so, what methods of family engagement will be employed?

- Are there any agreements in place or Memoranda of Understanding among the diversion program and community service providers that will better facilitate services to the youth? If not, what agreements or MOUs need to be in place?

Step 10) Incentives: Incentives should be employed by a diversion program to motivate youth and caretakers to meet the terms of the diversion program and to ensure successful program completion by the youth.

- Will the diversion program use any incentives to motivate the youth and/or caretakers throughout the diversion process and help to ensure successful completion? What forms of incentives will be used? Examples of incentives referenced in the Diversion Guidebook include:
 - ▶ no further action
 - ▶ expungement of records
 - ▶ reduced program requirements
 - ▶ providing awards/gifts or verbal accolades

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- Is the use of incentives economically feasible for your program? What funding source will support incentives? What will be the process for incentive distribution? At what point in the diversion program will incentives be provided?
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- Will the courts be agreeable to dropping charges or expunging the youth's record should they successfully complete the diversion program?
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Step 11) Consequences of Failure to Comply: Some youth may have trouble fulfilling the terms of their diversion, either by failing to comply with the program’s requirements or by declining to participate altogether.

- Will there be any negative consequences for youth who fail to comply with the diversion program’s requirements? If so, what will these sanctions be? The Diversion Guidebook provides various options for programs to consider when a youth fails to comply, which may include:
 - ▶ dismissal from program with formal processing
 - ▶ dismissal from program without formal processing
 - ▶ program adjustments such as increasing the frequency or intensity of monitoring or extending or increasing the length of program participation

- Will the youth ultimately be formally processed for failing to comply with diversion? Does dismissal from the diversion program make them ineligible for future participation in diversion?

Step 12) Program Completion/Exit Criteria: Criteria must be established that will define when a youth has successfully completed the terms of their diversion and is ready to exit the program.

- How will the diversion program monitor the youth’s success or failure during program participation? As the Diversion Guidebook identifies, there are a range of monitoring methods the program may employ, including:
 - ▶ minimal monitoring (monitoring only through contacts with the youth and caretaker)
 - ▶ as-needed reporting (establishing an agreement between the diversion program and the service provider working with the youth that contact will be made should the youth receiving services fail to attend)
 - ▶ formal reporting of progress (having reporting arrangements in place with the community service provider to which the youth is referred)
 - ▶ referral monitoring (having a procedure in place to detect whether the youth has made contact with services offered within the community)

- How will successful diversion program completion be defined? Will there be exit criteria established that the youth must meet prior to exiting the diversion program? Some examples include: time-based criterion, performance-based criterion, or failure to comply criterion.

E. Legal Protections

Diversion programs should have set guidelines in place with regard to how information collected from the youth will be used as well as the role that legal counsel will play.

Step 13) Information Use: The diversion program will need to consider what procedures and protocols should be in place that will establish how this information is collected, in what capacity it will be used, how it will be kept confidential.

- What will be the conditions/guidelines for the use of information obtained during the youth’s participation in the diversion program? The Guidebook lists the following to consider:
 - ▶ confidentiality with incriminating statements
 - ▶ confidentiality when the youth is required to admit to offense
 - ▶ written policies and Memorandums of Understanding concerning confidentiality
 - ▶ therapist-patient confidentiality

- How will policies concerning the collection and use of information be clearly established in policy and conveyed to the youth and caretakers prior to participation in diversion?

Step 14) Legal Counsel: In the absence of a state statute or local policies, the program should have established guidelines for the role of counsel. These may include:

- ▶ providing the right to counsel at all times throughout the diversion program
 - ▶ providing the right to counsel automatically or giving the youth and caretaker the choice to be provided counsel
 - ▶ providing the opportunity to retain counsel privately
 - ▶ make no provision
- What role will defense counsel play? Are there local policy provisions in place or statutory guidelines that establish the role of counsel? Will the diversion program make counsel available to the youth and his or her family?

F. Quality

A diversion program must consider how it will maintain program integrity and quality for the youth it serves.

Step 15) Program Integrity: In order to maintain a high quality program, it is important to carefully attend to program development and maintenance, set out clear policies and procedures, have a training curriculum that is provided to all personnel operating the program as well as to community-based service providers, and institute data collection procedures to provide for quality assurance.

- How will the diversion program maintain its quality? Are there clear policies and procedures that will be put into manual form for program personnel? What sorts of internal monitoring processes will need to be in place to ensure the program's fidelity?

- How will training be developed and delivered for diversion program personnel? Training should cover policies and procedures and additional topics that will help program personnel understand the population they are serving.

Step 16) Outcome Evaluation: To ensure that the diversion program is meeting the objectives and goals it has set forth, a record keeping and data collection system should be in place to assist in providing periodic evaluations.

- What kind of record keeping and data collection will be used to provide periodic evaluations of the diversion program and monitor how well the program has achieved its goals and objectives?

- In what terms will program success be measured? The Diversion Guidebook provides various measurements of success such as:
 - ▶ evaluating the reduction in recidivism
 - ▶ evaluating the provision of services
 - ▶ evaluating the reduction of system costs
 - ▶ evaluating increased successful outcomes for the youth
 - ▶ evaluating increased accountability
 - ▶ evaluating reduction in labeling and its effects on delinquency
 - ▶ evaluating the reduction in unnecessary social control

Acknowledgements

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Systems Reform in Juvenile Justice

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