

LEGISLATIVE COMMITTEE MINUTES

SB129

Bill as Introduced

SB 129-FN -AS INTRODUCED

2013 SESSION

13-0845

05/04

SENATE BILL *129-FN*

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

SPONSORS: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE: Judiciary .

ANALYSIS

This bill:

- I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.
- II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.
- III. Requires that the department make treatment available in both non-secure and secure settings.
- IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.
- V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.
- VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

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Explanation: Matter added to current law appears in *bold italics*.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

13-0845

05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read as follows:

(j) Commit the minor to the custody of the department of health and human services for the remainder of minority. ***Commitment under this subparagraph may only be made following written findings of fact by the court, supported by clear and convincing evidence, that commitment is necessary to protect the safety of the minor or of the community.*** Commitment may include, but is not limited to, placement by the department of health and human services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant to RSA 621:19, or administrative release consistent with the cap on youth development center population under RSA 621:10, provided that the appropriate juvenile probation and parole officer is notified.

2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. Programming at shelter care facilities is focused on providing a safe, supervised, homelike environment to allow for support and stabilization of youth who may have been removed from their families. Programming also may include education, assessment, and family intervention with access to health care and mental health services. Each facility may provide care for no more than 20 children at any one time. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. Programming at shelter care facilities is focused on providing a safe, supervised, homelike environment to allow for support and stabilization of youth who may have been removed from their

families. Programming also may include education, assessment, and family intervention with access to health care and mental health services. Each facility may provide care for no more than 20 children at any one time. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new paragraph:

III. To ensure that juveniles are placed in the least restrictive environment consistent with their treatment needs, their safety, and the safety of the community, the department shall not establish treatment services at the youth development center or other architecturally secure facility which are not also available to children living in the community or in settings other than architecturally secure settings.

5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19 by inserting after paragraph I the following new paragraph:

I-a. The board shall release any child committed to its care for a delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is not required under this paragraph during the period that a child is the subject of a delinquency petition which is awaiting adjudication or disposition. The department may seek a waiver of this provision from the court which ordered the commitment of the child, which may be granted by the court following written findings of fact supported by clear and convincing evidence that continued commitment is necessary to protect the safety of the minor or of the community. Such a waiver may be granted for up to 90 days. The number of waivers which may be granted in a particular case is not limited.

6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation. Amend RSA 170-H by inserting after section 10 the following new section:

170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

I. Every child subject to revocation of parole has the right to the assistance of counsel, which may not be waived except following consultation between the child and a parent or counsel. Consultation between a child and parent is not sufficient to support waiver under this section if the parent was a victim or complainant in the underlying proceeding or is a witness or provided information in support of the basis for revocation in the parole revocation proceeding. Children known to the department or the board to have an emotional disorder, intellectual disability, or any other condition which may be expected to interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel may not waive their right to counsel.

II. For purposes of this section, a child shall be considered a child who is subject to a parole revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for longer than a total of 30 days during one or more periods of release and is

subject to return under RSA 621:25.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, to establish procedures for providing effective notice to children subject to parole revocation proceedings of the right to counsel, for determining if a waiver of the right to counsel by a child is knowing, voluntary, and intelligent, and for the accurate determination of the existence of a disability which would interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel.

7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read as follows:

169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of this chapter have been met with regard to the minor named in the petition, or for such other reason the court may deem appropriate and consistent with the purposes of this chapter, the court may order a case closed. Any case remaining open for 12 months after the date of the disposition shall be reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence that the continued provision of services and court involvement are necessary and shall be fruitful to rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall include the basis upon which those findings were made. *Upon request by the child, the court shall also review any case in which the child remains at the youth development center more than 6 months after the order of commitment without having been released on parole or having been returned to the youth development center following revocation of parole. Successive requests for review shall be granted upon request by the child but the court may deny such requests without a hearing if a review was held less than 90 days prior to receipt of a request for review.*

8 Effective Date. This act shall take effect 60 days after its passage.

LBAO

13-0845

Revised 01/29/13

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

FISCAL IMPACT:

The Department of Health and Human Services, Judicial Branch, and Judicial Council state this bill, **as introduced**, will increase state expenditures by an indeterminable amount in FY 2014 and in each year thereafter. There will be no fiscal impact on state, county, and local revenue, or county and local expenditures.

METHODOLOGY:

The Department of Health and Human Services states this bill would make the following changes to the current law concerning court ordered placements:

- Requires the courts, when committing a child to the Sununu Youth Services Center (SYSC), to make written findings of fact, by clear and convincing evidence the committal necessary to protect the safety of the minor or the community. The Department assumes this standard is not substantially different from the current standard employed by the courts and expects the change would have little impact on the number of committals, or expenditures of the SYSC.
- Creates a new definition of “shelter care facility” for Delinquents and Children in Need of Services (CHINS). The definition would limit the use of shelter care based on the age of the child and the stage of the proceeding. The bill would define a programming focus for shelter care, list programming possibilities, provide for a census cap at shelter care facilities, and place restrictions on the type of facilities that could provide the services. The Department is not able to determine how this will impact existing shelter care arrangements or impact the cost of providing shelter care services.
- Prohibits the Department from developing treatment services at the SYSC unless those services are also available in the community. The Department assumes this requirement would be prospective and would require the Department to ensure any new treatment services at SYSC would also be made available in the community. The Department assumes there would be additional costs associated with duplicating services in the community, but the cost would depend on the type and cost of the particular service and cannot be determined.
- Requires the Juvenile Parole Board release certain youth within 6 months of committal unless waived by the court. Upon petition, the requirement to release the child could be further waived by the court at successive 3-month intervals. The Department states the additional procedural requirements would increase the workload of the Department and court personnel, but assumes the requirements will not substantially alter the length of commitments.
- Creates a statutory right to counsel for youths at parole revocation hearings. The Department assumes these costs would be borne by the Judicial Branch or Judicial Council and the requirement would have no fiscal impact on the Department.
- Provides for mandatory court review, upon request of the child, in instances where the child remains a SYSC for more than 6 months from committal. Subsequent reviews, upon request of the child, would be

required up to every 3 months thereafter. The Department assumes attendance at the reviews and the outcome of the reviews will have a fiscal impact on personnel and fiscal resources. The Department is not able to project the number of reviews or the number of youths who may be released from SYSC and cannot estimate the fiscal impact.

The Judicial Branch states this bill would amend several statutes regarding court-ordered placements in shelter care facilities and at the Sununu Youth Service Center, but it would not add new juvenile delinquency or CHINS cases to the system. The Branch indicates there is no fiscal impact associated with the written findings of fact, by clear and convincing evidence before commitment to the Department of Health and Human Services as this is already being done by the court. The Branch states the discharge and waiver provisions will result in a limited number of additional hearings before the family division of the circuit court. The Branch assumes any fiscal impact related to these additional hearings will be small since the number of children committed to the SYSC is small and the hearings are not complex. The Branch states the amendment to RSA 169-B:31 regarding case closure and review could result in a very limited number of additional hearings which are not complex.

The Judicial Council states there currently is no statutory right to the assistance of counsel for a juvenile subject to a revocation of parole from the SYSC and the New Hampshire Public Defender is not notified of allegations of parole violations in juvenile matters and does not participate in revocation of parole proceedings. The Council states the bill expressly creates a right to the assistance of counsel for juveniles in parole revocation proceedings and a right to review of a juvenile's detention status after 6 months, but the bill does not address which entity would be financially responsible for the cost. The Council assumes, because parallel adult parole board proceedings involve the Public Defender Program, a similar procedure would be instituted as a result of this bill to provide for the appointment of counsel for juveniles. The Council assumes the Public Defender Program would work with the Juvenile Parole Board to develop procedures in parole revocation matters whereby the parole board would process a financial affidavit and request for appointment of counsel to be submitted to the court that ordered the child placed at the SYSC. The Council assumes the courts would be responsible for appointments and the Judicial Council would be responsible for payment. The Council states the cost for a parole board case would be \$206.25 if handled by a public defender and if the case were to go to assigned council the cost would be \$60 per hour with a fee cap of \$1,700. The Council is not able to determine how many juvenile parole matters would require the appointment of counsel.

SB 129-FN -AS INTRODUCED

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SENATE BILL

129-FN

AN ACT

relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

SPONSORS:

Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE:

Judiciary

ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

Explanation:

Matter added to current law appears in ***bold italics***.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

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Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read
2 as follows:

3 (j) Commit the minor to the custody of the department of health and human services for
4 the remainder of minority. *Commitment under this subparagraph may only be made*
5 *following written findings of fact by the court, supported by clear and convincing evidence,*
6 *that commitment is necessary to protect the safety of the minor or of the community.*
7 Commitment may include, but is not limited to, placement by the department of health and human
8 services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI,
9 administrative release to parole pursuant to RSA 621:19, or administrative release consistent with
10 the cap on youth development center population under RSA 621:10, provided that the appropriate
11 juvenile probation and parole officer is notified.

12 2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
13 B:2 by inserting after paragraph XIII the following new paragraph:

14 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
15 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
16 children prior to or following adjudication or disposition. Programming at shelter care facilities is
17 focused on providing a safe, supervised, homelike environment to allow for support and stabilization
18 of youth who may have been removed from their families. Programming also may include education,
19 assessment, and family intervention with access to health care and mental health services. Each
20 facility may provide care for no more than 20 children at any one time. A shelter care facility may
21 not be operated in the same building as a facility for architecturally secure confinement of children
22 or adults.

23 3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
24 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

25 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
26 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
27 prior to or following adjudication or disposition. Programming at shelter care facilities is focused on
28 providing a safe, supervised, homelike environment to allow for support and stabilization of youth who
29 may have been removed from their families. Programming also may include education, assessment, and
30 family intervention with access to health care and mental health services. Each facility may provide care

1 for no more than 20 children at any one time. A shelter care facility may not be operated in the same
2 building as a facility for architecturally secure confinement of children or adults.

3 4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least
4 Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new
5 paragraph:

6 III. To ensure that juveniles are placed in the least restrictive environment consistent with
7 their treatment needs, their safety, and the safety of the community, the department shall not
8 establish treatment services at the youth development center or other architecturally secure facility
9 which are not also available to children living in the community or in settings other than
10 architecturally secure settings.

11 5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19
12 by inserting after paragraph I the following new paragraph:

13 I-a. The board shall release any child committed to its care for a delinquency adjudication
14 based on an offense other than a violent crime as defined in RSA 169-B:35-a no later than 6 months
15 following the child's commitment pursuant to RSA 169:19, I(j). Release is not required under this
16 paragraph during the period that a child is the subject of a delinquency petition which is awaiting
17 adjudication or disposition. The department may seek a waiver of this provision from the court
18 which ordered the commitment of the child, which may be granted by the court following written
19 findings of fact supported by clear and convincing evidence that continued commitment is necessary
20 to protect the safety of the minor or of the community. Such a waiver may be granted for up to 90
21 days. The number of waivers which may be granted in a particular case is not limited.

22 6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation.
23 Amend RSA 170-H by inserting after section 10 the following new section:

24 170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

25 I. Every child subject to revocation of parole has the right to the assistance of counsel, which
26 may not be waived except following consultation between the child and a parent or counsel.
27 Consultation between a child and parent is not sufficient to support waiver under this section if the
28 parent was a victim or complainant in the underlying proceeding or is a witness or provided
29 information in support of the basis for revocation in the parole revocation proceeding. Children
30 known to the department or the board to have an emotional disorder, intellectual disability, or any
31 other condition which may be expected to interfere with a child's ability to understand the
32 proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel
33 may not waive their right to counsel.

34 II. For purposes of this section, a child shall be considered a child who is subject to a parole
35 revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for
36 longer than a total of 30 days during one or more periods of release and is subject to return under
37 RSA 621:25.

1 III. The commissioner shall adopt rules, pursuant to RSA 541-A, to establish procedures for
2 providing effective notice to children subject to parole revocation proceedings of the right to counsel,
3 for determining if a waiver of the right to counsel by a child is knowing, voluntary, and intelligent,
4 and for the accurate determination of the existence of a disability which would interfere with a
5 child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings
6 without the assistance of counsel.

7 7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read
8 as follows:

9 169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of
10 this chapter have been met with regard to the minor named in the petition, or for such other reason
11 the court may deem appropriate and consistent with the purposes of this chapter, the court may
12 order a case closed. Any case remaining open for 12 months after the date of the disposition shall be
13 reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence
14 that the continued provision of services and court involvement are necessary and shall be fruitful to
15 rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall
16 include the basis upon which those findings were made. *Upon request by the child, the court*
17 *shall also review any case in which the child remains at the youth development center more*
18 *than 6 months after the order of commitment without having been released on parole or*
19 *having been returned to the youth development center following revocation of parole.*
20 *Successive requests for review shall be granted upon request by the child but the court may*
21 *deny such requests without a hearing if a review was held less than 90 days prior to receipt*
22 *of a request for review.*

23 8 Effective Date. This act shall take effect 60 days after its passage.

LBAO
13-0845
01/22/13

SB 129-FN - FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, **as introduced**, as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

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additional procedural requirements would increase the workload of the Department and court personnel, but assumes the requirements will not substantially alter the length of commitments.

- Creates a statutory right to counsel for youths at parole revocation hearings. The Department assumes these costs would be borne by the Judicial Branch or Judicial Council and the requirement would have no fiscal impact on the Department.
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SB 129-FN –AS AMENDED BY THE SENATE

03/14/13 0743s

2013 SESSION

13-0845

05/04

SENATE BILL *129-FN*

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

SPONSORS: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

- I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.
- II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.
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- V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.
- VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.
- VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.
- VIII. Adds requirements to truancy policies adopted by school boards.

IX. Establishes a committee to develop a program to address children in need.

Explanation: Matter added to current law appears in *bold italics*.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure

confinement of children or adults.

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4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new paragraph:

III. To ensure that juveniles are placed in the least restrictive environment consistent with their treatment needs, their safety, and the safety of the community, the department shall not establish treatment services at the youth development center or other architecturally secure facility which are not also available to children living in the community or in settings other than architecturally secure settings.

5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19 by inserting after paragraph I the following new paragraph:

I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is not required under this paragraph during the period that a child is the subject of a delinquency petition which is awaiting adjudication or disposition. The department may seek a waiver of this provision from the court which ordered the commitment of the child, which may be granted by the court following written findings of fact supported by clear and convincing evidence that continued commitment is necessary to protect the safety of the minor or of the community. Such a waiver may be granted for up to 90 days. The number of waivers which may be granted in a particular case is not limited.

6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation. Amend RSA 170-H by inserting after section 10 the following new section:

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I. Every child subject to revocation of parole has the right to the assistance of counsel, which may not be waived except following consultation between the child and a parent or counsel. Consultation between a child and parent is not sufficient to support waiver under this section if the parent was a victim or complainant in the underlying proceeding or is a witness or provided information in support of the basis for revocation in the parole revocation proceeding. Children known to the department or the board to have an emotional disorder, intellectual disability, or any other condition which may be expected to interfere with a child's ability to understand the proceedings, make decisions, or otherwise

handle the proceedings without the assistance of counsel may not waive their right to counsel.

II. For purposes of this section, a child shall be considered a child who is subject to a parole revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for longer than a total of 30 days during one or more periods of release and is subject to return under RSA 621:25.

7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read as follows:

169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of this chapter have been met with regard to the minor named in the petition, or for such other reason the court may deem appropriate and consistent with the purposes of this chapter, the court may order a case closed. Any case remaining open for 12 months after the date of the disposition shall be reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence that the continued provision of services and court involvement are necessary and shall be fruitful to rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall include the basis upon which those findings were made. *Upon request by the child, the court shall also review any case in which the child remains at the youth development center more than 6 months after the order of commitment without having been released on parole or having been returned to the youth development center following revocation of parole. Successive requests for review shall be granted upon request by the child but the court may deny such requests without a hearing if a review was held less than 90 days prior to receipt of a request for review.*

8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as follows:

(d) Procedures for revocation of parole~~[, and]~~

(e) Conditions under which the department may return a parolee to a secure facility pending action by the board~~[-]~~ ; *and*

(f) Procedures for providing effective notice to children subject to parole revocation proceedings of the right to counsel, for determining if a waiver of the right to counsel by a child is knowing, voluntary, and intelligent, and for the accurate determination of the existence of a disability which would interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel.

9 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as follows:

II. "Child in need of services" means a child under the age of 18:

(a) Who is subject to compulsory school attendance, and who is habitually, willfully and

without good and sufficient cause truant from school;

(b) Who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian or custodian and places himself or herself or others in unsafe circumstances;

(c) Who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

(d) With a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

10 Definition of Out-of-Home Placement. Amend RSA 169-D:2, XI to read as follows:

XI. "Out-of-home placement" means when a minor, as the result of a [~~delinquent~~] *child in need of services* petition, is removed from a biological parent, adoptive parent, or legal guardian of the minor and placed in substitute care with someone other than a biological parent, adoptive parent, or legal guardian. Such substitute care may include placement with a custodian, guardian, relative, friend, group home, crisis home, shelter care, or a foster home.

11 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a) may be filed by a truant officer or school official from the school district where the child is attending school with a judge or clerk of the court in the judicial district where the child is found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until all steps in the school district's intervention process under RSA 189:34, II have been followed.

(b) A petition alleging that a child is in need of services under RSA 169-D:2, II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d) may, with the consent of the department, be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

I-a. The petition shall be in writing and verified under oath. The following notice shall be printed on the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include

a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.

12 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II and III to read as follows:

II. Pending the initial appearance, the court shall release the child to one of the following, which in the court's opinion is the least restrictive and most appropriate:

(a) A parent or guardian;

(b) A relative or suitable adult;

(c) *Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)*, the custody of department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses chargeable as provided in RSA 169-D:29; or

(d) [Repealed.]

(e) An alcohol crisis center certified to accept juveniles.

III. *Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d) and* [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent, guardian, or custodian as defined in paragraph II of this section available, the court or the officer taking the child into temporary custody shall notify the department. If the child cannot be referred to an alternative to secure detention, the court shall make an order authorizing the department to place the child. The department shall then promptly arrange for placement of the child.

13 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13, I to read as follows:

169-D:13 Release Pending Adjudicatory Hearing.

I. Following the initial appearance, a child alleged to be in need of services may be ordered by the court subject to such conditions as the court may order, to be:

(a) Retained in the custody of a parent, guardian, or custodian; or

(b) Released in the supervision and care of a relative; or

(c) *Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)*, released to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care

facility with expenses chargeable as provided in RSA 169-D:29.

(d) [Repealed.]

I-a. Where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents guardian or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall not order the out of home placement of the child.

14 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as follows:

I. If the court finds the child is in need of services, it shall order the least restrictive and most appropriate disposition considering the facts in the case, the investigation report, and the dispositional recommendations of the parties and counsel. The dispositional recommendation of the department of health and human services shall include the costs of the recommended services, placements, and programs. Such disposition may include:

(a) Permitting the child to remain with a parent, guardian, relative or custodian, subject to such limitations and conditions as the court may prescribe, including:

(1) Ordering the child or parent, guardian, relative or custodian, or both, to accept individual or family counseling;

(2) Placing the child on conditional release for a term of 2 years or less.

(b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

(2) ***(A) Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II (d), releasing the child to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses charged in accordance with RSA 169-D:29.***

(B) Notwithstanding subparagraph (A), where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II (c), the court shall not order the out of home placement of the child.

(c) Imposing a fine or restitution, or both, on a child who has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town. Such fine shall not exceed the fine which may be imposed against an adult

for the same offense.

(d) Ordering the minor to perform up to 50 hours of uncompensated public service subject to the approval of the elected or appointed official authorized to give approval of the city or town in which the offense occurred. The court's order for uncompensated public service shall include the name of the official who will provide supervision to the minor. However, no person who performs such public service under this subparagraph shall receive any benefits that such employer gives to its other employees, including, but not limited to, workers' compensation and unemployment benefits and no such employer shall be liable for any damages sustained by a person while performing such public service or any damages caused by that person unless the employer is guilty of gross negligence.

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian, or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

15 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. *The process shall consider and document the effect, if any, on the child's attendance of the following: inconsistent and ineffective school attendance policies; poor record keeping; notification provided to parents or guardians of the child's absences; unsafe school environment; poor school climate; poor relations with teachers; and the adequacy of the identification of the child's special education needs.* The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

16 Committee Established. There is established a committee to study and develop a program to address children in need.

17 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending

to the duties of the committee.

18 Duties. The committee shall study and develop a program to address children in need. The committee shall:

I. Consult with the National Conference of State Legislatures on best practices for serving children in need, examine similar programs from other states, and review the CHINS (children in need of services) program under RSA 169-D as previously implemented.

II. Identify a program model or structure appropriate for New Hampshire and draft recommendations for a program to address children in need.

III. Solicit information and testimony from any individual or entity with experience or expertise relevant to the study.

19 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

20 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on or before November 1, 2013.

21 Effective Date.

I. Sections 16-20 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

LBAO

13-0845

Amended 03/22/13

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as amended by the Senate (Amendment #2013-0743s), as it is awaiting

information from the Department of Health and Human Services, Judicial Branch and the Judicial Council. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 129-FN -AS AMENDED BY THE SENATE

03/14/13 0743s

2013 SESSION

13-0845
05/04

SENATE BILL **129-FN**

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

SPONSORS: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.

VIII. Adds requirements to truancy policies adopted by school boards.

IX. Establishes a committee to develop a program to address children in need.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 129-FN -AS AMENDED BY THE SENATE

03/14/13 0743s

13-0845
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read
2 as follows:

3 (j) Commit the minor to the custody of the department of health and human services for
4 the remainder of minority. *Commitment under this subparagraph may only be made*
5 *following written findings of fact by the court, supported by clear and convincing evidence,*
6 *that commitment is necessary to protect the safety of the minor or of the community.*
7 Commitment may include, but is not limited to, placement by the department of health and human
8 services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI,
9 administrative release to parole pursuant to RSA 621:19, or administrative release consistent with
10 the cap on youth development center population under RSA 621:10, provided that the appropriate
11 juvenile probation and parole officer is notified.

12 2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
13 B:2 by inserting after paragraph XIII the following new paragraph:

14 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
15 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
16 children prior to or following adjudication or disposition. A shelter care facility may not be operated
17 in the same building as a facility for architecturally secure confinement of children or adults.

18 3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
19 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

20 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
21 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
22 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
23 building as a facility for architecturally secure confinement of children or adults.

24 4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least
25 Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new
26 paragraph:

27 III. To ensure that juveniles are placed in the least restrictive environment consistent with
28 their treatment needs, their safety, and the safety of the community, the department shall not
29 establish treatment services at the youth development center or other architecturally secure facility

1 which are not also available to children living in the community or in settings other than
2 architecturally secure settings.

3 5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19
4 by inserting after paragraph I the following new paragraph:

5 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
6 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
7 a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is
8 not required under this paragraph during the period that a child is the subject of a delinquency
9 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
10 provision from the court which ordered the commitment of the child, which may be granted by the
11 court following written findings of fact supported by clear and convincing evidence that continued
12 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may
13 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
14 not limited.

15 6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation.
16 Amend RSA 170-H by inserting after section 10 the following new section:

17 170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

18 I. Every child subject to revocation of parole has the right to the assistance of counsel, which
19 may not be waived except following consultation between the child and a parent or counsel.
20 Consultation between a child and parent is not sufficient to support waiver under this section if the
21 parent was a victim or complainant in the underlying proceeding or is a witness or provided
22 information in support of the basis for revocation in the parole revocation proceeding. Children
23 known to the department or the board to have an emotional disorder, intellectual disability, or any
24 other condition which may be expected to interfere with a child's ability to understand the
25 proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel
26 may not waive their right to counsel.

27 II. For purposes of this section, a child shall be considered a child who is subject to a parole
28 revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I
29 longer than a total of 30 days during one or more periods of release and is subject to return under
30 RSA 621:25.

31 7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read
32 as follows:

33 169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of
34 this chapter have been met with regard to the minor named in the petition, or for such other reason
35 the court may deem appropriate and consistent with the purposes of this chapter, the court may
36 order a case closed. Any case remaining open for 12 months after the date of the disposition shall be
37 reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence

1 that the continued provision of services and court involvement are necessary and shall be fruitful to
2 rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall
3 include the basis upon which those findings were made. *Upon request by the child, the court*
4 *shall also review any case in which the child remains at the youth development center more*
5 *than 6 months after the order of commitment without having been released on parole or*
6 *having been returned to the youth development center following revocation of parole.*
7 *Successive requests for review shall be granted upon request by the child but the court may*
8 *deny such requests without a hearing if a review was held less than 90 days prior to receipt*
9 *of a request for review.*

10 8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as
11 follows:

12 (d) Procedures for revocation of parole[~~;-and~~]

13 (e) Conditions under which the department may return a parolee to a secure facility
14 pending action by the board[~~;~~]; *and*

15 (f) *Procedures for providing effective notice to children subject to parole*
16 *revocation proceedings of the right to counsel, for determining if a waiver of the right to*
17 *counsel by a child is knowing, voluntary, and intelligent, and for the accurate*
18 *determination of the existence of a disability which would interfere with a child's ability to*
19 *understand the proceedings, make decisions, or otherwise handle the proceedings without*
20 *the assistance of counsel.*

21 9 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as
22 follows:

23 II. "Child in need of services" means a child under the age of 18:

24 (a) Who is subject to compulsory school attendance, and who is habitually, willfully and
25 without good and sufficient cause truant from school;

26 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
27 and lawful commands of his or her parents, guardian or custodian and places himself or herself or
28 others in unsafe circumstances;

29 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
30 would be violations under the criminal code of this state if committed by an adult or, if committed by
31 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

32 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
33 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
34 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

35 10 Definition of Out-of-Home Placement. Amend RSA 169-D:2, XI to read as follows:

36 XI. "Out-of-home placement" means when a minor, as the result of a [~~delinquent~~] *child in*
37 *need of services* petition, is removed from a biological parent, adoptive parent, or legal guardian of

1 the minor and placed in substitute care with someone other than a biological parent, adoptive
2 parent, or legal guardian. Such substitute care may include placement with a custodian, guardian,
3 relative, friend, group home, crisis home, shelter care, or a foster home.

4 11 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

5 *I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a)*
6 *may be filed by a truant officer or school official from the school district where the child is*
7 *attending school with a judge or clerk of the court in the judicial district where the child is*
8 *found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall*
9 *not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until*
10 *all steps in the school district's intervention process under RSA 189:34, II have been*
11 *followed.*

12 *(b) A petition alleging that a child is in need of services under RSA 169-D:2,*
13 *II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school*
14 *official, or law enforcement officer with a judge or clerk of the court in the judicial district*
15 *in which the child is found or resides.*

16 *(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d)*
17 *may, with the consent of the department, be filed by a parent, legal guardian or custodian, school*
18 *official, or law enforcement officer with a judge or clerk of the court in the judicial district in which*
19 *the child is found or resides.*

20 *I-a.* The petition shall be in writing and verified under oath. The following notice shall be
21 printed on the front of the petition in bold in no smaller than 14 point font size: "See back for
22 important information and financial obligations." The back of the petition shall include a notice of
23 liability for parents and other individuals chargeable by law for the child's support and necessities.

24 12 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II
25 and III to read as follows:

26 II. Pending the initial appearance, the court shall release the child to one of the following,
27 which in the court's opinion is the least restrictive and most appropriate:

28 (a) A parent or guardian;

29 (b) A relative or suitable adult;

30 (c) *Where there are reasonable grounds to believe that the child is a runaway*
31 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
32 *II(d), the custody of department of health and human services for placement in a foster home, as*
33 *defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses*
34 *chargeable as provided in RSA 169-D:29; or*

35 (d) [Repealed.]

36 (e) An alcohol crisis center certified to accept juveniles.

37 III. *Where there are reasonable grounds to believe that the child is a runaway*

1 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
 2 *II(d) and [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent,*
 3 *guardian, or custodian as defined in paragraph II of this section available, the court or the officer*
 4 *taking the child into temporary custody shall notify the department. If the child cannot be referred*
 5 *to an alternative to secure detention, the court shall make an order authorizing the department to*
 6 *place the child. The department shall then promptly arrange for placement of the child.*

7 13 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13,
 8 I to read as follows:

9 169-D:13 Release Pending Adjudicatory Hearing.

10 I. Following the initial appearance, a child alleged to be in need of services may be ordered
 11 by the court subject to such conditions as the court may order, to be:

12 (a) Retained in the custody of a parent, guardian, or custodian; or

13 (b) Released in the supervision and care of a relative; or

14 (c) *Where the petition alleges that the child is a habitual runaway under RSA*
 15 *169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
 16 *released to the custody of the department of health and human services for placement in a foster*
 17 *home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with*
 18 *expenses chargeable as provided in RSA 169-D:29.*

19 (d) [Repealed.]

20 *I-a. Where the petition alleges that the child is a habitual truant under RSA 169-*
 21 *D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his*
 22 *or her parents guardian or custodian under RSA 169-D:2, II(b), or that the child repeatedly*
 23 *or habitually engages in conduct that constitutes violation level offenses under RSA 169-*
 24 *D:2, II(c), the court shall not order the out of home placement of the child.*

25 14 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
 26 follows:

27 I. If the court finds the child is in need of services, it shall order the least restrictive and
 28 most appropriate disposition considering the facts in the case, the investigation report, and the
 29 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
 30 department of health and human services shall include the costs of the recommended services,
 31 placements, and programs. Such disposition may include:

32 (a) Permitting the child to remain with a parent, guardian, relative or custodian, subject
 33 to such limitations and conditions as the court may prescribe, including:

34 (1) Ordering the child or parent, guardian, relative or custodian, or both, to accept
 35 individual or family counseling;

36 (2) Placing the child on conditional release for a term of 2 years or less.

37 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

1 (2) (A) *Where the petition alleges that the child is a habitual runaway under*
2 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
3 *releasing the child to the custody of the department of health and human services for placement in a*
4 *foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility*
5 *with expenses charged in accordance with RSA 169-D:29.*

6 (B) *Notwithstanding subparagraph (A), where the petition alleges that*
7 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
8 *disregards the reasonable and lawful commands of his or her parents, guardian, or*
9 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
10 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
11 *not order the out of home placement of the child.*

12 (c) Imposing a fine or restitution, or both, on a child who has committed an offense
13 which, if committed by an adult, would be a violation under the criminal code of this state; or has
14 committed an offense which, if committed by a person 16 years of age or older, would be a violation
15 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.
16 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

17 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
18 subject to the approval of the elected or appointed official authorized to give approval of the city or
19 town in which the offense occurred. The court's order for uncompensated public service shall include
20 the name of the official who will provide supervision to the minor. However, no person who performs
21 such public service under this subparagraph shall receive any benefits that such employer gives to
22 its other employees, including, but not limited to, workers' compensation and unemployment benefits
23 and no such employer shall be liable for any damages sustained by a person while performing such
24 public service or any damages caused by that person unless the employer is guilty of gross
25 negligence.

26 (e) Requiring any child to attend structured after-school or evening programs which
27 address some of the child's compliance issues, as well as supervise the child during the time of the
28 day in which the child most values his or her freedom and the time which is most often used to
29 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
30 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
31 to the child free of charge based on the limited means of the family or based on the program's receipt
32 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
33 have been certified pursuant to RSA 170-G:4, XVIII.

34 15 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

35 (b) A process for intervention designed to address individual cases of truancy as quickly
36 as possible and to reduce the number of habitual truants in the school district. *The process shall*
37 *consider and document the effect, if any, on the child's attendance of the following:*

1 *inconsistent and ineffective school attendance policies; poor record keeping; notification*
2 *provided to parents or guardians of the child's absences; unsafe school environment; poor*
3 *school climate; poor relations with teachers; and the adequacy of the identification of the*
4 *child's special education needs.* The board shall provide for the participation of parents in the
5 development of the policy. The policy shall include early parental involvement in the intervention
6 process. The policy shall also designate an employee in each school as the person responsible for
7 truancy issues.

8 16 Committee Established. There is established a committee to study and develop a program to
9 address children in need.

10 17 Membership and Compensation.

11 I. The members of the committee shall be as follows:

12 (a) Five members of the house of representatives, appointed by the speaker of the house
13 of representatives.

14 (b) One member of the senate, appointed by the president of the senate.

15 II. Members of the committee shall receive mileage at the legislative rate when attending to
16 the duties of the committee.

17 18 Duties. The committee shall study and develop a program to address children in need. The
18 committee shall:

19 I. Consult with the National Conference of State Legislatures on best practices for serving
20 children in need, examine similar programs from other states, and review the CHINS (children in
21 need of services) program under RSA 169-D as previously implemented.

22 II. Identify a program model or structure appropriate for New Hampshire and draft
23 recommendations for a program to address children in need.

24 III. Solicit information and testimony from any individual or entity with experience or
25 expertise relevant to the study.

26 19 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
27 among the members. The first meeting of the committee shall be called by the first-named house
28 member. The first meeting of the committee shall be held within 45 days of the effective date of this
29 section. Three members of the committee shall constitute a quorum.

30 20 Report. The committee shall report its findings and any recommendations for proposed
31 legislation to the speaker of the house of representatives, the president of the senate, the house
32 clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on
33 or before November 1, 2013.

34 21 Effective Date.

35 I. Sections 16-20 of this act shall take effect upon its passage.

36 II. The remainder of this act shall take effect 60 days after its passage.

LBAO
13-0845
Amended 03/22/13

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as amended by the Senate (Amendment #2013-0743s), as it is awaiting information from the Department of Health and Human Services, Judicial Branch and the Judicial Council. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 129-FN -AS AMENDED BY THE HOUSE

03/14/13 0743s

8May2013... 1378h

2013 SESSION

13-0845

05/04

SENATE BILL *129-FN*

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

SPONSORS: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

- I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.
- II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.
- III. Requires that the department make treatment available in both non-secure and secure settings.
- IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.
- V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.
- VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/14/13 0743s

8May2013... 1378h

13-0845

05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read as follows:

(j) Commit the minor to the custody of the department of health and human services for the remainder of minority. ***Commitment under this subparagraph may only be made following written findings of fact by the court, supported by clear and convincing evidence, that commitment is necessary to protect the safety of the minor or of the community.*** Commitment may include, but is not limited to, placement by the department of health and human services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI, administrative release to parole pursuant to RSA 621:19, or administrative release consistent with the cap on youth development center population under RSA 621:10, provided that the appropriate juvenile probation and parole officer is notified.

2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary

care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new paragraph:

III. To ensure that juveniles are placed in the least restrictive environment consistent with their treatment needs, their safety, and the safety of the community, the department shall not establish treatment services at the youth development center or other architecturally secure facility which are not also available to children living in the community or in settings other than architecturally secure settings.

5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19 by inserting after paragraph I the following new paragraph:

I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is not required under this paragraph during the period that a child is the subject of a delinquency petition which is awaiting adjudication or disposition. The department may seek a waiver of this provision from the court which ordered the commitment of the child, which may be granted by the court following written findings of fact supported by clear and convincing evidence that continued commitment is necessary to protect the safety of the minor or of the community. Such a waiver may be granted for up to 90 days. The number of waivers which may be granted in a particular case is not limited.

6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation. Amend RSA 170-H by inserting after section 10 the following new section:

170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

I. Every child subject to revocation of parole has the right to the assistance of counsel, which may not be waived except following consultation between the child and a parent or counsel. Consultation between a child and parent is not sufficient to support waiver under this section if the parent was a victim or complainant in the underlying proceeding or is a witness or provided information in support of the basis for revocation in the parole revocation proceeding. Children known to the department or the board to have an emotional disorder, intellectual disability, or any other condition which may be expected to interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel may not waive their right to counsel.

II. For purposes of this section, a child shall be considered a child who is subject to a parole revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for longer than a total of 30 days during one or more periods of release and is

subject to return under RSA 621:25.

7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read as follows:

169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of this chapter have been met with regard to the minor named in the petition, or for such other reason the court may deem appropriate and consistent with the purposes of this chapter, the court may order a case closed. Any case remaining open for 12 months after the date of the disposition shall be reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence that the continued provision of services and court involvement are necessary and shall be fruitful to rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall include the basis upon which those findings were made. *Upon request by the child, the court shall also review any case in which the child remains at the youth development center more than 6 months after the order of commitment without having been released on parole or having been returned to the youth development center following revocation of parole. Successive requests for review shall be granted upon request by the child but the court may deny such requests without a hearing if a review was held less than 90 days prior to receipt of a request for review.*

8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as follows:

(d) Procedures for revocation of parole~~;~~ ~~and~~

(e) Conditions under which the department may return a parolee to a secure facility pending action by the board~~[-]~~ ; *and*

(f) Procedures for providing effective notice to children subject to parole revocation proceedings of the right to counsel, for determining if a waiver of the right to counsel by a child is knowing, voluntary, and intelligent, and for the accurate determination of the existence of a disability which would interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel.

9 Effective Date. This act shall take effect 60 days after its passage.

LBAO

13-0845

Amended 03/22/13

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and

establishing a committee to study programs for children in need.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as amended by the Senate (Amendment #2013-0743s), as it is awaiting information from the Department of Health and Human Services, Judicial Branch and the Judicial Council. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 129-FN -AS AMENDED BY THE HOUSE

03/14/13 0743s
8May2013... 1378h
5June2013... 1905h

2013 SESSION

13-0845
05/04

SENATE BILL **129-FN**

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

SPONSORS: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Makes a supplemental appropriation to the insurance department for consumer assistance grants.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type. .

SB 129-FN -AS AMENDED BY THE HOUSE

03/14/13 0743s
8May2013... 1378h
5June2013... 1905h

13-0845
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Delinquent Children; Dispositional Hearing; Commitment. Amend RSA 169-B:19, I(j) to read
2 as follows:

3 (j) Commit the minor to the custody of the department of health and human services for
4 the remainder of minority. *Commitment under this subparagraph may only be made*
5 *following written findings of fact by the court, supported by clear and convincing evidence,*
6 *that commitment is necessary to protect the safety of the minor or of the community.*
7 Commitment may include, but is not limited to, placement by the department of health and human
8 services at a facility certified for the commitment of minors pursuant to RSA 169-B:19, VI,
9 administrative release to parole pursuant to RSA 621:19, or administrative release consistent with
10 the cap on youth development center population under RSA 621:10, provided that the appropriate
11 juvenile probation and parole officer is notified.

12 2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
13 B:2 by inserting after paragraph XIII the following new paragraph:

14 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
15 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
16 children prior to or following adjudication or disposition. A shelter care facility may not be operated
17 in the same building as a facility for architecturally secure confinement of children or adults.

18 3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
19 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

20 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
21 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
22 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
23 building as a facility for architecturally secure confinement of children or adults.

24 4 New Paragraph; New Hampshire Youth Development Center; Treatment Services in Least
25 Restrictive Environment. Amend RSA 621:1 by inserting after paragraph II the following new
26 paragraph:

27 III. To ensure that juveniles are placed in the least restrictive environment consistent with

1 their treatment needs, their safety, and the safety of the community, the department shall not
2 establish treatment services at the youth development center or other architecturally secure facility
3 which are not also available to children living in the community or in settings other than
4 architecturally secure settings.

5 5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19
6 by inserting after paragraph I the following new paragraph:

7 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
8 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
9 a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is
10 not required under this paragraph during the period that a child is the subject of a delinquency
11 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
12 provision from the court which ordered the commitment of the child, which may be granted by the
13 court following written findings of fact supported by clear and convincing evidence that continued
14 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may
15 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
16 not limited.

17 6 New Section; Parole of Delinquents; Right to Counsel of Children Subject to Parole Revocation.
18 Amend RSA 170-H by inserting after section 10 the following new section:

19 170-H:10-a Right to Counsel of Children Subject to Parole Revocation.

20 I. Every child subject to revocation of parole has the right to the assistance of counsel, which
21 may not be waived except following consultation between the child and a parent or counsel.
22 Consultation between a child and parent is not sufficient to support waiver under this section if the
23 parent was a victim or complainant in the underlying proceeding or is a witness or provided
24 information in support of the basis for revocation in the parole revocation proceeding. Children
25 known to the department or the board to have an emotional disorder, intellectual disability, or any
26 other condition which may be expected to interfere with a child's ability to understand the
27 proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel
28 may not waive their right to counsel.

29 II. For purposes of this section, a child shall be considered a child who is subject to a parole
30 revocation proceeding if the child has been released pursuant to RSA 170-H:5 or RSA 621:19, I for
31 longer than a total of 30 days during one or more periods of release and is subject to return under
32 RSA 621:25.

33 7 Delinquent Children; Case Closure and Review of Disposition. Amend RSA 169-B:31 to read
34 as follows:

35 169-B:31 Case Closure and Review of Disposition. Upon making a finding that the purposes of
36 this chapter have been met with regard to the minor named in the petition, or for such other reason
37 the court may deem appropriate and consistent with the purposes of this chapter, the court may

1 order a case closed. Any case remaining open for 12 months after the date of the disposition shall be
 2 reviewed by the court annually and closed, unless the court finds by a preponderance of the evidence
 3 that the continued provision of services and court involvement are necessary and shall be fruitful to
 4 rehabilitate the minor or protect the public interest. All such findings shall be in writing and shall
 5 include the basis upon which those findings were made. *Upon request by the child, the court*
 6 *shall also review any case in which the child remains at the youth development center more*
 7 *than 6 months after the order of commitment without having been released on parole or*
 8 *having been returned to the youth development center following revocation of parole.*
 9 *Successive requests for review shall be granted upon request by the child but the court may*
 10 *deny such requests without a hearing if a review was held less than 90 days prior to receipt*
 11 *of a request for review.*

12 8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as
 13 follows:

14 (d) Procedures for revocation of parole~~[-and]~~

15 (e) Conditions under which the department may return a parolee to a secure facility
 16 pending action by the board~~[-]~~; **and**

17 (f) *Procedures for providing effective notice to children subject to parole*
 18 *revocation proceedings of the right to counsel, for determining if a waiver of the right to*
 19 *counsel by a child is knowing, voluntary, and intelligent, and for the accurate*
 20 *determination of the existence of a disability which would interfere with a child's ability to*
 21 *understand the proceedings, make decisions, or otherwise handle the proceedings without*
 22 *the assistance of counsel.*

23 9 Appropriation; Insurance Department; Consumer Assistance Grant. In addition to any other
 24 sums appropriated for the fiscal year ending June 30, 2014, the following appropriation is hereby
 25 authorized to the department of insurance:

26	02-24				Department of Insurance		
27	02-24-24-240010-1235				Consumer Assistance Grant		
28	02-24-24-240010-1235	020	Current Expense		Federal Funds		\$15,300
29	02-24-24-240010-1235	030	Equipment		Federal Funds		\$500
30	02-24-24-240010-1235	041	Audit set Aside		Federal Funds		\$5,374
31	02-24-24-240010-1235	046	Consultants		Federal Funds		\$3,164,802
32	02-24-24-240010-1235	050	Personal Services Part Time Temp		Federal Funds		\$18,414
33	02-24-24-240010-1235	060	Benefits		Federal Funds		\$1,408
34	02-24-24-240010-1235	070	In-State Travel		Federal Funds		\$20,688
35	02-24-24-240010-1235	080	Out of State Travel		Federal Funds		\$17,898
36	02-24-24-240010-1235	102	Contracts for Program Services		Federal Funds		<u>\$2,128,298</u>
37					Total:		\$5,372,682

SB 129-FN -AS AMENDED BY THE HOUSE

- Page 4 -

1 10 Effective Date.

2 I. Sections 1-8 of this act shall take effect 60 days after its passage.

3 II. The remainder of this act shall take effect July 1, 2013.

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

FISCAL IMPACT:

The Department of Health and Human Services, Judicial Branch, Judicial Council, and Office of Legislative Budget Assistant state this bill, as amended by the House (Amendment #2013-1905h), will increase state expenditures by indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on state, county, and local revenues, or county and local expenditures.

METHODOLOGY:

The Department of Health and Human Services states this bill, as amended by the House, creates a new definition of shelter care facility for delinquents and CHINS and prohibits the operation of a shelter care facility in the same building as a facility for architecturally secure confinement of children or adults. In addition, the bill requires the parole board to release certain youth within 6 months of committal unless waived by the court. The requirement to release the youth could be further waived by the court at successive three month intervals. The Department assumes these requirements may increase the workload of departmental personnel, but given the limited number of youth committed to the Sununu Youth Services Center (SYSC), the increase should be minimal. The bill also requires the parole board to adopt rules the necessary rules. The Department indicates the new definition of shelter care facility and the requirement for the parole board to adopt rules will have no fiscal impact.

The Judicial Branch states the discharge and waiver provisions will result in a limited number of additional hearings before the family division of the circuit court. The Branch assumes any fiscal impact related to these additional hearings will be small since the number of children committed to the SYSC is small and the hearings are not complex. The Branch states the amendment to RSA 169-B:31 regarding case closure and review could result in a very limited number of additional hearings which are not complex.

The Judicial Council states there currently is no statutory right to the assistance of counsel for a juvenile subject to a revocation of parole from the SYSC and the New Hampshire Public Defender is not notified of allegations of parole violations in juvenile matters and does not

participate in revocation of parole proceedings. The Council states the bill expressly creates a right to the assistance of counsel for juveniles in parole revocation proceedings and a right to review of a juvenile's detention status after 6 months, but the bill does not address which entity would be financially responsible for the cost. The Council assumes, because parallel adult parole proceedings involve the Public Defender Program, a similar procedure would be instituted as a result of this bill to provide for the appointment of counsel for juveniles. The Council assumes the Public Defender Program would work with the Juvenile Parole Board to develop procedures in parole revocation matters whereby the parole board would process a financial affidavit and request appointment of counsel to be submitted to the court that ordered the child placed at SYSC. The Council assumes the courts would be responsible for appointments and the Judicial Council would be responsible for payment. The Council states the cost for a parole board case would be \$206.25 if handled by a public defender and if the case were to go to assigned counsel the cost would be \$60 per hour with a fee cap of \$1,700. The Council is not able to determine how many juvenile parole matters would require the appointment of counsel.

The Office of Legislative Budget Assistance states section 9 of the bill will increase state restricted expenditures (federal funds) by \$5,372,682 in FY 2014, as it adds an appropriation for the Consumer Assistance Grant to the operating budget or the fiscal year ending June 30, 2014.

SB 129 FISCAL NOTE

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

FISCAL IMPACT:

The Department of Health and Human Services, Judicial Branch, Judicial Council, and Office of Legislative Budget Assistant state this bill, as amended by the House (Amendment #2013-1905h), will increase state expenditures by indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on state, county, and local revenues, or county and local expenditures.

METHODOLOGY:

The Department of Health and Human Services states this bill, as amended by the House, creates a new definition of shelter care facility for delinquents and CHINS and prohibits the operation of a shelter care facility in the same building as a facility for architecturally secure confinement of children or adults. In addition, the bill requires the parole board to release certain youth within 6 months of committal unless waived by the court. The requirement to release the youth could be further waived by the court at successive three month intervals. The Department assumes these requirements may increase the workload of departmental personnel, but given the limited number of youth committed to the Sununu Youth Services Center (SYSC), the increase should be minimal. The bill also requires the parole board to adopt rules the necessary rules. The Department indicates the new definition of shelter care facility and the requirement for the parole board to adopt rules will have no fiscal impact.

The Judicial Branch states the discharge and waiver provisions will result in a limited number of additional hearings before the family division of the circuit court. The Branch assumes any fiscal impact related to these additional hearings will be small since the number of children committed to the SYSC is small and the hearings are not complex. The Branch states the amendment to RSA 169-B:31 regarding case closure and review could result in a very limited number of additional hearings which are not complex.

The Judicial Council states there currently is no statutory right to the assistance of counsel for a juvenile subject to a revocation of parole from the SYSC and the New Hampshire Public Defender is not notified of allegations of parole violations in juvenile matters and does not participate in revocation of parole proceedings. The Council states the bill expressly creates a

right to the assistance of counsel for juveniles in parole revocation proceedings and a right to review of a juvenile's detention status after 6 months, but the bill does not address which entity would be financially responsible for the cost. The Council assumes, because parallel adult parole proceedings involve the Public Defender Program, a similar procedure would be instituted as a result of this bill to provide for the appointment of counsel for juveniles. The Council assumes the Public Defender Program would work with the Juvenile Parole Board to develop procedures in parole revocation matters whereby the parole board would process a financial affidavit and request appointment of counsel to be submitted to the court that ordered the child placed at SYSC. The Council assumes the courts would be responsible for appointments and the Judicial Council would be responsible for payment. The Council states the cost for a parole board case would be \$206.25 if handled by a public defender and if the case were to go to assigned counsel the cost would be \$60 per hour with a fee cap of \$1,700. The Council is not able to determine how many juvenile parole matters would require the appointment of counsel.

The Office of Legislative Budget Assistance states section 9 of the bill will increase state restricted expenditures (federal funds) by \$5,372,682 in FY 2014, as it adds an appropriation for the Consumer Assistance Grant to the operating budget or the fiscal year ending June 30, 2014.

Amendments



Sen. Odell, Dist. 8
March 4, 2013
2013-0645s
05/10

Amendment to SB 129-FN

1 Amend the bill by replacing sections 2 and 3 with the following:

2

3 2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
4 B:2 by inserting after paragraph XIII the following new paragraph:

5 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
6 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
7 children prior to or following adjudication or disposition. A shelter care facility may not be operated
8 in the same building as a facility for architecturally secure confinement of children or adults.

9 3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
10 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

11 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
12 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
13 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
14 building as a facility for architecturally secure confinement of children or adults.

15

16 Amend the bill by replacing section 5 with the following:

17

18 5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19
19 by inserting after paragraph I the following new paragraph:

20 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
21 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
22 a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is
23 not required under this paragraph during the period that a child is the subject of a delinquency
24 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
25 provision from the court which ordered the commitment of the child, which may be granted by the
26 court following written findings of fact supported by clear and convincing evidence that continued
27 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may
28 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
29 not limited.

30

31 Amend RSA 170-H:10-a as inserted by section 6 of the bill by deleting RSA 170-H:10-a, III.

32



1 Amend the bill by inserting after section 7 the following and renumbering the original section 8 to
2 read as 9:

3

4 8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as
5 follows:

6 (d) Procedures for revocation of parole~~[-and]~~

7 (e) Conditions under which the department may return a parolee to a secure facility
8 pending action by the board~~[-]~~; **and**

9 (f) *Procedures for providing effective notice to children subject to parole*
10 *revocation proceedings of the right to counsel, for determining if a waiver of the right to*
11 *counsel by a child is knowing, voluntary, and intelligent, and for the accurate*
12 *determination of the existence of a disability which would interfere with a child's ability to*
13 *understand the proceedings, make decisions, or otherwise handle the proceedings without*
14 *the assistance of counsel.*



Amendment to SB 129-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu
4 Youth Services Center, relative to the children in need of services (CHINS)
5 program, and establishing a committee to study programs for children in need.
6

7 Amend the bill by replacing all after section 7 with the following:

8

9 8 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as
10 follows:

11 II. "Child in need of services" means a child under the age of 18:

12 (a) Who is subject to compulsory school attendance, and who is habitually, willfully and
13 without good and sufficient cause truant from school;

14 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
15 and lawful commands of his or her parents, guardian or custodian and places himself or herself or
16 others in unsafe circumstances;

17 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
18 would be violations under the criminal code of this state if committed by an adult or, if committed by
19 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

20 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
21 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
22 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

23 9 Definition of Out-of-Home Placement. Amend RSA 169-D:2, XI to read as follows:

24 XI. "Out-of-home placement" means when a minor, as the result of a [~~delinquent~~] *child in*
25 *need of services* petition, is removed from a biological parent, adoptive parent, or legal guardian of
26 the minor and placed in substitute care with someone other than a biological parent, adoptive
27 parent, or legal guardian. Such substitute care may include placement with a custodian, guardian,
28 relative, friend, group home, crisis home, shelter care, or a foster home.

29 10 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

30 I.(a) *A petition alleging that a child is in need of services under RSA 169-D:2, II(a)*
31 *may be filed by a truant officer or school official from the school district where the child is*
32 *attending school with a judge or clerk of the court in the judicial district where the child is*
33 *found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall*



1 *not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until*
2 *all steps in the school district's intervention process under RSA 189:34, II have been*
3 *followed.*

4 (b) *A petition alleging that a child is in need of services under RSA 169-D:2,*
5 *II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school*
6 *official, or law enforcement officer with a judge or clerk of the court in the judicial district*
7 *in which the child is found or resides.*

8 (c) A petition alleging *that* a child is in need of services *under RSA 169-D:2, II(d)*
9 may, with the consent of the department, be filed by a parent, legal guardian or custodian, school
10 official, or law enforcement officer with a judge or clerk of the court in the judicial district in which
11 the child is found or resides.

12 *I-a.* The petition shall be in writing and verified under oath. The following notice shall be
13 printed on the front of the petition in bold in no smaller than 14 point font size: "See back for
14 important information and financial obligations." The back of the petition shall include a notice of
15 liability for parents and other individuals chargeable by law for the child's support and necessities.

16 11 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II
17 and III to read as follows:

18 II. Pending the initial appearance, the court shall release the child to one of the following,
19 which in the court's opinion is the least restrictive and most appropriate:

20 (a) A parent or guardian;

21 (b) A relative or suitable adult;

22 (c) *Where there are reasonable grounds to believe that the child is a runaway*
23 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
24 *II(d), the custody of department of health and human services for placement in a foster home, as*
25 *defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses*
26 *chargeable as provided in RSA 169-D:29; or*

27 (d) [Repealed.]

28 (e) An alcohol crisis center certified to accept juveniles.

29 III. *Where there are reasonable grounds to believe that the child is a runaway*
30 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
31 *II(d) and [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent,*
32 *guardian, or custodian as defined in paragraph II of this section available, the court or the officer*
33 *taking the child into temporary custody shall notify the department. If the child cannot be referred*
34 *to an alternative to secure detention, the court shall make an order authorizing the department to*
35 *place the child. The department shall then promptly arrange for placement of the child.*

36 12 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13,
37 I to read as follows:



1 169-D:13 Release Pending Adjudicatory Hearing.

2 I. Following the initial appearance, a child alleged to be in need of services may be ordered
3 by the court subject to such conditions as the court may order, to be:

4 (a) Retained in the custody of a parent, guardian, or custodian; or

5 (b) Released in the supervision and care of a relative; or

6 (c) *Where the petition alleges that the child is a habitual runaway under RSA*
7 *169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
8 released to the custody of the department of health and human services for placement in a foster
9 home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with
10 expenses chargeable as provided in RSA 169-D:29.

11 (d) [Repealed.]

12 *I-a. Where the petition alleges that the child is a habitual truant under RSA 169-*
13 *D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his*
14 *or her parents guardian or custodian under RSA 169-D:2, II(b), or that the child repeatedly*
15 *or habitually engages in conduct that constitutes violation level offenses under RSA 169-*
16 *D:2, II(c), the court shall not order the out of home placement of the child.*

17 13 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
18 follows:

19 I. If the court finds the child is in need of services, it shall order the least restrictive and
20 most appropriate disposition considering the facts in the case, the investigation report, and the
21 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
22 department of health and human services shall include the costs of the recommended services,
23 placements, and programs. Such disposition may include:

24 (a) Permitting the child to remain with a parent, guardian, relative or custodian, subject
25 to such limitations and conditions as the court may prescribe, including:

26 (1) Ordering the child or parent, guardian, relative or custodian, or both, to accept
27 individual or family counseling;

28 (2) Placing the child on conditional release for a term of 2 years or less.

29 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

30 (2) (A) *Where the petition alleges that the child is a habitual runaway under*
31 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
32 releasing the child to the custody of the department of health and human services for placement in a
33 foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility
34 with expenses charged in accordance with RSA 169-D:29.

35 (B) *Notwithstanding subparagraph (A), where the petition alleges that*
36 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
37 *disregards the reasonable and lawful commands of his or her parents, guardian, or*



Amendment to SB 129-FN

1 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
2 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
3 *not order the out of home placement of the child.*

4 (c) Imposing a fine or restitution, or both, on a child who has committed an offense
5 which, if committed by an adult, would be a violation under the criminal code of this state; or has
6 committed an offense which, if committed by a person 16 years of age or older, would be a violation
7 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.
8 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

9 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
10 subject to the approval of the elected or appointed official authorized to give approval of the city or
11 town in which the offense occurred. The court's order for uncompensated public service shall include
12 the name of the official who will provide supervision to the minor. However, no person who performs
13 such public service under this subparagraph shall receive any benefits that such employer gives to
14 its other employees, including, but not limited to, workers' compensation and unemployment benefits
15 and no such employer shall be liable for any damages sustained by a person while performing such
16 public service or any damages caused by that person unless the employer is guilty of gross
17 negligence.

18 (e) Requiring any child to attend structured after-school or evening programs which
19 address some of the child's compliance issues, as well as supervise the child during the time of the
20 day in which the child most values his or her freedom and the time which is most often used to
21 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
22 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
23 to the child free of charge based on the limited means of the family or based on the program's receipt
24 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
25 have been certified pursuant to RSA 170-G:4, XVIII.

26 14 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

27 (b) A process for intervention designed to address individual cases of truancy as quickly
28 as possible and to reduce the number of habitual truants in the school district. *The process shall*
29 *consider and document the effect, if any, on the child's attendance of the following:*
30 *inconsistent and ineffective school attendance policies; poor record keeping; notification*
31 *provided to parents or guardians of the child's absences; unsafe school environment; poor*
32 *school climate; poor relations with teachers; and the adequacy of the identification of the*
33 *child's special education needs.* The board shall provide for the participation of parents in the
34 development of the policy. The policy shall include early parental involvement in the intervention
35 process. The policy shall also designate an employee in each school as the person responsible for
36 truancy issues.

37 15 Committee Established. There is established a committee to study and develop a program to



Amendment to SB 129-FN

- Page 5 -

1 address children in need.

2 16 Membership and Compensation.

3 I. The members of the committee shall be as follows:

4 (a) Five members of the house of representatives, appointed by the speaker of the house
5 of representatives.

6 (b) One member of the senate, appointed by the president of the senate.

7 II. Members of the committee shall receive mileage at the legislative rate when attending to
8 the duties of the committee.

9 17 Duties. The committee shall study and develop a program to address children in need. The
10 committee shall:

11 I. Consult with the National Conference of State Legislatures on best practices for serving
12 children in need, examine similar programs from other states, and review the CHINS (children in
13 need of services) program under RSA 169-D as previously implemented.

14 II. Identify a program model or structure appropriate for New Hampshire and draft
15 recommendations for a program to address children in need.

16 III. Solicit information and testimony from any individual or entity with experience or
17 expertise relevant to the study.

18 18 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
19 among the members. The first meeting of the committee shall be called by the first-named house
20 member. The first meeting of the committee shall be held within 45 days of the effective date of this
21 section. Three members of the committee shall constitute a quorum.

22 19 Report. The committee shall report its findings and any recommendations for proposed
23 legislation to the speaker of the house of representatives, the president of the senate, the house
24 clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on
25 or before November 1, 2013.

26 20 Effective Date.

27 I. Sections 15-19 of this act shall take effect upon its passage.

28 II. The remainder of this act shall take effect 60 days after its passage.



2013-0690s

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.

VIII. Adds requirements to truancy policies adopted by school boards.

IX. Establishes a committee to develop a program to address children in need.

Senate Judiciary
March 5, 2013
2013-0743s
05/10

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Amend the bill by replacing sections 2 and 3 with the following:

2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-B:2 by inserting after paragraph XIII the following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children prior to or following adjudication or disposition. A shelter care facility may not be operated in the same building as a facility for architecturally secure confinement of children or adults.

Amend the bill by replacing section 5 with the following:

5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19 by inserting after paragraph I the following new paragraph:

I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is not required under this paragraph during the period that a child is the subject of a delinquency petition which is awaiting adjudication or disposition. The department may seek a waiver of this provision from the court which ordered the commitment of the child, which may be granted by the court following written findings of fact supported by clear and convincing evidence that continued commitment is necessary to protect the safety of the minor or of the community. Such a waiver may be granted for up to 90 days. The number of waivers which may be granted in a particular case is not limited.

Amend RSA 170-H:10-a as inserted by section 6 of the bill by deleting RSA 170-H:10-a, III.

Amend the bill by replacing all after section 7 with the following:

8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as follows:

(d) Procedures for revocation of parole~~[-and]~~

(e) Conditions under which the department may return a parolee to a secure facility pending action by the board[:]; *and*

(f) Procedures for providing effective notice to children subject to parole revocation proceedings of the right to counsel, for determining if a waiver of the right to counsel by a child is knowing, voluntary, and intelligent, and for the accurate determination of the existence of a disability which would interfere with a child's ability to understand the proceedings, make decisions, or otherwise handle the proceedings without the assistance of counsel.

9 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as follows:

II. "Child in need of services" means a child under the age of 18:

(a) Who is subject to compulsory school attendance, and who is habitually, willfully and without good and sufficient cause truant from school;

(b) Who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian or custodian and places himself or herself or others in unsafe circumstances;

(c) Who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

(d) With a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

10 Definition of Out-of-Home Placement. Amend RSA 169-D:2, XI to read as follows:

XI. "Out-of-home placement" means when a minor, as the result of a [~~delinquent~~] *child in need of services* petition, is removed from a biological parent, adoptive parent, or legal guardian of the minor and placed in substitute care with someone other than a biological parent, adoptive parent, or legal guardian. Such substitute care may include placement with a custodian, guardian, relative, friend, group home, crisis home, shelter care, or a foster home.

11 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a) may be filed by a truant officer or school official from the school district where the child is attending school with a judge or clerk of the court in the judicial district where the child is found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until all steps in the school district's intervention process under RSA 189:34, II have been followed.

(b) A petition alleging that a child is in need of services under RSA 169-D:2, II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d) may, with the consent of the department, be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

I-a. The petition shall be in writing and verified under oath. The following notice shall be printed on

the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.

12 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II and III to read as follows:

II. Pending the initial appearance, the court shall release the child to one of the following, which in the court's opinion is the least restrictive and most appropriate:

(a) A parent or guardian;

(b) A relative or suitable adult;

(c) **Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)**, the custody of department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses chargeable as provided in RSA 169-D:29; or

(d) [Repealed.]

(e) An alcohol crisis center certified to accept juveniles.

III. **Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d) and** [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent, guardian, or custodian as defined in paragraph II of this section available, the court or the officer taking the child into temporary custody shall notify the department. If the child cannot be referred to an alternative to secure detention, the court shall make an order authorizing the department to place the child. The department shall then promptly arrange for placement of the child.

13 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13, I to read as follows:

169-D:13 Release Pending Adjudicatory Hearing.

I. Following the initial appearance, a child alleged to be in need of services may be ordered by the court subject to such conditions as the court may order, to be:

(a) Retained in the custody of a parent, guardian, or custodian; or

(b) Released in the supervision and care of a relative; or

(c) **Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II (b) or that the child is a child in need of services under RSA 169-D:2, II(d)**, released to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses chargeable as provided in RSA 169-D:29.

(d) [Repealed.]

I-a. Where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents guardian or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall not order the out of home placement of the child.

14 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as follows:

I. If the court finds the child is in need of services, it shall order the least restrictive and most appropriate disposition considering the facts in the case, the investigation report, and the dispositional recommendations of the parties and counsel. The dispositional recommendation of the department of health and human services shall include the costs of the recommended services, placements, and programs. Such disposition may include:

(a) Permitting the child to remain with a parent, guardian, relative or custodian, subject to such

limitations and conditions as the court may prescribe, including:

(1) Ordering the child or parent, guardian, relative or custodian, or both, to accept individual or family counseling;

(2) Placing the child on conditional release for a term of 2 years or less.

(b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

(2) (A) *Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)*, releasing the child to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses charged in accordance with RSA 169-D:29.

(B) *Notwithstanding subparagraph (A), where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall not order the out of home placement of the child.*

(c) Imposing a fine or restitution, or both, on a child who has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town. Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

(d) Ordering the minor to perform up to 50 hours of uncompensated public service subject to the approval of the elected or appointed official authorized to give approval of the city or town in which the offense occurred. The court's order for uncompensated public service shall include the name of the official who will provide supervision to the minor. However, no person who performs such public service under this subparagraph shall receive any benefits that such employer gives to its other employees, including, but not limited to, workers' compensation and unemployment benefits and no such employer shall be liable for any damages sustained by a person while performing such public service or any damages caused by that person unless the employer is guilty of gross negligence.

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian, or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

15 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. *The process shall consider and document the effect, if any, on the child's attendance of the following: inconsistent and ineffective school attendance policies; poor record keeping; notification provided to parents or guardians of the child's absences; unsafe school environment; poor school climate; poor relations with teachers; and the adequacy of the identification of the child's special education needs.* The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

16 Committee Established. There is established a committee to study and develop a program to address

children in need.

17 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

18 Duties. The committee shall study and develop a program to address children in need. The committee shall:

I. Consult with the National Conference of State Legislatures on best practices for serving children in need, examine similar programs from other states, and review the CHINS (children in need of services) program under RSA 169-D as previously implemented.

II. Identify a program model or structure appropriate for New Hampshire and draft recommendations for a program to address children in need.

III. Solicit information and testimony from any individual or entity with experience or expertise relevant to the study.

19 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

20 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on or before November 1, 2013.

21 Effective Date.

I. Sections 16-20 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

2013-0743s

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.

VIII. Adds requirements to truancy policies adopted by school boards.

IX. Establishes a committee to develop a program to address children in need.



Amendment to SB 129-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu
4 Youth Services Center, relative to the children in need of services (CHINS)
5 program, and establishing a committee to study programs for children in need.
6

7 Amend the bill by replacing sections 2 and 3 with the following:

8

9 2 New Paragraph; Delinquent Children; Definition of Shelter Care Facility. Amend RSA 169-
10 B:2 by inserting after paragraph XIII the following new paragraph:

11 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care
12 of children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for
13 children prior to or following adjudication or disposition. A shelter care facility may not be operated
14 in the same building as a facility for architecturally secure confinement of children or adults.

15 3 New Paragraph; Children in Need of Services; Definition of Shelter Care Facility. Amend
16 RSA 169-D:2 by inserting after paragraph XIII by following new paragraph:

17 XIV. "Shelter care facility" means a non-secure or staff-secure facility for the temporary care of
18 children no less than 11 nor more than 17 years of age. Shelter care facilities may be utilized for children
19 prior to or following adjudication or disposition. A shelter care facility may not be operated in the same
20 building as a facility for architecturally secure confinement of children or adults.

21

22 Amend the bill by replacing section 5 with the following:

23

24 5 New Paragraph; Release and Discharge from Youth Development Center. Amend RSA 621:19
25 by inserting after paragraph I the following new paragraph:

26 I-a. The board shall release, pursuant to paragraph I, any child committed to its care for a
27 delinquency adjudication based on an offense other than a violent crime as defined in RSA 169-B:35-
28 a no later than 6 months following the child's commitment pursuant to RSA 169:19, I(j). Release is
29 not required under this paragraph during the period that a child is the subject of a delinquency
30 petition which is awaiting adjudication or disposition. The department may seek a waiver of this
31 provision from the court which ordered the commitment of the child, which may be granted by the
32 court following written findings of fact supported by clear and convincing evidence that continued
33 commitment is necessary to protect the safety of the minor or of the community. Such a waiver may



1 be granted for up to 90 days. The number of waivers which may be granted in a particular case is
2 not limited.

3
4 Amend RSA 170-H:10-a as inserted by section 6 of the bill by deleting RSA 170-H:10-a, III.

5
6 Amend the bill by replacing all after section 7 with the following:

7
8 8 Rules Adopted by the Juvenile Parole Board. Amend RSA 170-H:4, III(d) and (e) to read as
9 follows:

10 (d) Procedures for revocation of parole[~~;-and~~]

11 (e) Conditions under which the department may return a parolee to a secure facility
12 pending action by the board[~~-~~]; *and*

13 (f) *Procedures for providing effective notice to children subject to parole*
14 *revocation proceedings of the right to counsel, for determining if a waiver of the right to*
15 *counsel by a child is knowing, voluntary, and intelligent, and for the accurate*
16 *determination of the existence of a disability which would interfere with a child's ability to*
17 *understand the proceedings, make decisions, or otherwise handle the proceedings without*
18 *the assistance of counsel.*

19 9 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as
20 follows:

21 II. "Child in need of services" means a child under the age of 18:

22 (a) Who is subject to compulsory school attendance, and who is habitually, willfully and
23 without good and sufficient cause truant from school;

24 (b) Who habitually runs away from home, or who repeatedly disregards the reasonable
25 and lawful commands of his or her parents, guardian or custodian and places himself or herself or
26 others in unsafe circumstances;

27 (c) Who has exhibited willful repeated or habitual conduct constituting offenses which
28 would be violations under the criminal code of this state if committed by an adult or, if committed by
29 a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

30 (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who
31 engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others
32 and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

33 10 Definition of Out-of-Home Placement. Amend RSA 169-D:2, XI to read as follows:

34 XI. "Out-of-home placement" means when a minor, as the result of a [~~delinquent~~] *child in*
35 *need of services* petition, is removed from a biological parent, adoptive parent, or legal guardian of
36 the minor and placed in substitute care with someone other than a biological parent, adoptive
37 parent, or legal guardian. Such substitute care may include placement with a custodian, guardian,



1 relative, friend, group home, crisis home, shelter care, or a foster home.

2 11 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

3 *I.(a) A petition alleging that a child is in need of services under RSA 169-D:2, II(a)*
4 *may be filed by a truant officer or school official from the school district where the child is*
5 *attending school with a judge or clerk of the court in the judicial district where the child is*
6 *found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall*
7 *not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until*
8 *all steps in the school district's intervention process under RSA 189:34, II have been*
9 *followed.*

10 *(b) A petition alleging that a child is in need of services under RSA 169-D:2,*
11 *II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school*
12 *official, or law enforcement officer with a judge or clerk of the court in the judicial district*
13 *in which the child is found or resides.*

14 *(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d)*
15 *may, with the consent of the department, be filed by a parent, legal guardian or custodian, school*
16 *official, or law enforcement officer with a judge or clerk of the court in the judicial district in which*
17 *the child is found or resides.*

18 *I-a.* The petition shall be in writing and verified under oath. The following notice shall be
19 printed on the front of the petition in bold in no smaller than 14 point font size: "See back for
20 important information and financial obligations." The back of the petition shall include a notice of
21 liability for parents and other individuals chargeable by law for the child's support and necessities.

22 12 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II
23 and III to read as follows:

24 II. Pending the initial appearance, the court shall release the child to one of the following,
25 which in the court's opinion is the least restrictive and most appropriate:

26 (a) A parent or guardian;

27 (b) A relative or suitable adult;

28 (c) *Where there are reasonable grounds to believe that the child is a runaway*
29 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
30 *II(d), the custody of department of health and human services for placement in a foster home, as*
31 *defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses*
32 *chargeable as provided in RSA 169-D:29; or*

33 (d) [Repealed.]

34 (e) An alcohol crisis center certified to accept juveniles.

35 III. *Where there are reasonable grounds to believe that the child is a runaway*
36 *under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2,*
37 *II(d) and [Should] there [be] is no shelter care/detention bed available, nor an appropriate parent,*



1 guardian, or custodian as defined in paragraph II of this section available, the court or the officer
2 taking the child into temporary custody shall notify the department. If the child cannot be referred
3 to an alternative to secure detention, the court shall make an order authorizing the department to
4 place the child. The department shall then promptly arrange for placement of the child.

5 13 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13,
6 I to read as follows:

7 169-D:13 Release Pending Adjudicatory Hearing.

8 I. Following the initial appearance, a child alleged to be in need of services may be ordered
9 by the court subject to such conditions as the court may order, to be:

10 (a) Retained in the custody of a parent, guardian, or custodian; or

11 (b) Released in the supervision and care of a relative; or

12 (c) *Where the petition alleges that the child is a habitual runaway under RSA*
13 *169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*
14 *released to the custody of the department of health and human services for placement in a foster*
15 *home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with*
16 *expenses chargeable as provided in RSA 169-D:29.*

17 (d) [Repealed.]

18 *I-a. Where the petition alleges that the child is a habitual truant under RSA 169-*
19 *D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his*
20 *or her parents guardian or custodian under RSA 169-D:2, II(b), or that the child repeatedly*
21 *or habitually engages in conduct that constitutes violation level offenses under RSA 169-*
22 *D:2, II(c), the court shall not order the out of home placement of the child.*

23 14 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as
24 follows:

25 I. If the court finds the child is in need of services, it shall order the least restrictive and
26 most appropriate disposition considering the facts in the case, the investigation report, and the
27 dispositional recommendations of the parties and counsel. The dispositional recommendation of the
28 department of health and human services shall include the costs of the recommended services,
29 placements, and programs. Such disposition may include:

30 (a) Permitting the child to remain with a parent, guardian, relative or custodian, subject
31 to such limitations and conditions as the court may prescribe, including:

32 (1) Ordering the child or parent, guardian, relative or custodian, or both, to accept
33 individual or family counseling;

34 (2) Placing the child on conditional release for a term of 2 years or less.

35 (b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

36 (2) (A) *Where the petition alleges that the child is a habitual runaway under*
37 *RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d),*



1 releasing the child to the custody of the department of health and human services for placement in a
2 foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility
3 with expenses charged in accordance with RSA 169-D:29.

4 *(B) Notwithstanding subparagraph (A), where the petition alleges that*
5 *the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly*
6 *disregards the reasonable and lawful commands of his or her parents, guardian, or*
7 *custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in*
8 *conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall*
9 *not order the out of home placement of the child.*

10 (c) Imposing a fine or restitution, or both, on a child who has committed an offense
11 which, if committed by an adult, would be a violation under the criminal code of this state; or has
12 committed an offense which, if committed by a person 16 years of age or older, would be a violation
13 under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town.
14 Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

15 (d) Ordering the minor to perform up to 50 hours of uncompensated public service
16 subject to the approval of the elected or appointed official authorized to give approval of the city or
17 town in which the offense occurred. The court's order for uncompensated public service shall include
18 the name of the official who will provide supervision to the minor. However, no person who performs
19 such public service under this subparagraph shall receive any benefits that such employer gives to
20 its other employees, including, but not limited to, workers' compensation and unemployment benefits
21 and no such employer shall be liable for any damages sustained by a person while performing such
22 public service or any damages caused by that person unless the employer is guilty of gross
23 negligence.

24 (e) Requiring any child to attend structured after-school or evening programs which
25 address some of the child's compliance issues, as well as supervise the child during the time of the
26 day in which the child most values his or her freedom and the time which is most often used to
27 perform unruly acts. The cost of said programs shall be paid by private insurance, if available, or
28 otherwise by the child, parent, guardian, or person having custody of the child, or may be available
29 to the child free of charge based on the limited means of the family or based on the program's receipt
30 of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that
31 have been certified pursuant to RSA 170-G:4, XVIII.

32 15 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

33 (b) A process for intervention designed to address individual cases of truancy as quickly
34 as possible and to reduce the number of habitual truants in the school district. *The process shall*
35 *consider and document the effect, if any, on the child's attendance of the following:*
36 *inconsistent and ineffective school attendance policies; poor record keeping; notification*
37 *provided to parents or guardians of the child's absences; unsafe school environment; poor*



1 *school climate; poor relations with teachers; and the adequacy of the identification of the*
2 *child's special education needs.* The board shall provide for the participation of parents in the
3 development of the policy. The policy shall include early parental involvement in the intervention
4 process. The policy shall also designate an employee in each school as the person responsible for
5 truancy issues.

6 16 Committee Established. There is established a committee to study and develop a program to
7 address children in need.

8 17 Membership and Compensation.

9 I. The members of the committee shall be as follows:

10 (a) Five members of the house of representatives, appointed by the speaker of the house
11 of representatives.

12 (b) One member of the senate, appointed by the president of the senate.

13 II. Members of the committee shall receive mileage at the legislative rate when attending to
14 the duties of the committee.

15 18 Duties. The committee shall study and develop a program to address children in need. The
16 committee shall:

17 I. Consult with the National Conference of State Legislatures on best practices for serving
18 children in need, examine similar programs from other states, and review the CHINS (children in
19 need of services) program under RSA 169-D as previously implemented.

20 II. Identify a program model or structure appropriate for New Hampshire and draft
21 recommendations for a program to address children in need.

22 III. Solicit information and testimony from any individual or entity with experience or
23 expertise relevant to the study.

24 19 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
25 among the members. The first meeting of the committee shall be called by the first-named house
26 member. The first meeting of the committee shall be held within 45 days of the effective date of this
27 section. Three members of the committee shall constitute a quorum.

28 20 Report. The committee shall report its findings and any recommendations for proposed
29 legislation to the speaker of the house of representatives, the president of the senate, the house
30 clerk, the senate clerk, the governor, the chief justice of the supreme court, and the state library on
31 or before November 1, 2013.

32 21 Effective Date.

33 I. Sections 16-20 of this act shall take effect upon its passage.

34 II. The remainder of this act shall take effect 60 days after its passage.



2013-0743s

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.

VIII. Adds requirements to truancy policies adopted by school boards.

IX. Establishes a committee to develop a program to address children in need.

Children and Family Law
April 24, 2013
2013-1378h
05/04

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

Amend the bill by replacing all after section 8 with the following:

9 Effective Date. This act shall take effect 60 days after its passage.

2013-1378h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

Children and Family Law
April 24, 2013
2013-1378h
05/04

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

Amend the bill by replacing all after section 8 with the following:

9 Effective Date. This act shall take effect 60 days after its passage.

2013-1378h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

Rep. Rosenwald, Hills. 30
May 10, 2013
2013-1655h
05/01

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and relative to the children in need of services (CHINS) program.

Amend the bill by replacing all after section 8 with the following:

9 Children in Need of Services; Applicability of Chapter. RSA 169-D:1, IV and V are repealed and reenacted to read as follows:

IV. To protect the integrity of the family by authorizing adjudication and the imposition of dispositional judgment requiring participation in a plan of services only after appropriate voluntary alternatives have been unsuccessful; and

V. When appropriate voluntary service options have been unsuccessful, to provide effective judicial procedures through which family service plans are executed and enforced, and which assure the parties fair hearings at which their constitutional and other rights as citizens are recognized and protected.

10 Definition of Child in Need of Services. RSA 169-D:2, II is repealed and reenacted to read as follows:

II. "Child in need of services" means a child under the age of 18:

(a) Who is subject to compulsory school attendance, and who is habitually, willfully, and without good and sufficient cause truant from school;

(b) Who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian and places himself or herself or others in unsafe circumstances;

(c) Who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; or

(d) With a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C; and

(e) Is expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment, or rehabilitation.

11 New Paragraph; Children in Need of Services; Definition of Truant Added. Amend RSA 169 D:2 by inserting after paragraph XIII the following new paragraph:

XIV. "Truant" means a child between the ages of 6 and 18 years who is either not attending school as required by law or who is not participating in an alternative learning plan under RSA 193:1. "Truancy" shall have the same meaning as in RSA 189:35-a.

12 Children in Need of Services; Petition. Amend RSA 169-D:5, I to read as follows:

I.(a) *A petition alleging that a child is in need of services under RSA 169-D:2, II(a) may be*

filed by a truant officer or school official from the school district where the child is attending school with a judge or clerk of the court in the judicial district where the child is found or resides. In accordance with RSA 189:36, II, a truant officer or school official shall not file a petition alleging that a child is in need of services under RSA 169-D:2, II(a) until all steps in the school district's intervention process under RSA 189:34, II have been followed.

(b) A petition alleging that a child is in need of services under RSA 169-D:2, II(b) or RSA 169-D:2, II(c) may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

(c) A petition alleging that a child is in need of services under RSA 169-D:2, II(d) may, with the consent of the department, be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides.

I-a. The petition shall be in writing and verified under oath. The following notice shall be printed on the front of the petition in bold in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.

13 New Paragraph; Petition. Amend RSA 169-D:5 by inserting after paragraph II the following new paragraph:

II-a. Any petition filed shall include language demonstrating that appropriate voluntary services have been attempted, the nature of voluntary services attempted, and the reason court compulsion is necessary. If, upon review of the petition, the court is not satisfied that the petition includes sufficient information to find that appropriate voluntary services were attempted and unsuccessful, the court shall, prior to scheduling the child's initial appearance, refer the petition to the department, which shall proceed pursuant to RSA 169-D:9.

14 New Section; Voluntary Services. Amend RSA 169-D by inserting after section 5-b the following new section:

169-D:5-c Voluntary Services. The department may offer the child and family, on a voluntary basis, any services permitted under RSA 169-D:17. The department may decline to offer services to a child or family if it concludes that the child does not meet the definition of child in need of services in RSA 169-D:2, II. Notwithstanding RSA 541-A, denials of voluntary services shall not be subject to appeal, however the department's decision to decline services shall not preclude any person from bringing a petition pursuant to RSA 169-D:5, I. If the department declines services in a case referred to it by the court, the department shall notify the court that it has declined voluntary services and the bases therefor. Voluntary services shall not include the out-of-home placement of the child. Voluntary services provided pursuant to this section shall be time limited, not to exceed 9 months.

15 Issuance of Summons and Notice. RSA 169-D:6, I is repealed and reenacted to read as follows:

I.(a) After a legally sufficient petition has been filed, unless the case is referred to the department pursuant to RSA 169-D:5 or a consent order is entered and approved, the court shall schedule an initial appearance and issue a summons, including a copy of the petition, to be served personally upon the person having custody or control of the child or with whom the child may be, requiring that person to appear with the child on the specified date and time. Refusal of the child to participate in the development of a voluntary service plan may constitute sufficient information that voluntary service and support options have been unsuccessful.

(b) If personal service is not possible, service shall occur at the usual place of abode of the person having custody or control of the child or with whom the child may be, requiring that person to appear with the child at a specified place and time which time shall not be less than 24 hours after service. If the person

so notified is not the parent or guardian of the child, then a parent or guardian shall be notified, provided they and their residence are known.

16 Diversion and Pre-adjudicatory Procedure. RSA 169-D:9 is repealed and reenacted to read as follows:
169-D:9 Pre-adjudicatory Procedure.

I. Except in emergencies, the department, its agent, or any person or agency it designates shall determine what voluntary service options are available to the child and family. A referral for this determination may be made by any person permitted to bring a petition under RSA 169-D:5, I. To achieve this purpose, the department may designate a multi-disciplinary team to consider the facts and circumstances of the case, the needs of the child and family, and available diversion programs, services, and resources. This conference shall be attended by the child, if appropriate, his or her parents, legal guardians or custodians, and representatives of any public institution or agency having legal responsibility over the child, and may be attended by parties invited by the family and representatives of any public or private institutions or agencies having discretionary ability to coordinate and/or supply services to the child or family. If the child does not attend a multi-disciplinary conference, an appropriate individual shall be designated to solicit the child's input and help the child understand available service options and supports.

II. If available, a multi-disciplinary conference may be held at any time before or after a petition is filed but shall be held before the child's initial appearance pursuant to RSA 169-D:11.

III. At any time before or after a petition is filed, the child, his or her caretakers, and the department may effect an individualized voluntary family services plan, which shall include:

(a) Identification of the circumstances which contributed to the need for services.

(b) A description of the services that are needed for the child, the child's caretakers, or other family members, the availability of such services within the community, and a plan for ensuring that any such services that are available will be secured and provided.

(c) The name of the person within the each affected public service agency who is directly responsible for assuring that specific services identified in the plan are provided.

(d) An estimate of the time anticipated to be necessary to accomplish the goals set out in the plan.

(e) Any other provisions deemed appropriate by the parties.

(f) Designation of a responsible person or agency for oversight of the plan.

IV. A voluntary family services plan shall set forth in writing the terms and conditions agreed to by the child, the child's caretaker, and all parties responsible for implementation of the voluntary services plan. A written copy of the plan shall be submitted to each party or person responsible for implementation of the plan.

V. A voluntary services plan may be amended by agreement of the parties at any time. If a petition has been filed, the amended plan shall be submitted to the court.

VI. If a petition has been filed, the voluntary family services plan shall be submitted to the court. A voluntary services plan shall stay the proceedings for a period not to exceed 90 days from the date of implementation, unless the parties agree, in writing, to an extension for additional periods not to exceed 90 days. If the parties determine services are necessary for longer than 180 days, the department shall submit a report to the court which outlines the progress that has been achieved during the duration of services and explains why continued services are necessary. Such reports shall be filed every 180 days until voluntary services are discontinued. If, upon reviewing the report, the court questions the need for continued services, it shall schedule a show cause hearing, at which the child, if appropriate, the child's parent or caretaker, and the department shall appear.

VII. When the petitioning person or agency, the court, the department, or a member of the multi-disciplinary team suspects that a child has a disability, an administrator at the responsible school district shall be notified. If appropriate, the school district shall refer the child for evaluation to determine if the

child is in need of special education and related services.

VIII. A voluntary family services plan shall not be considered in an adjudicatory hearing pursuant to RSA 169-B or 169-D, or a criminal trial. Evidence of the existence of such agreement shall not be used against the child over objection in any juvenile adjudicatory hearing or criminal trial.

IX. Any incriminating statement made by the child during discussions or conferences incident to the voluntary family services plan shall not be used against the child, over objection, in adjudicatory hearing pursuant to RSA 169-B or 169-D, or a criminal trial. Any such statement may be reported as the basis for a referral to the department pursuant to RSA 169-C, if there is reasonable basis to believe that a child's physical or mental health or welfare is endangered by abuse or neglect.

X. A voluntary family services plan suspends the proceedings on the petition. If the child satisfies the terms of the voluntary family services plan, he or she shall be discharged from further services or supervision, and the pending complaint or petition shall be dismissed with prejudice.

17 Children in Need of Services; Release Prior to Initial Appearance. Amend RSA 169-D:10, II and III to read as follows:

II. Pending the initial appearance, the court shall release the child to one of the following, which in the court's opinion is the least restrictive and most appropriate:

(a) A parent or guardian;

(b) A relative or suitable adult;

(c) *Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)*, the custody of department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses chargeable as provided in RSA 169-D:29; or

(d) [Repealed.]

(e) An alcohol crisis center certified to accept juveniles.

III. *Where there are reasonable grounds to believe that the child is a runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d) and* [Should] there [be] *is* no shelter care/detention bed available, nor an appropriate parent, guardian, or custodian as defined in paragraph II of this section available, the court or the officer taking the child into temporary custody shall notify the department. If the child cannot be referred to an alternative to secure detention, the court shall make an order authorizing the department to place the child. The department shall then promptly arrange for placement of the child.

18 Initial Appearance. Amend RSA 169-D:11, II(c) and (d) to read as follows:

(c) Establish any conditions for release; [and]

(d) Set a hearing date[-]; and

(e) *Inquire of the child and a parent or guardian of the child if the child has been:*

(1) *Determined to have an intellectual disability; or*

(2) *Determined to have a mental illness, emotional or behavioral disorder, or another disorder that may impede the child's decision-making abilities; or*

19 Children in Need of Services; Release Pending Adjudicatory Hearing. Amend RSA 169-D:13, I to read as follows:

I. Following the initial appearance, a child alleged to be in need of services may be ordered by the court subject to such conditions as the court may order, to be:

(a) Retained in the custody of a parent, guardian, or custodian; or

(b) Released in the supervision and care of a relative; or

(c) *Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d)*, released to the custody of

the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses chargeable as provided in RSA 169-D:29.

(d) [Repealed.]

I-a. Where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall not order the out-of-home placement of the child.

20 Children in Need of Services; Dispositional Hearing. Amend RSA 169-D:17, I to read as follows:

I. If the court finds the child is in need of services, it shall order the least restrictive and most appropriate disposition considering the facts in the case, the investigation report, and the dispositional recommendations of the parties and counsel. The dispositional recommendation of the department of health and human services shall include the costs of the recommended services, placements, and programs. Such disposition may include:

(a) Permitting the child to remain with a parent, guardian, relative, or custodian, subject to such limitations and conditions as the court may prescribe, including:

(1) Ordering the child or parent, guardian, relative, or custodian, or both, to accept individual or family counseling;

(2) Placing the child on conditional release for a term of 2 years or less.

(b)(1) Releasing the child in the supervision and care of a relative or suitable adult; or

(2)(A) ***Where the petition alleges that the child is a habitual runaway under RSA 169-D:2, II(b) or that the child is a child in need of services under RSA 169-D:2, II(d), releasing the child to the custody of the department of health and human services for placement in a foster home, as defined in RSA 169-C:3, XIII, a group home, a crisis home, or a shelter care facility with expenses charged in accordance with RSA 169-D:29.***

(B) ***Notwithstanding subparagraph (A), where the petition alleges that the child is a habitual truant under RSA 169-D:2, II(a), that the child repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian under RSA 169-D:2, II(b), or that the child repeatedly or habitually engages in conduct that constitutes violation level offenses under RSA 169-D:2, II(c), the court shall not order the out-of-home placement of the child.***

(c) Imposing a fine or restitution, or both, on a child who has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town. Such fine shall not exceed the fine which may be imposed against an adult for the same offense.

(d) Ordering the minor to perform up to 50 hours of uncompensated public service subject to the approval of the elected or appointed official authorized to give approval of the city or town in which the offense occurred. The court's order for uncompensated public service shall include the name of the official who will provide supervision to the minor. However, no person who performs such public service under this subparagraph shall receive any benefits that such employer gives to its other employees, including, but not limited to, workers' compensation and unemployment benefits and no such employer shall be liable for any damages sustained by a person while performing such public service or any damages caused by that person unless the employer is guilty of gross negligence.

(e) Requiring any child to attend structured after-school or evening programs which address some of the child's compliance issues, as well as supervise the child during the time of the day in which the child most values his or her freedom and the time which is most often used to perform unruly acts. The cost of said

programs shall be paid by private insurance, if available, or otherwise by the child, parent, guardian, or person having custody of the child, or may be available to the child free of charge based on the limited means of the family or based on the program's receipt of other funding. Payment shall be made pursuant to RSA 169-D:29 only for those programs that have been certified pursuant to RSA 170-G:4, XVIII.

21 New Section; Data Collection. Amend RSA 169-D by inserting after section 30 the following new section:

169-D:31 Data Collection.

I. The department shall establish a system to collect data related to:

- (a) The person or entity who referred the child for services and/or filed the petition.
- (b) The racial and ethnic identity of the child.
- (c) The insurance status and coverage of child served.

(d) The length of time a child receives services under this chapter, including the time prior and subsequent to the filing of a petition.

(e) The identity of any public or private organization to whom the department has referred a child or family.

(f) Any other information, including outcome data, that may assist the department and the court in evaluating the availability and effectiveness of services for children who receive assistance under this chapter.

(g) The number of cases in which the department received a referral of a child for services but declined to provide services pursuant to RSA 169-D:5-c, along with the basis for those decisions.

II. The department shall, upon request, make available to members of the public, compilations of the data which do not contain identifying information.

22 School Board Truancy Policy. Amend RSA 189:34, II(b) to read as follows:

(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. *The process shall consider and document the effect, if any, on the child's attendance of the following: inconsistent and ineffective school attendance policies; poor record keeping; notification provided to parents or guardians of the child's absences; unsafe school environment; poor school climate; poor relations with teachers; and the adequacy of the identification of the child's special education needs.* The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

23 Children in Need of Services; Suspension of Voluntary Services. The fiscal committee of the general court may authorize the suspension of voluntary services under RSA 169-D upon certification by the commissioner of the department of health and human services that appropriated funds will be insufficient to support voluntary services for the remainder of the biennium ending June 30, 2015.

24 Effective Date.

I. Sections 1-8 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect September 1, 2013.

2013-1655h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Expands the definition of a child in need of services under RSA 169-D and revises the circumstances under which the court may order various services or placements. The bill also directs the department of health and human services to collect certain data regarding the CHINS program and provides for the suspension of voluntary services if appropriated funds will be insufficient to support voluntary services for the remainder of the biennium.

VIII. Requires school board truancy policies to include certain information relative to student attendance.

Rep. Rosenwald, Hills. 30
 May 10, 2013
 2013-1656h
 05/01

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

Amend the bill by replacing all after section 8 with the following:

9 Appropriation; Insurance Department; Consumer Assistance Grant. In addition to any other sums appropriated for the fiscal year ending June 30, 2014, the following appropriation is hereby authorized to department of insurance:

02-24	Department of Insurance			
02-24-24-240010-1235	Consumer Assistance Grant			
02-24-24-240010-1235 020	Current Expense	Federal Funds	\$15,300	
02-24-24-240010-1235 030	Equipment	Federal Funds	\$500	
02-24-24-240010-1235 041	Audit set Aside	Federal Funds	\$5,374	
02-24-24-240010-1235 046	Consultants	Federal Funds	\$3,164,802	
02-24-24-240010-1235 050	Personal Services Part Time Temp	Federal Funds	\$18,414	
02-24-24-240010-1235 060	Benefits	Federal Funds	\$1,408	
02-24-24-240010-1235 070	In-State Travel	Federal Funds	\$20,688	
02-24-24-240010-1235 080	Out of State Travel	Federal Funds	\$17,898	
02-24-24-240010-1235 102	Contracts for Program Services	Federal Funds	<u>\$2,128,298</u>	
		Total:	\$5,372,682	

10 Effective Date.

I. Sections 1-8 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 2013.

2013-1656h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Makes a supplemental appropriation to the insurance department for consumer assistance grants.

House Finance
 May 23, 2013
 2013-1905h
 05/10

Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

Amend the bill by replacing all after section 8 with the following:

9 Appropriation; Insurance Department; Consumer Assistance Grant. In addition to any other sums appropriated for the fiscal year ending June 30, 2014, the following appropriation is hereby authorized to the department of insurance:

02-24	Department of Insurance			
02-24-24-240010-1235	Consumer Assistance Grant			
02-24-24-240010-1235	020	Current Expense	Federal Funds	\$15,300
02-24-24-240010-1235	030	Equipment	Federal Funds	\$500
02-24-24-240010-1235	041	Audit set Aside	Federal Funds	\$5,374
02-24-24-240010-1235	046	Consultants	Federal Funds	\$3,164,802
02-24-24-240010-1235	050	Personal Services Part Time Temp	Federal Funds	\$18,414
02-24-24-240010-1235	060	Benefits	Federal Funds	\$1,408
02-24-24-240010-1235	070	In-State Travel	Federal Funds	\$20,688
02-24-24-240010-1235	080	Out of State Travel	Federal Funds	\$17,898
02-24-24-240010-1235	102	Contracts for Program Services	Federal Funds	<u>\$2,128,298</u>
			Total:	\$5,372,682

10 Effective Date.

I. Sections 1-8 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 2013.

2013-1905h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Makes a supplemental appropriation to the insurance department for consumer assistance grants.

Rep. Kurk, Hills. 2
 Rep. John Hunt, Ches. 11
 May 30, 2013
 2013-1967h
 05/04

Floor Amendment to SB 129-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center and making a supplemental appropriation to the insurance department.

Amend the bill by replacing all after section 8 with the following:

9 Appropriation; Insurance Department; Consumer Assistance Grant. In addition to any other sums appropriated for the fiscal year ending June 30, 2014, the following appropriation is hereby authorized to the department of insurance:

02-24	Department of Insurance			
02-24-24-240010-1235	Consumer Assistance Grant			
02-24-24-240010-1235 020	Current Expense	Federal Funds	\$15,300	
02-24-24-240010-1235 030	Equipment	Federal Funds	\$500	
02-24-24-240010-1235 041	Audit set Aside	Federal Funds	\$5,374	
02-24-24-240010-1235 046	Consultants	Federal Funds	\$3,164,802	
02-24-24-240010-1235 050	Personal Services Part Time Temp	Federal Funds	\$18,414	
02-24-24-240010-1235 060	Benefits	Federal Funds	\$1,408	
02-24-24-240010-1235 070	In-State Travel	Federal Funds	\$20,688	
02-24-24-240010-1235 080	Out of State Travel	Federal Funds	\$17,898	
02-24-24-240010-1235 102	Contracts for Program Services	Federal Funds	<u>\$2,128,298</u>	
	Total:		\$5,372,682	

10 Approval by Joint Health Care Reform Oversight Committee. The department of insurance may expend funds appropriated in section 9 of this act only with prior approval of the joint health care reform oversight committee established in RSA 420-N:3. This requirement shall not apply to the acceptance of grants or to transfers of appropriations.

11 Effective Date.

- I. Sections 1-8 of this act shall take effect 60 days after its passage.
- II. The remainder of this act shall take effect July 1, 2013.

2013-1967h

AMENDED ANALYSIS

This bill:

I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.

II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.

III. Requires that the department make treatment available in both non-secure and secure settings.

IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.

V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.

VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.

VII. Makes a supplemental appropriation to the insurance department for consumer assistance grants.

Committee Minutes

**SENATE CALENDAR NOTICE
JUDICIARY**

Senator Sharon Carson Chairman
 Senator Bette Lasky V Chairman
 Senator David Boutin
 Senator Sam Cataldo
 Senator Donna Soucy

For Use by Senate Clerk's Office ONLY	
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Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: February 7, 2013

HEARINGS

Tuesday

3/5/2013

JUDICIARY

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: The purpose of this hearing notice is to move the public hearing on SB 166 from the previously-noticed Feb. 19th to Tuesday, March 5th.

9:00 AM SB129-FN relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

9:20 AM SB166 relative to critical incident stress management and crisis intervention services.

Sponsors:

SB129-FN

Sen. Bob Odell

Rep. Laurie Harding

Sen. Molly Kelly

SB166

Sen. Lou D'Allesandro

SENATE JUDICIARY COMMITTEE

Susan Duncan, Senior Legislative Aide

SB 129-FN – relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center.

Hearing Date: March 5, 2013

Time Opened: 9:00 a.m.

Time Closed: 9:30 a.m.

Members of the Committee Present: Senators Carson, Lasky, Boutin and Cataldo

Members of the Committee Absent: Senator Soucy

Bill Analysis: This bill (1) limits the commitment of children to the Youth Development Center to cases where a court is presented with evidence that a juvenile is dangerous; (2) provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services; (3) requires that the Department make treatment available in both non-secure and secure settings; (4) creates a presumption of parole after 6 months for children at YC for non-violent offenses; (5) provides for a right to counsel for children facing revocation of their parole from YDC, which cannot be waived if the child has a disability; and (6) provides for periodic court review of cases where a juvenile is held at YDC for more than 6 months.

Sponsors: Senator Odell; Senator Kelly; Representative Harding

Who supports the bill: Senator Odell; Senator Kelly; Kathy Sgambati on behalf of Governor Hassan; Attorney Michael Skibbie of the Disabilities Rights Center; Bonnie Durham; Jack Lightfoot on behalf of Child & Family Services; Kirsten Murphy on behalf of the NH Council on Developmental Disabilities

Who opposes the bill: No one

Others testifying: Aislinn McLaughlin on behalf of the Policy Research Center at Dartmouth College

Summary of testimony presented in support:

Senator Odell

Indicated that he has two amendments for the Committee's consideration today and talked about unnecessary incarceration of our children. He explained that some of our discussions here in the Legislature indicated that the decision had been made not to close shelters – but that because the Department did not use the Antrim Shelter, they had to go out of business. This has led to raise other issues such as unnecessary “incarceration” of juveniles and he subsequently met with judges, police and others.

He presented amendment #0645s for consideration which provides definitions of shelter-care facilities.

He spoke of the definition of CHINS (children in need of services) and that the intention in Senate Finance Committee was that we could take care of 50 of the worst cases, and the others would be sent back to their homes. He presented amendment #0690s which deals with CHINS. He asked that this be adopted as well and pledged that a public hearing on this proposal will be held when the bill comes to Senate Finance Committee. He closed by saying that these are very important subjects that impact a lot of NH's families as well as economically impacting our State budget.

Attorney Skibbie

Explained his personal background, including working at UNH doing research on children in the NH Juvenile Justice System and provided a number of background handouts which included a flow chart as well as a description and letters from two attorneys in his office who have been monitoring these cases. He spoke of the force and isolation practices at the Sununu Center. In presenting his analysis of data from June 28th Center population of last year, he said that this shows the level of seriousness here. He also provided a copy of the score sheet used by judges in determining where a child should be detained. He spoke of the problem of putting non-dangerous juveniles at the Sununu Center.

There are two different populations who are being detained: children who are being detained while awaiting adjudication and children who have been committed. He said that this bill deals only with the second group of children.

Attorney Skibbie said that children are being held at Sununu Center for 8 to 12 months whereas nationally, two-thirds are released (from similar centers) by 6 months. He said that this is important because research shows that placement in these facilities results in poorer outcomes instead of better outcomes.

He said that 7 of our 20 judges were over the threshold for placing children at the Sununu Center but he also said that we must not place too much emphasis on the numbers alone as each case or child is individual and will not be reflected in score sheets. He acknowledged that there may have been indicators that showed that detention was appropriate. However, some judges are more willing to use the center as pre-incarceration.

He said that the bill requires the judge to make findings as to the dangerousness of the child.

The second portion explains that children who should be at shelter-care facilities should not be placed at the Sununu Center.

The amendment also places rule-making authority with the Juvenile Parole Board rather than the Department.

The amendment requires that if the Department requires treatment, that these resources must be also available in non-secure facilities so no incentive is created to place children at secure facilities (when not needed or appropriate).

A presumption of parole after 6 months is established, but would not apply to certain violent offenders. A waiver could be filed with the Judge if a danger still exists.

A right to legal counsel relative to parole is provided, especially when making decisions relative to their liberty. The rate of disability for children at the Sununu Center is over 70% so this is particularly needed.

Senator Lasky asked about the availability of treatment services in various facilities and whether children are sent to Sununu because these services cannot be obtained elsewhere. **Attorney Skibbie** responded that the bill would require in the future that the services be available in both placements (secure and non-secure facilities) but that currently this is not the case.

Former Senator Sgambati (on behalf of Governor Hassan)

Spoke regarding the second amendment provided by Senator Odell (#06890s) dealing with CHINS. She explained that both the language of HB 2 as well as the Governor's proposed budget have significant changes proposed to CHINS and are in Senator Odell's amendment. She explained that the Governor is proposing a two-pronged approach: a study to look at the long-term changes that are needed to these services as well as some immediate policy changes. She spoke of the importance of services for children who are at risk of harm to themselves and/or others. She acknowledged that our communities are probably experiencing more loss of services in dealing with truancy. She said that truants should be dealt with in their own community and that requirements be placed on schools to support these children by having a plan to assist them. Those who can file a Petition for truants would be limited to the school district or truancy officer. She stated again that the proposals here are intended to be an interim solution while the study group does their work and comes back their research, data and with long-term suggestions.

Summary of testimony presented in opposition: None

Other testimony presented:

Aislinn McLaughlin on behalf of the Policy Research Center at Dartmouth College speaking about research they have done on juvenile justice issues. Their group will be making a more complete presentation to the committee in early April.

She provided a copy of their research report which outlines the various programs they looked at in both New Hampshire and other states. There are currently three options: home stay, diversion and detention. Diversion programs are the most widely-used option in our State, though funds have dried up. She said that children with special needs are more likely to be found "true" of more harsh treatment.

Fiscal Note: See Fiscal Note (13-0845 revised 1/29/13)

Action: Senator Lasky moved Ought to Pass with both amendments presented by Senator Odell. Senator Cataldo seconded the Motion. The Committee voted 5 to 0 in support. Senator Lasky will report the bill out of Committee.

sfd

Date hearing report completed: March 6, 2013

[file: SB 129-FN report]

**SENATE CALENDAR NOTICE
FINANCE**

Senator Chuck Morse Chairman
 Senator Jeanie Forrester V Chairman
 Senator Peter Bragdon
 Senator Lou D'Allesandro
 Senator Sylvia Larsen
 Senator Bob Odell

For Use by Senate Clerk's Office ONLY	
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Date: March 14, 2013

HEARINGS

Tuesday

3/19/2013

FINANCE

SH 103

1:00 PM

(Name of Committee)

(Place)

(Time)

1:00 PM SB129-FN

EXECUTIVE SESSION MAY FOLLOW

relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

sponsors:

SB129-FN
Sen. Bob Odell

Rep. Laurie Harding

Sen. Molly Kelly

SENATE FINANCE COMMITTEE

Shannon Whitehead, Legislative Aide

SB 129-FN – (New Title) relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Hearing Date: March 19, 2013

Time Opened: 1:03pm

Time Closed: 1:54pm

Members of the Committee Present: Senators: Forrester, Larsen, Bragdon, D'Allesandro and Odell

Members of the Committee Absent: Sen. Morse

Bill Analysis: This bill:

- I. Limits the commitment of children to the youth development center to cases where a court is presented with evidence that a juvenile is dangerous.
- II. Provides a definition for shelter care facility in cases involving juvenile delinquency and children in need of services.
- III. Requires that the department make treatment available in both non-secure and secure settings.
- IV. Creates a presumption of parole after 6 months for children at the youth development center for non-violent offenses.
- V. Provides for a right to counsel for children facing revocation of their parole from the youth development center, which cannot be waived if the child has a disability.
- VI. Provides for periodic court review of cases where a juvenile is held at the youth development center for more than 6 months.
- VII. Expands the definition of a child in need of services under RSA 169-D and revises the procedure for filing a CHINS petition and the circumstances under which the court may order various services or placements.
- VIII. Adds requirements to truancy policies adopted by school boards.
- IX. Establishes a committee to develop a program to address children in need

Sponsors: Sen. Odell, Dist 8; Sen. Kelly, Dist 10; Rep. Harding, Graf 13

Who supports the bill: Michael Skibbie (Disabilities Right Center) Maggie Bishop and Byry Kennedy (DCYF, supporting CHINS portion of bill) Keith Kuenning (CFS) Kathy Sgambati (Office of Governor Hassan)

Who opposes the bill: No one appeared in opposition to the bill

Summary of testimony presented in support:

Sen. Odell:

- Explained that an amendment was coming forward that relates to the CHINS program from the Governor's Office. Parallel to that on the House side.
- House Bill 418 that deals with setting up a study committee, CHINS hasn't been studied in 34 years, also added to the amendment
- The policy of reinstating CHINS, is encompassed in House Bill 260 which was the language in HB 2
- There is \$8,200,000, in the Governor's Budget that will come in HB 1.
- The Amendment consists of taking the money that's involved and reduce amount to \$1 and consider the money in the Governor's Budget in HB 1, resulting that money is not eliminated just in a different form.

Michael Skibbie:

- Spoke about the Sununu Center portions of the bill, Sections 1 through 8.
- Explained there are two ways children can be placed at the Sununu Center:
 - One is for them to be detained. That's analogous to somebody being held without bail pending trial in the adult criminal justice system.
 - The other is commitment which is analogous to an adult sentence. One is before conviction and after conviction or adjudication in the Juvenile Justice System.
- This bill would say to judges before you can commit a child, you have to make a finding that the child needs to be there for the safety of the child or the safety of the community.
- Secondly, it would say to the Juvenile Parole Board, if the child is not there for a violent crime, then you need to look at paroling them after six months. If you're not going to parole them after six months, you need to come back to court and explain to the judge why public safety requires that they be there.
- Lots of opportunities to save money.
- 250,000 per bed per year
- Population at the end of June last year 47 kids there.
- It's not hard to see that more than half committed children that stay, could be significantly reduced.

Sen. Odell: Stated there was an audit recently conducted through the Fiscal Committee. Asked if the audit findings were consistent with the intent of this legislation.

Mr. Skibbie: The audit focused on the detention population, and it urges the State to look at alternatives to the Sununu Center for that population

Byry Kennedy:

- Explained that kids are unnecessarily being placed at Sununu Youth Services Center and in the detention context.
- Some cases committing offenses may not be the criminal activity of individual involved.
- Discussed a drill down relative to kids of their offense
- Talked about HB 260: expands the definition of a child in need of services under RSA 169-D and requires consideration of voluntary services before proceeding with a petition under RSA

169-D. The bill also requires the department of health and human services to collect certain data regarding petitions under RSA 169-D

- House Bill 260 is closer to the Governor's version which is incorporated in this bill with one difference from the Department's perspective and that's providing voluntary services.
- Question from the committee. Are children being sent to Sununu Center because there is no alternative? The response was, no.

Maggie Bishop:

- Population of 58 and 60 census of Sununu Center
- Majority of the changes have been around the day-to-day care of the youth that are at the Center.
- Took the clinical structure and put them over all things residential. All children and anything that happens to the children, whether its activities, whether it's consequences, it's all driven now by a clinical team.
- Many deal with a mental health struggle
- Taking on a different approach to how to handle them, the decisions being made
- are more clinically driven and as a result become less punitive, and then as a result results in less altercation between staff and children or children and children.
- Sen. D'Allesandro asked what the average length of stay was and looking at data trends. Ms. Bishop responded it was a year and 18 months.
- We are not sending to the Sununu center because there are no alternatives. There are numerous opportunities when it comes to residential placements.
- Sununu Center is not used unless it has to be.
- Talked about the voluntary services with CHINS. Voluntary services are expensive. The voluntary services is going to eat up all the funds. It is also going to keep us from being able to provide services that we know are effective services 'cause it's voluntary.
- There is a responsible way in which we can provide voluntary services for some children in our communities.

Sen. Larsen:

- Asked if we need to restore some more of the diversion and if diversion comes, what they're calling the voluntary.

Ms. Bishop

- Responded that the Diversion program is state wide and funded by incentive fund. They are well proven programs. Prevention is where we can see the best outcome. But there is no funding for them. Diversion funds were funded, were on incentive funds and provided federal grants.

Kathy Sqambati:

- Talked about the amendment. Broadens the definition of the CHINS population, there's a change in the scope of service, and it also changes the petitioner.
- On all counts stated that Senators and the Governor heard from community members from police, local police force and parents and schools about the concerns that they have had about the significant changes over the last biennium.
- The prior definition of CHINS curtailed to be only children with severe emotional, cognitive, or other mental health issues who were also in need of services immediately because some danger to themselves or others.
- The budget went from almost \$11 million in State Fiscal Year 11 down to \$3 million in State Fiscal Year 13.
- We're proposing a change that restores all of the categories of coverage so that it would cover this bill and what's in

- It would restore services to runaways, to young people who are willfully disobedient and who are status offenders.
- The change that makes the difference in our ability to fund all of those groups and still come in at less than what the program originally cost was that we the legislation no longer allows for truants to receive placement services
- Working with DCYF, the biggest category of expense was truants and some incentives for the School Districts to work to put kids on the CHINS roll as opposed to having to pay, if they're an out-of-state or out-of-home placement, they can be supported by the State as opposed to the community.
- Explained to committee of removing the word habitual(Habitual Offender)to replace it with Repeat (Repeat Offender)

Sen. Bragdon: Expressed that he thought Repeat was not any clearer, expressed that the repeat, takes away the question of the habit.

Kathy Sgambati: Responded that the word habitual is how many times form a habit, whereas repeat it's just more than once.

Keith Kuenning:

- Child and Family Services supports 129 to the underlying bill in regards to placement at shelter care facilities or at the Sununu Center.
- Child and Family Services believe there needs to be a voluntary component under the CHINS which is best expressed in HB 260.
- Under the old system, the child would have to open that door and the first thing that they would be confronted with is the court.
- Voluntary services under HB 260 are limited to nine months.
- No residency for voluntary services.
- Agrees with the Governor's Office the only residency that people should be able to get is under runaways.
- Truants can't get residential services and neither can under voluntary services there can be no residential placement
- Believe that the voluntary services are a better first step for families
- The courts are the backup that if the voluntary systems don't work, the court system is there.

Fiscal Note: Please refer the latest FN report 1/29/13

Future Action: Pending

sgw

Date hearing report completed: March 20, 2013

[file: SB 0129-FN report]

SENATE FINANCE COMMITTEE

State House, Room 103
Concord, NH
Tuesday, March 19, 2013

SENATE BILL 129-FN, AN ACT relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

TESTIMONY BY:

Sen. Bob Odell.	Pg. 1
Michael Skibbie	Pg. 4
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(Convened at 1:02 p.m.)

VICE-CHAIR FORRESTER: Going to open the hearing on Senate Bill 129 and ask the bill's prime sponsor, Senator Odell, to introduce the legislation.

BOB ODELL, State Senator, Senate District #8: Thank you, Madam Chair, Members of the Committee. Bob Odell, State Senator from District 8, 24 towns in the Counties of Cheshire, Sullivan, Merrimack and Hillsborough.

I'm here today to introduce Senate Bill 129 to the Finance Committee. This has previously gone through the policy committee and is here today for discussion of the financial implications of this bill.

When it comes to the first section of it that's

relative to court-ordered placements and shelter care facilities and the Sununu Youth Center, you may recall that when we passed the budget the last time there was some requirements in it for funding of shelters and some other things. Today, Mr. Skibbie and others may be here to provide additional background on the implications that budget and circumstance they find today in the use of the Sununu Youth Center as we speak.

Then there is an Amendment that deals with the CHINS, Children in Need of Services, and the goal here was to have a public hearing on the Senate side on this program.

As some of you may have heard, as I have heard, from police, educators, judges, others in the community, that the elimination of CHINS had real ramifications for communities and for children and for families. And so some of the conversation I had was that it was frustration that they, the people that were stakeholders, didn't feel it was a place they could come to be heard. And if you go back and read the testimony and what took place in the Finance Committee, it was a public hearing, but it really wasn't open -- but the public didn't have a chance to know about it and know what we were discussing because it was part of our internal deliberations. So I wanted to make sure that CHINS had the opportunity to discuss in a forum such as we have today.

You should note that the Amendment that relates to the CHINS program is coming from the Governor's Office, and it comes with a price tag to it. Parallel to that on the House side, and I believe I'm correct in this, there are a couple of bills that deal with CHINS that are headed our way. One would be House Bill 418 and that deals with setting up a study committee. As the prime sponsor of that bill said, CHINS hasn't been studied in 34 years and possibly it's time to do that. That same language, that same approach, is

also embedded in the Amendment that we have here on the Senate side.

In addition, the policy of reinstating CHINS, maybe we'll call it in a different format than it was previously, is encompassed in House Bill 260 that was -- the language of which was in House Bill 2. It's my understanding that the policy language will be taken out of House Bill 2 and will find its way here in House Bill 260.

In addition, there's \$8,200,000, I believe, that is in the Governor's Budget that will come to us in House Bill 1. And so the suggestion that I have is that we consider this legislation today, hear public testimony on it, that on Thursday we take executive action, and at that time I would have an Amendment taking the money that's involved and the Amendment on the Senate -- on Senate Bill 129 and reduce that amount to \$1 so that we can consider the money that's in the Governor's Budget in House Bill 1 when it comes over here so that we're not eliminating the money. Just it's going to come to us in a different form and allow our bill to go to the House, along with the original part of the bill that deals with court-ordered placements, would go over there for policy discussion, hopefully for passage of the first section of the bill prior to the Amendment, because we'll be getting the other language as part of House Bill 260.

So with that, I will leave it to others to talk about the details, but I think I've conveyed in general the financial implications of this bill as we discuss and plan for our budget deliberations. Thank you, Madam Chair. Thank you, Members of the Committee.

VICE-CHAIR FORRESTER: Thank you for your testimony. Are there any questions for Senator Odell? Thank you.

SEN. ODELL: Thank you.

VICE-CHAIR FORRESTER: Michael Skibbie speaking in favor.

MICHAEL SKIBBIE, Disabilities Rights Center: Good afternoon, Madam Chair, Members of the Committee. Mike Skibbie from the Disabilities Rights Center.

Just by way of background, I have a fair amount of experience working in the Juvenile Justice System. I was previously the Director of the New Hampshire Public Defender Program, handled juvenile cases while I was a staff attorney there and supervised a number of lawyers who did that kind of work. Between those, this role and that role, I was at the University for three years and a big part of what I did there was conduct research on the impact on children with disabilities of the New Hampshire Juvenile Justice System, did some research about the population at what was then YDC.

So what I'd like to do is briefly talk with you about the original bill which really deals with primarily the Sununu Center population. I'm happy to answer questions about the remainder of the bill. I've been very involved with the CHINS process over in the House culminating or its latest stage was this morning's adoption by House Finance of House Bill 260 or making recommendation of ought to pass. So the Sununu Center portions of the bill that's Sections 1 through 8.

As you probably noticed, there's two ways children can be placed at the Sununu Center. One is for them to be detained. That's analogous to somebody being held without bail pending trial in the adult criminal justice system. The other is commitment which is analogous to an adult sentence. One is before conviction and after conviction or

adjudication in the Juvenile Justice System.

New Hampshire has with both populations a fair amount of history of placing children that are relatively non-dangerous and keeping them for relatively long periods of time, both as compared to the nation at large. That was true when I did my research 10 years ago at the YDC, and it appears to continue to be true based on my analysis of the population at the Sununu Center last year.

On the detention side, which is not the subject of this bill, there's fairly good objective evidence that New Hampshire uses the Sununu Center for kids that don't really appear to be appropriate for that. New Hampshire participates in this national program to try to keep kids out of places like the Sununu Center. And judges before they place children there fill out an objective score sheet and a significant number, I believe it's about a third of the kids in a recent report that I looked at, were placed at the Sununu Center even though they did not reach the threshold that that score sheet would -- where the score sheet would justify placement there. I know that's not the particular subject of the bill, but I think there's some indication that judges in New Hampshire are inclined to use the Sununu Center for kids that could do well in other settings.

So what this bill would do is that it would basically say to judges before you can commit a child, you have to make a finding that the child needs to be there for the safety of the child or the safety of the community. And, secondly, it would say to the Juvenile Parole Board, if the child is not there for a violent crime, then you need to look at paroling them after six months. And if you're not going to parole them after six months, you need to come back to court and explain to the judge why public safety requires that they be there.

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So we think that there's lots of opportunities to save money here. I was surprised. I knew it was an expensive facility, but this -- over the last week there's been discussion about the cost per person per year out there, and it rivals the cost of the New Hampshire Hospital, north of \$250,000 per bed per year. Obviously, a lot of that has to do with the fact that we had a declining juvenile population and that facility is not full; but there's still a fair amount of opportunity to save money.

I did look at the population as of the end of June last year and there were 47 kids there who had been committed, the population of kids that would be subject to this legislation, and 17 of them were there for offenses other than offenses against the person. Offenses against the person are assaults, criminal threatening, those kinds of things that you might consider violent offenses. And then another 8% were there for misdemeanor level assault or threatening offenses. Neither of those would be subject -- all of those -- all of those kids, the 17, plus the 8, or 25 would be subject to the presumption of release after six months. Simple assault, misdemeanor offense, is typically something that doesn't cause serious injury. So it's not hard to see how more than half of the committed children could either not end up at the Sununu Center in the first place, based on whether a judge could make a finding of dangerousness, or their stay there would be significantly reduced as compared to without this legislation.

So I think that it's fairly clear that there's a fair amount of opportunity to save money. Obviously, that can't be quantified in particular, and it was not quantified in the Fiscal Note before you.

I guess the last small item I would mention is that this does create a statutory right to counsel during parole

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-- during the parole violation process. It's something that we have in the adult system. It's -- I believe it's a constitutional requirement, although we haven't had the U.S. -- the New Hampshire Supreme Court pass on children's right to counsel in parole. We have done it in adult parole setting. I don't think there would be any identifiable caseload effect for the Public Defender Program so I don't think that that would be a significant fiscal impact.

I'm happy to answer questions about what I've just testified about or about the rest of the bill.

VICE-CHAIR FORRESTER: Questions. Senator Odell.

SEN. ODELL: There was an audit recently conducted and made public a couple of weeks ago through the Fiscal Committee and just curious if -- if the audit findings are consistent with the intent of this legislation?

MR. SKIBBIE: I think so. In particular, my understanding is that the audit really focused on that first population, the detention population, and it appears to urge the State to look at alternatives to the Supunu Center for that population and to look at better ways to use the facility itself.

SEN. ODELL: Thank you.

VICE-CHAIR FORRESTER: Any questions? Thank you.

MR. SKIBBIE: Thank you.

VICE-CHAIR FORRESTER: Maggie Bishop and Byry -- I can't -- I'm sorry, I can't read the last name.

BYRY KENNEDY, General Counsel, Division of Children, Youth, and Families, Department of Health and Human

Services: Byry Kennedy.

VICE-CHAIR FORRESTER: You both in favor of this? It doesn't indicate whether you want to speak or not.

MR. BYRY: We're, obviously, in favor of the CHINS portion of the bill. I would, if I may, just speak briefly to Mike's comments. Thank you.

My name is Byry Kennedy. I'm General Counsel at DCYF. I just wanted to make a couple of comments, both with respect to the performance audit, and sort of the notion that kids are unnecessarily being placed at Sununu Youth Services Center and in the detention context.

We -- we did provide to the Disabilities Rights Center a list at a point in time of kids at Sununu Services Center, and I think that's the information that Mike was referring to. And it's true that some of those kids at that point in time had offenses, committing offenses which were not, at least on first blush, would indicate that you'd wonder why they were at the Sununu Youth Services Center.

We did take a look and go back through those particular cases and a number of things that sort of became clear in terms of that -- those committing offenses. One is that the committing offense may not be that the history of the criminal activity of the individual who is involved. So you have activities, activities that resulted in charges, charges that resulted in convictions, and convictions that end up in placement at the Center. So what you're seeing is the top of the pyramid.

The other thing that I would point out in terms of statistics or in terms of that information was that we did a drill down. This is sort of non-identifying information relative to the kids. And so what we did is we did a drill

down with respect to those that were like non-violent offenses or just a single offense or one or two offenses who happen to be at Sununu Youth Services Center. And we asked for the history from the probation and parole officer who was involved with those kids. And there's a significant history with respect to each one which we did the drill down on that would not be reflective of the committing offense. So that if you have, for example, a committing offense of a simple assault, the rest of the iceberg, which is under that. So I -- while that gives you some information relative to kids who are there, you know, they were committed on a simple assault or they were committed for possession of a controlled drug, that's not -- not necessarily the entire story.

The other point I would make is with respect to the performance audit. One of the things that it concluded was that, if anything, kids are being placed in less restrictive alternatives rather than more restrictive alternatives. That was one of the findings of the audit.

The other thing with respect to the Sununu Youth Services Center, I know this bill proposes that kids should not be detained at the Sununu Youth Services Center and that will presumably ultimately be a policy decision. But one of the things that performance audit suggested was looking seriously at converting the Sununu Youth Services Center for purposes of providing detention for kids. So in terms of conclusions of the audit, I would commend the audit to the Committee.

Finally, with respect to the CHINS iterations, there is a House Bill 260 which is coming out in the House. It is -- in its currently amended version it's closer to the Governor's version which is incorporated in this bill with one significant and major difference, at least, from the Department's perspective and that is that it would provide

voluntary services. Our view and our estimate is that that will significantly increase the cost of expanding the CHINS. So this version does not have voluntary services. The one that's in the House does have voluntary services. There's some minor additional differences between the two, but that's currently where the two bills fall out. Having said that, I'm happy to try to answer questions.

VICE-CHAIR FORRESTER: Questions.

SEN. D'ALLESANDRO: Thank you, Madam Chair. Thanks for coming. What's the population of Sununu Center as we speak?

MR. KENNEDY: I believe it's in the fifties, but I would defer to Maggie Bishop.

SEN. D'ALLESANDRO: In the fifties?

MAGGIE BISHOP, Director, Division for Children, Youth and Families and Juvenile Justice System, Department of Health and Human Services: The current census, Senator?

SEN. D'ALLESANDRO: Yes.

MS. BISHOP: Every day it varies somewhere between 58 and 60. I don't have today's actual figures; but the last time I looked, which would have been last week, it was around 58.

SEN. D'ALLESANDRO: Fifty-eight to 60. And what's the cost of sustaining a youngster at the Sununu Center?

MR. KENNEDY: I don't know that. Again, I would need to defer to Maggie Bishop on that.

SEN. D'ALLESANDRO: And are children being sent to the Sununu Center because there aren't other alternatives?

MR. KENNEDY: I don't believe that's the case, Senator.

SEN. D'ALLESANDRO: At all?

MR. KENNEDY: Honestly, I don't.

SEN. D'ALLESANDRO: So the Sununu Center is the least restrictive environment?

MR. KENNEDY: No, I think it's certainly the most restrictive environment, but the issue is the appropriateness of the placement in that environment. And, like I said, one of the findings, at least in the detention population of the LBA audit was that, if anything, kids are being placed in the system in less restrictive alternatives rather than more restrictive alternatives.

SEN. D'ALLESANDRO: Thank you. And what's the average length of stay of a child that's sentenced to Sununu Center?

MR. KENNEDY: Again, I would need to defer to Ms. Bishop.

SEN. D'ALLESANDRO: Thank you.

VICE-CHAIR FORRESTER: Do you want me to have her come up to get those answers?

SEN. D'ALLESANDRO: That be great. Thank you.

VICE-CHAIR FORRESTER: Can you come up?

MS. BISHOP: Good afternoon. For the record, I'm Maggie Bishop. I'm the Director for DCYF. I'm sorry, Senator, I didn't hear your last question.

SEN. D'ALLESANDRO: Yeah, what's the average length of stay, Maggie, of a child at Sununu Center?

MS. BISHOP: We are actually trying to fine tune the data. I've taken over Juvenile Justice in the past year and a half and one of the struggles we've had is trying to get a sense of what are our data trends. Arguably, I would say it's between a year and 18 months.

SEN. D'ALLESANDRO: A year and 18 months. Further question.

Now, the Sununu Center has undergone some transformation since you took over. I know we met at the Sununu Center. What changes have been made there in terms of operation and programming and the like that take care of the needs?

MS. BISHOP: The majority of the changes have been around the day-to-day care of the youth that are there. We took the clinical structure that is there and put them over all things residential. So all the children and anything that happens to the children, whether it's activities, whether it's consequences, it's all driven now by a clinical team. Because one of the things we know very well is the majority of the children there have some type of mental health struggle. So by taking on a different approach to how to handle them, the decisions being made are more clinically driven and as a result become less punitive, and then as a result results in less altercation between staff and children or children and children. We've built up the capacity to keep the youth busy.

The other thing we found is when you have a bunch of youth who are sitting around with time on their hands, who have a history of getting in trouble, they will get in trouble with each other. So we put a lot of work into

creating the capacity to keep them organized and into various activities, including community volunteer work at the pet shelters and things like that for those kids that can have community trust. That's the majority of the changes. We're also looking at our education program.

SEN. D'ALLESANDRO: The education, are they educated in-house as they used to be or some of them still go to Central or are they all locked -- permanent lockup?

MS. BISHOP: The education is provided on-site. We do do transition work with the local schools where the youth is transitioning to but it's on-site still.

SEN. D'ALLESANDRO: Just one. Are we sending kids there because we don't have another alternative?

MS. BISHOP: No, sir, we are not.

SEN. D'ALLESANDRO: There is an alternative?

MS. BISHOP: There are numerous -- if anything, there's more alternatives today than there ever has been. We have residential programs across the state that have openings. The issue becomes when a judge makes the decision that for whatever reason with this particular youth, usually what's happened historically with this child that hasn't worked, the decision is made that the detention center is where the child needs to go to keep the community or the youth safe. But there are numerous opportunities available for every child in the state right now when it comes to residential placement.

VICE-CHAIR FORRESTER: Senator Larsen.

SEN. LARSEN: Are you finding that the judges are choosing Sununu Center over residential placement and

that's kind of a pattern you're seeing?

MS. BISHOP: I am not seeing that, Senator. What I think you can find in any case, any case, whether it's a child protection case or juvenile justice case, you can sometimes have varying opinions. Whether the social worker is recommending to a judge that a child be removed or not removed and the judge does something else, it's the same thing can happen in Juvenile Justice. We might have a JPPO saying we recommend placement in a residential program. Or the JPPO recommends placement in Sununu and the judge says no, I'm going to give this youth one more chance. Or no, he's had enough chances with me, I'm going to place him there. But barring that, I think that it's very clear that Sununu Center is not used unless it absolutely has to be. At least that's what I'm seeing on a day-to-day basis.

VICE-CHAIR FORRESTER: Senator Odell.

SEN. ODELL: Thank you, Madam Chair. Jumping to CHINS and the issue of the voluntary services versus what I'm going to call the Governor's approach, which is more through the petition process, some people in the House feel strongly that there should be a voluntary services element to the CHINS plan. And they feel that the Department should be able to operate the voluntary services program up to the point that money doesn't exist anymore. I think the term used, and you heard this, I'm sure, because I have, but like the keys would be turned over to you and you would determine how much services you could provide given the budget that's allocated for this. Is this voluntary services from your standpoint kind of like a deal breaker or is it a big issue for you?

MS. BISHOP: The voluntary services, Senator, the issue with voluntary services it is very expensive. We don't have -- the voluntary services is just what it says. People

can say I want voluntarily to come to your door and I want to get services. There's absolutely -- it takes a lot of work and finessing and we say this by experience because we only had voluntary services in child protection in the past. But you think of the population of juvenile justice youth. The youth are not the most cooperative youth. They're going -- the concern we have is the voluntary services is going to eat up all the funds. It is also going to keep us from being able to provide services that we know are effective services 'cause it's voluntary. They can say they want it. We put the services in. They don't cooperate. They don't follow through. The services are being expended. We will have kids who are going through the court process still, who may be in the middle of the court process who should be and then we run out of money. Are we going to close those cases or do we keep making those expenditures? There's so much about the voluntary services bill that we have not had a chance -- again, it seems to be changing weekly and we haven't had an opportunity to really drill down where all the concerns are.

What I can say is voluntary services cost more money because you have people coming in and staying in and not cooperating. They're trying to finesse the cooperation 'cause you have no authority. You have no clout. There's no oversight other than us trying to make them cooperate. And then if they don't cooperate, and we go to court, the court then by the same bill has to say, well, did voluntary services work? No, but I will now. So try it again. It's definitely going to eat away at services unnecessarily. I don't find it the most, with all due respect, fiscally responsible because we just haven't had a chance to figure out in detail how to make it work. And I think shutting it off mid-stream isn't going to serve the population of truants and runaways that the communities are really struggling with that this bill was meant to serve. I think there is a responsible way in which we can provide

voluntary services for some children in our communities, but I don't think CHINS is the way to do that.

SEN. ODELL: Follow-up. Thank you, Madam Chair. I think some of us believe or could believe that an alternative to taking children through the court process makes sense. That some children don't need to be taken into a courtroom. I mean, you're making it sound as if we can't afford any other alternative than to go through that CHINS process. And if I could add one more caveat to that.

Let's say in the Governor's Budget we are talking about \$8 million. Does that mean that on the bill coming up from the House that you can reduce the amount of money and still do the petition side and not do the voluntary?

MS. BISHOP: The current bill that is -- that came out of Governor's Office with the money that comes with that is the money that we figured out we would need to provide it under this current bill. To add voluntary services that has got to be more money. There's no way around that. I don't disagree, Senator, that there are certain children in the community that should be served on a voluntary basis. I do not believe they are truants and runaways. And that truants and runaways, that population of children who are the true, by what we all mean when we think of truancy, children that are the pre-delinquent, that truancy is a symptom of that, absolutely should be serviced through the court. Because they need to learn early on the accountability and that there's a responsibility to attend school.

There's another population of children that I think the voluntary services are trying to capture. And, again, I don't disagree that they deserve to have voluntary services. I do not believe those are children who are your typical truants and runaways that this bill was designed for. I think these are a mentally ill population of youth

or children that are struggling, and I do believe there's a way in which if we could capture them and provide some kind of services. Right now they're being served in the behavioral health community. When that doesn't work, they come knocking on the CHINS door looking for placement. When placement's not available, this bill is just going to frustrate that community and frustrate those families, because I can't provide anything else for them that isn't being provided in the community. That's a mental health challenge that they're struggling with. But I would agree that if there's a way to serve them voluntarily, I would be more than happy to do it but it's going to cost more money. That's the only thing I'm changing.

VICE-CHAIR FORRSTER: Any other questions?

SEN. LARSEN: Yes, I have one. In looking at the hearing in Senate Judiciary, there was reference made to three options for programs for youth; a home study, diversion, and detention, and this researcher from Dartmouth says diversion programs are the most widely used option in the state and funds have dried up. Would you agree with that statement that we -- and do we need to restore some more of the diversion and if diversion comes, what they're calling the voluntary?

MS. BISHOP: Diversion programs used to be statewide. We do still have some, but they used to be more statewide and they were funded through the incentive funds that we used to have which was a prevention fund which we no longer have. They were eliminated in previous budget cycles. I do think as under this current Senate Bill that you're looking at today for CHINS, I think part of what we will end up doing because, again, we won't be providing placement to those children either, the work I think the Division will be doing will be kind of mirroring what used to happen in those diversion programs but, unfortunately, they're in the

system, where the diversion programs when funded served a lot of youth that never came into the court or the Division's attention. It was all pre. I think they are well-proven programs. And if we could afford to fund them, I would support that a hundred percent.

I think a lot about prevention. I think prevention is definitely where we can see the best outcomes. It's just hard to get them funded.

SEN. LARSEN: Hm-hum.

MS. BISHOP: As we all know.

SEN. LARSEN: And --

VICE-CHAIR FORRESTER: Go ahead.

SEN. LARSEN: Further question. Could you give some examples of some of the diversion programs we had that are no longer existent that worked?

MS. BISHOP: They were community funded programs where if a current or what we are about to have the future CHINS of the old CHINS where a child was skipping school, disobeying the commands of their parents, running around with the wrong crowd, parents didn't know what to do. These are kids that you know if you don't do something soon, they're going to show up as a delinquent or as a truant. Family reaches out to the court. The court diverts that child and family to a mediation program where a community program would work with that child and family and get them back on the right track. They never came in the CHINS door. They didn't come in the delinquent door. And what's unfortunate about most prevention programs, it's hard to prove something that didn't come in.

We began a few years back looking at Family Resource Centers that we fund across the state for prevention, and we were able to show 98 point -- it was either 2 or 6% of the children in child abuse and neglect that were referred to prevention programs did not come into our system. We just began to capture that kind of data. I would say the same for diversion programs and mediation programs across the state. For the kids that went through those programs, the courts never saw, and they are what you're seeing now as those beginning to become CHINS and if something doesn't happen they'll become delinquents.

SEN. LARSEN: Further question. Sorry. Could you remind me next how diversion programs were funded? Were they Federal as well as state?

MS. BISHOP: I don't know if individually each one may have done it different. Some did fund-raisers. A lot were on the incentive funds that the State used to provide. And some, I'm sure, applied for Federal grants. I'm sure there was a mixture because one funding stream nowadays just doesn't work. But I do believe, and I know there are still a few out there, and I think now they have to be living off grants or Federal grants or Federal money because we are not providing it.

SEN. LARSEN: Thanks.

VICE-CHAIR FORRESTER: Any other questions? Thank you. All right. Kathy Sgambati speaking in favor.

KATHY SGAMBATI, Budget Advisor, Governor's Office: Thank you. For the record, I'm Kathy Sgambati, and I have been working as Budget Advisor for Governor Hassan. I wanted to come to support and offer the Governor's support of the Amendment that Senator Odell has offered, and it does mirror what's in House Bill 2 related to the CHINS

program. I neglected to pass these out, but I have a document that shows some of the funding history of CHINS and the difference in definition. And the Amendment itself essentially does three things. It broadens the definition of the CHINS population, it changed -- there's a change in the scope of service, and it also changes the petitioner. And all of this was done, I think, on both counts on Senators' concerns and the Governor's concerns and all of us that have heard from community members from police, local police force and parents and schools about the concerns that they have had about the significant changes over the last biennium.

The prior definition of CHINS was extremely -- the prior here that's labeled in the fact sheet is actually sort of prior before the last session, is sort of the original program, just so it's clear, which was a very broad definition and then was curtailed to be only children with severe emotional, cognitive, or other mental health issues who were also in need of services immediately because some danger to themselves or others. So the budget went from almost \$11 million in State Fiscal Year 11 down to \$3 million in State Fiscal Year 13.

We're proposing a change that restores most of those categories with -- actually restores all of the categories of coverage so that it would cover this bill and what's in House Bill 2 is -- would -- also would restore truants. It would restore services to runaways, to young people who are willfully disobedient and who are status offenders. That entire group has been put back -- has been put back in the legislation.

The change that makes the difference in our ability to fund all of those groups and still come in at less than what the program originally cost was that we were -- the legislation no longer allows for truants to receive

placement services. When we worked with DCYF, the biggest category of expense was truants and there's also some incentives for the School Districts to work to put kids on the CHINS roll as opposed to having to pay, if they're an out-of-state or out-of-home placement, they can be supported by the State as opposed to the community. And both from a policy perspective and from financial perspective, it's better for the kids to be in-home or as close to home as possible to be part of their community. So the bill requires or the Amendment in this case requires that School Districts be involved and go through these steps and work in order to serve that child in the community which takes -- which gives a huge savings on the sort of financial side to the State because the placement services are, obviously, the most expensive that you can provide.

So we have changed the scope of service to reduce placement. We did retain in the proposal placement costs for runaways, which we thought was very important in terms of safety. There may be some children there's a very good reason why they're running away from home. So for runaways and other categories we continued the placement cost but not for the truants. And then we changed the petitioners and only in one case. Where we talked about filing petition on behalf or for the petition for a CHINS petition for truants, we limited that to just the school or the truant officer. Again, sort of just directing the services, making sure that everything has been done first that would allow kids not to be placed, and if there were community services or school services that could be provided to truants that CHINS petition would become unnecessary.

With those changes, there were two concerns, I think, going forward. One was, clearly I've looked through, you know, decades of CHINS discussions, and I'm not sure and the Governor was not quite comfortable that we had the

right answer yet that was both the most cost-effective services we could provide to young people and their families and one that the State could reasonably pay for. And so there was one of the House bills, I know there's many of them and there's large and wide discussions around the CHINS and how to handle them, one of them is -- was a study committee, and Governor Hassan embraced that study committee. It was also suggested to her she just wait and do the study. Her sense was that she did not want to wait. That communities were struggling, that kids were struggling, let's get in there and take care of the population the best, you know, the best we could and in a fashion that we have in the past while we reconstruct a system to make sure that if voluntary services are needed, that we have the funds to support them. But that they don't take precedence over the kids who really do need CHINS petition.

I think the concern with voluntary with the limited cap on the money is simply that you have not been prioritized for services. You may be spending the money on very low-need children who are in a volun -- accepted into a voluntary system while you have much higher needs coming in that you won't be able to serve. So voluntary services, I think, are important for some families and the need and sort of the depth of the problems aren't so significant that they have to stand in front of a judge, which can be traumatic for families, but they are needed for others. And I don't think we have a clear way to do that sort and to do the allocation of the funds across the board so that at the end of the day we don't bust the bank which in all cases is then busting the program. Because every time the funds go so high the first thing you do is take a look at cuts.

So the Governor is interested in working with, you know, the Legislature and Committee to build on, you know, the best practices that we can find out there to serve

SENATE FINANCE COMMITTEE

MARCH 19, 2013

SENATE BILL 129-FN

these children within the constraints of a budget. So we have taken the first step, sort of enhanced that with the study committee, and I know that there are lots of concerns and lots of voices and lots of different perspectives. And the Governor's position on this has simply said that's exactly what the year is for. Let's take the year and get it right. But, in the meantime, let's not leave families in the lurch.

There is just sort of one addition to this that I did mention to Senator Odell. In talking with law enforcement and with other folks, there seems to be some concern about the word habitual. And habitual offender is one of the categories of CHINS, if you will, and it strikes people as problematic when they're trying to make decisions or decide whether the child is actually, you know, able to be -- to be referred or have the petition filed. So we would suggest that after talking with legal counsel and with staff here that we change or that we substitute who's a repeat offender or repeated offender as opposed to habitual. Nobody can define what habitual is. Is it one-time, is it two times, is it five times? So we'd rather leave the discretion to the judges and not be worried about, you know, defining that one word, but make sure that we have got a young person that's done it several times and is clearly in need of help. And there's only one concern that I would like to add in closing.

In the discussion over voluntary or, you know, filing things for a petition, there's two things that I think are important. What we put into the Governor's Budget for children's mental health funds are significant. And it's my real hope that, and this I would hope would be part of the consideration in the study as well, is that those two systems work together. There's a lot of high-end, high-need kids that can be now served when the new ACT teams are formed. And I'm hoping that these two systems work in

concert. Because I think Byry mentioned that, you know, that most of the kids do have some kind of mental health issue. So I think that there's a synergy that can happen between that part of the budget and this one.

There was also some concern expressed that we deleted a sentence and it's sort of (d) under the first prior CHINS definition, is expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment or rehab. That by us taking that out we were removing a qualifier. You know, I've talked with the leadership at the Department and I've talked with legal counsel. And, again, there's not a single child that has gone through CHINS that doesn't meet that language. It's extra words and it could create an entitlement to those specific kinds of services. So that was deleted. There are some people who would say that, oh, you've opened the flood gates. There's no evidence that -- that we have done that. And we can serve this population with those changes to placement services and expanded definitions for \$8.2 million which is in the budget. And with that, I would be happy to answer questions.

VICE-CHAIR FORRESTER: Thank you. Questions. Senator Bragdon.

SEN. PRESIDENT BRAGDON: Thank you, Madam Chair. Thank you, Senator Sgambati. You suggested removing the word habitual and I'm not sure if you suggested another word to replace it. Repeat?

MS. BISHOP: Repeated.

SEN. SGAMBATI: Repeated. We have gone back and forth around it. We have had so many options trying to find something that doesn't box somebody in or they spend so much time trying to define it, it doesn't make any sense.

SEN. PRESIDENT BRAGDON: And if I could follow-up on that. But you said because it seemed because habitual was hard to define, what does it mean, it's kind of vague and what does it mean, I don't see how repeat is any clearer than habitual.

SEN. SGAMBATI: Well, I think the question became, I think, around the word habitual is how many times form a habit, whereas repeat it's just more than once.

SEN. PRESIDENT BRAGDON: So anybody if it happens more than once falls into this?

MS. SGAMBATI: Possibly, if they meet the criteria. And we can provide a definition of repeated to see if that does anything for you.

SEN. PRESIDENT BRAGDON: Yeah, I'm not convinced it was solving the problem.

Ms. SGAMBATI: Or adds any clarity. I think it just takes away the question of the definition of what's a habit and is it five times, is it 10 times, is it, you know, three times within the course of a family emergency versus 10 times over the course of three months? That's a different -- and there's just too much time spent on it. So and we would be open to suggestions that to add clarity.

SEN. PRESIDENT BRAGDON: Thank you.

VICE-CHAIR FORRESTER: Senator Odell.

SEN. ODELL: Thank you, Madam Chair. Just so that I'm comfortable, Miss Sgambati, with the process that I suggested earlier that the money will come to us in House Bill 1 from the House.

MS. SGAMBATI: Right.

SEN. ODELL: That --

MS. SGAMBATI: We hope.

SEN. ODELL: We would be taking this bill and amending it with the word repeat most likely, possibly, one more time. And then, secondly, we would take the money out in volume and patterns established by the Senate of not passing money bills but reducing it to a dollar, and then that would give the House a chance to deal with the policy issues. Meanwhile, we would have the money coming to us from the House in House Bill 1, and I want to make sure that's your understanding of this.

MS. SGAMBATI: Yeah. My only concern with that scenario and I don't think there's another one that works, is that if money should be taken out totally of the House Budget or in House Bill 1, when it gets to the Senate that there's some contingency language in here that doesn't leave the Department responsible for funding it with no funding attached. Having been there it's not a great place.

SEN. ODELL: Right. My only thought is that having discussed this with Senator Morse on this bill but also others --

MS. SGAMBATI: Hm-hum.

SEN. ODELL: -- his intention is not to forget the commitments that have been made as we've gone along and I think the last budget was pretty good on that.

MS. SGAMBATI: Great. That would be fine.

SEN. ODELL: I don't think you'll let us forget what we

talked about here.

MS. SGAMBATI: Or the Department won't.

SEN. ODELL: Thank you.

VICE-CHAIR FORRESTER: Other questions? Thank you.

SEN. SGAMBATI: Thank you, Senator.

VICE-CHAIR FORRESTER: Everyone who signed up to speak has spoken. Is there anyone in the audience --

KEITH KUENNING, Advocacy Director, Child and Family Services: I actually signed up. I'm not sure it got moved.

VICE-CHAIR FORRESTER: Okay. Want to identify yourself.

MR. KUENNING: Madam Chair, Committee, my name is Keith Kuening. I'm the Advocacy Director for Child and Family Services or as most people refer to me the "new Jack" so.

Child and Family Services supports 129 as to the underlying bill in regards to placement at shelter care facilities or at the Sununu Center; but I'm mainly here to speak about CHINS. Child and Family Services believes there needs to be a voluntary component under the CHINS which is best expressed in HB 260. I think something I keep hearing is a misunderstanding, and I think what the Committee really has to understand is the door to CHINS is shut. And the only key that you can use to open the door to CHINS is by meeting one of the definitions that is in the CHINS definition. And this idea out here that somehow people will voluntarily present themselves and say I want voluntary services for my child, if they don't meet the definition of

CHINS, they don't get a walk through the door. So what HB 260 is looking to do is once you meet one of the four definitions, and the definitions under SB 129 or HB 2 under the Governor's and HB 260 are exactly the same, the only difference is that when that door is open through the definition, and the Department says yes, you meet the CHINS definition, we believe on the other side of the door there should be voluntary services first.

Under the old system, the child would have to open that door and the first thing that they would be confronted with is the court. And what we believe should happen is that the child and the family should be given one last chance, and that's what Jack Lightfoot believes CHINS to be, one last chance to access voluntary services so that that family, that child, does not have to go before a court in order to turn their lives around, in order -- and get the services they need to turn their lives around.

Two things that are very important for us is that we believe that families self-select themselves out by having to go into court. So we know there are families out there that want to bring a CHINS petition but will not bring a CHINS petition because they don't want to petition their child into the court. So that child will never get the services that they need.

The other thing that we're constantly hearing and we have been working with many different groups, you should know we have been working probably with at least 5 to 10 different groups from the Disabilities Rights Center, to NAMI, to New Hampshire Legal Assistance. What you see in HB 260 is, in a sense, a study committee. It is a study committee of the providers in this state that believe that voluntary services are really very important. And one of the people on the Committee were the Chiefs. The Chiefs have been representative -- represented and what I've heard

over and over from sitting through hearings over the last year is how backed up the court systems are. And Chief Selicki at one of the meetings said it takes almost 90 days just to get a speeding ticket into the courts these days. So without the voluntary service option, kids could be petitioned into the court system. Let's say they've missed 10 or 15 days of school, they're truant. If it takes them 30 days to get into the courts for the court to order them services, now they're just that much farther behind. Under a voluntary system they meet the definition, whether it's the Governor's definition or our definition, which is the exact same thing, they open that door, they walk-in, and DCYF can immediately call, if there's a wraparound team, or people that they already know, and they can order those voluntary services immediately. That order could come on a Tuesday and that child could be getting those voluntary services on a Wednesday.

I think the last thing you need to know is as far as blowing up the budget, voluntary services under HB 260 are limited to nine months. Nine months. Now, if you go in under the old system and petition the court, and you're 12-years old, you could be petitioned under that court and that judge could order services from 12 to 17 years old. So under the voluntary system, there's a limit to nine months.

The other thing that you should also know that there is no residency for voluntary services. We agree with the Governor's Office the only residency that people should be able to get is under runaways. So we don't open up anymore. Truants can't get residential services and neither can under voluntary services there can be no residential placement there, also. So we just believe that the voluntary services are a better first step for so many families.

And the last point that I'll make before I take any

questions that you have is the thing you have to understand is behind the voluntary system is the court system. So if the child fails to show up for the voluntary system, if the voluntary system is not working, if a child is going through the voluntary system and they commit another crime or some kind of act, they can be immediately put into the courts and that can be the final door. They have been given one last chance but the courts are the backup that if the voluntary systems don't work, the court system is there.

VICE-CHAIR FORRESTER: Questions?

MR. KUENNING: Thank you very much.

VICE-CHAIR FORRESTER: Is there anyone else in the audience who has not testified who would like to speak?

MR. SKIBBIE: May I briefly clarify something I said before? I'm sorry. I just want to -- when Mr. Kennedy testified --

VICE-CHAIR FORRESTER: Just identify yourself for the record.

MR. SKIBBIE: I'm sorry. Mike Skibbie from the Disabilities Rights Center. When Mr. Kennedy testified, I realized that I had not really explained what I was saying about the population. First of all, he is absolutely right that we shouldn't just look at objective criteria because, you know, there are probably very good reasons for some of these kids who are low-level offenders to have been committed there. I'm just simply saying that those are the kids that we can see as candidates for possibly spending less time there or not ending up there at all.

But I was not doing an analysis of the offense that got the kid to the Sununu Center, the committing offense as

Mr. Kennedy referred to, but rather I was looking at all of the offenses that they have ever been petitioned for. That was the data that I received. And so I'm talking about children who were at the Sununu Center who never did anything other than a drug offense. There's a kid that I'm looking at right now who committed three drug offenses over a period of a 12-month period. There's another kid, he never committed anything more than disorderly conduct and, you know, two offenses in December and then one in March. So these are not kids who happen to be there for disorderly conduct, but they had stabbed somebody a year earlier so they're really much more dangerous than the offense would show; but these are kids whose entire offense profile show really significant data as to whether they really need to be in a corrections facility. Thank you.

VICE-CHAIR FORRESTER: I close the hearing on Senate Bill 129.

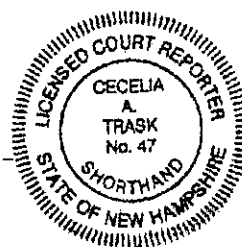
(Concluded 1:55 p.m.)

CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask

Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire
License No. 47



Speakers

Testimony



NEW HAMPSHIRE
COUNCIL ON DEVELOPMENTAL DISABILITIES

March 5, 2013

Senator Sharon Carson, Chair
Senate Judiciary Committee

RE: SB 129, Reducing the unnecessary incarceration of children in the Juvenile Justice System

Dear Senator Carson and Committee Members,

I am here on behalf of the NH Council on Developmental Disabilities to express our strong support for SB 129.

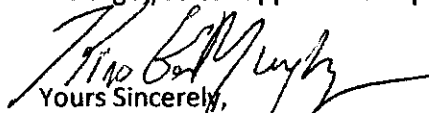
The Council is a state agency, authorized and funded by the federal government to engage in advocacy, capacity building, and systemic change activities that contribute to "a coordinated, consumer and family-centered, consumer and family-directed, comprehensive system of community services, individualized supports and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive and be integrated and included in all facets of community life."

NH's unique developmental disabilities system reflects our state's commitment to including people with disabilities fully in their local communities. This has proved to not only support a higher quality of life, but also to lower state spending by leveraging the natural supports that come with living a meaningful life.

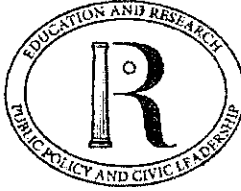
Why then does our state's juvenile justice system operate with entirely different values? New Hampshire has historically over used institutional care to address the needs of youth offenders, a population this is disproportionately characterized by young people who face developmental or other disabilities. According to the NH Children's Alliance, detained and committed youth have high rates of developmental, behavioral, emotional and learning disability, and are more likely than children in the general population to suffer from mental illness, to be victims of abuse, and to have a history of substance abuse (Whitley and Cohen 2009). Studies show that commitment and detention impedes educational achievement, decreases the likelihood of stable employment and may provoke, prolong or worsen mental illness. Recent research suggests that detained and committed youth are more likely to carry out delinquent offenses in the future, with more than half of these youth re-arrested within two years of their discharge from SYSC (Justice Policy Institute 2009).

It is critical that we strengthen our juvenile laws in a manner that aligns them with an emphasis on community-based care rather than institutions. When children do not present a danger to themselves or to the public, they should be treated in less costly, more effective community settings. SB 129 would require the state to create less restrictive shelter care in cases of juvenile delinquency and status offense. Moreover, it creates a presumption of parole after 6 months, returning youthful offenders back to community life as quickly as possible. Of particular concern for the Council is a provision that protects youth with disabilities from revocation of their parole without access to legal counsel.

We urge you to support this important piece of legislation.



Yours Sincerely,
Kirsten Murphy, member
NH Council on Developmental Disabilities



The Nelson A. Rockefeller Center at Dartmouth College
The Center for Public Policy and the Social Sciences

New Hampshire's Juvenile Justice System

An Investigation of Current Practices for Handling Youth in the Criminal Justice System

March 5, 2013

I. OPTIONS IN THE NEW HAMPSHIRE JUVENILE JUSTICE SYSTEM

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- Youth Correctional Facilities
 - John H. Sununu Youth Services Center (SYSC)
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- Diversion Programs

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III. JUVENILE RECIDIVISM RATES IN NEW HAMPSHIRE

- Treatment of Children in Need of Services (CHINS)
- Treatment of Children with Special Needs
- Treatment of 17-Year Olds

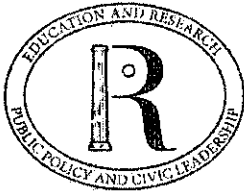
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VI. IMPLICATIONS FOR NEW HAMPSHIRE



The Nelson A. Rockefeller Center at Dartmouth College
The Center for Public Policy and the Social Sciences

Policy Research Shop

New Hampshire's Juvenile Justice System

An Investigation of Current Practices for Handling Youth in the Criminal Justice System

Presented to the New Hampshire Senate Judiciary Committee

PRS Policy Brief 1213-02
March 5, 2013

Prepared by:

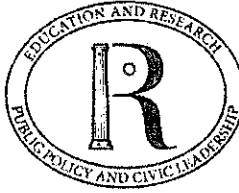
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EXECUTIVE SUMMARY

This report provides an overview of how the current New Hampshire juvenile justice system operates with a particular focus on the system's placement options and probation and post-detention services. The study team analyzed two key indicators of the system's efficacy: the juvenile recidivism rate and the system's treatment of high-risk groups, including Children in Need of Services (CHINS), children with special needs, and 17-year-old offenders. To provide insight into available options for juvenile justice reform, the study team analyzed the placement options and probation services in the juvenile justice systems of two other New England states, Vermont and Massachusetts. The study team also reviewed programs that successfully reduced recidivism rates among juvenile offenders in other regions. These analyses will serve to inform the state legislature on various policy options to consider as it works to address gaps in the current system and improve its efficacy.

1. INTRODUCTION

In New Hampshire, the Department of Health and Human Services (DHHS) works to promote the well-being and security of youth in the state through its Division for Children, Youth and Families (DCYF) and the Division for Juvenile Justice Services (JJS).¹ Even though the DCYF and JJS operate as distinct divisions, the state has a unified court system, the Juvenile Branch Family Division, which handles both child welfare and juvenile justice services. The 26 locations of the division have jurisdiction over cases involving divorce, parenting disputes, child support, domestic violence, termination of parental rights, child abuse and neglect, Children in Need of Services (CHINS), delinquencies, and adoptions.² Once a juvenile in New Hampshire has committed a punishable offense, the child is either admitted to a home stay program, detained in a correctional facility, or placed in a diversion program.³

Two key issues in the state's juvenile justice system are recidivism rates and the treatment of juvenile offenders, particularly those who are at a higher risk for offending, such as CHINS and 17-year-olds who, in the New Hampshire system, are treated as adult offenders.⁴ The state does not systematically track recidivism data, which complicates analyses of recidivism as well as the long-term rehabilitation of high-risk offenders within the system. The existing data, however, does offer insight into the efficiency and effectiveness of current juvenile justice programs. New Hampshire can also look to the juvenile justice systems of other states, particularly other New England states, for examples of programs and processes that have been effective. In addition, analyzing practices that have been proven nationwide to be effective in reducing recidivism can help the legislature develop evidence-based policies for the state juvenile justice system.



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2. OPTIONS IN THE NEW HAMPSHIRE JUVENILE JUSTICE SYSTEM

Prosecuting officers in local police departments determine whether a young person is eligible for a court diversion program or home-stay program. If the offender is found eligible and accepts the referral, he or she will be rerouted from the court system and sent to one of the juvenile diversion programs that New Hampshire has to offer, as described further below. If the juvenile is deemed ineligible for such programs, is unable to pay for such services, or refuses the option for another reason, he or she is then sent to the courts and a judge may decide to place the juvenile in a house-stay program, correctional facility or diversion program.⁵ According to Christopher O'Connor, the Prosecutor for the Lower Grafton County Prosecutorial Association of New Hampshire, the majority of juvenile defense lawyers are aware that the juvenile justice system is rehabilitative, not punitive. Prosecutor O'Connor stated that recently there has been an increase in diversion cases as opposed to committing children to a correctional facility because diversion programs have a greater array of options for youth.⁶

In order to help assess which of these options is most appropriate for the youth in question and to ensure the proper placement of children into those who are detained and those who are diverted elsewhere, Juvenile Justice Services (JJS) implemented a detention risk-screening instrument known as a Risk Assessment Instrument (RAI) on October 6, 2008.⁷ The tool is meant to provide an evidence-based approach to make timely and effective decisions about the both the child's and the family's safety, permanency, and wellbeing.⁸ Moreover, Permanency Planning Teams (PPTs) were established in each district office in 2005 to help JJS to ensure permanency for youth entering the system.⁹

2.1 House-Stay

The first option is house-stay, which requires the child to return home and complete community service and/or restitution. Either a judge or a prosecuting officer can issue this sentence directly after the arrest is made, assuming the official decides to drop the charges. Non-residential community-based services that could be provided to a juvenile under this category include youth tracking services, in-home family counseling, traditional counseling, and transportation to services.¹⁰

2.2 Youth Correctional Facilities

The second option is placement in a youth correctional facility. These out-of-home placements require court orders and therefore cannot be made at the discretion of the probationary officer, unlike the other two options. In New Hampshire, there are two major institutional service programs: the John H. Sununu Youth Services Center (SYSC)



and the Youth Detention Services Unit (YDSU).¹¹ In SYSC, children aged 13 to 17 years old are assigned to residential units and enrolled in behavioral programs, the successful completion of which is a precursor to release and parole. Youth visit with counselors and other representatives of their Program Team regularly as mandated and also attend classes according to the 180-day school year. Additional supplemental courses are also offered, such as computer education and life skills.¹² New Hampshire's other youth correctional facility, the Youth Services Detention Unit, mainly holds children during or directly after a court hearing or sentencing for an average of 48 hours prior to their disposition.¹³ The YDSU caters to youth supervision and recreational needs, and does not implement the same types of behavioral programs offered by SYSC because the duration of the youth's stay is generally very brief.¹⁴

Only a small portion of the youth involved in the juvenile justice system, however, are placed in these facilities; out of the 4,857 youth that JJS delivered services to between December 2009 and December 2010, only three percent required either secure detention or secure treatment in one of these two facilities, as shown by Figure 1.¹⁵ Moreover, although SYSC has a 144-bed capacity, in recent years, it has only held an average of 60 youth at any one time, which contrasts the national trend of overcrowding in state juvenile corrections facilities.¹⁶ The relatively small number of youth held in state correctional institutions likely contributes to the facilities' cost inefficiencies. New Hampshire currently pays \$451 per day to hold juveniles in SYSC while the national average for juvenile correctional facilities is \$241.¹⁷ The high cost of operation for the states' correctional facilities in their current under-filled state indicates that this may not be the most cost-effective option for New Hampshire.

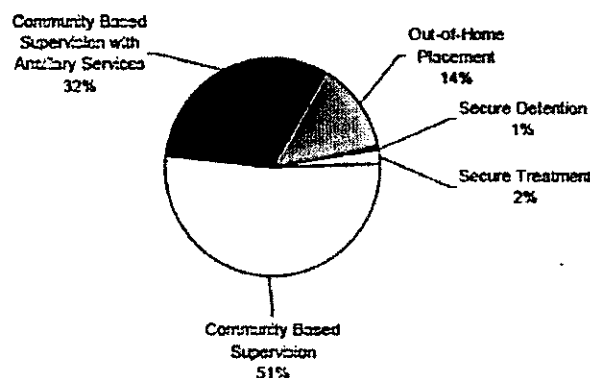
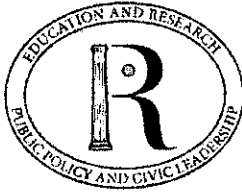


Figure 1. Service Delivery to Youth in the New Hampshire Juvenile Justice System Between Dec. 2009 and Dec. 2010



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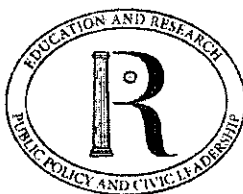
2.3 Diversion Programs

As we discuss later in our research, diversion programs in New Hampshire are the most widely utilized option (see Figure 1). These programs allow youth who have committed minor offenses to complete certain requirements in communities instead of being adjudicated.¹⁸ Children can be elected to attend a program by either a judge or an officer who decided to drop charges. If elected, the child and his or her parents attend a meeting with a counselor from the selected program to discuss whether the program fits the child's needs.¹⁹ If the child is accepted, he or she will participate in the program until specified behavioral goals are achieved, which takes an average of eight to twelve months. As a result, the only external funds these programs receive are small amounts from non-profit organizations, such as United Way. According to Nicole Rodler, Chairperson of the New Hampshire Juvenile Court Diversion Network, funding is the primary obstacle for diversion programs in New Hampshire. As a result, many programs are forced to either close their doors or tailor their programs to specific criteria to obtain funding from other organizations.²⁰ Some programs are covered by municipal funds, which means that they are dependent on taxpayers to ensure financial stability. Other programs charge their clients on a fee-for-service basis determined by the curriculum and resources required.²¹ In this situation, youth and their families consequently pay the costs of diversion programs should he or she elect to attend.

Current diversion programs in the state include residential options, such as shelter care, general group homes, and intermediate or intensive level care.²² Programs that have a residential component require approval from the Juvenile Justice Community Program unit.²³ Shelter care is commonly used for delinquents and CHINS, and there are currently two shelters in New Hampshire.²⁴ The shelters are intended for youth who need a temporary structured setting while a final residential placement is finalized and for children who cannot return home at that time but hope to be able to within 60 days through treatment.²⁵ The North American Family Institute operates both the North Country Shelter in Jefferson and the Midway program in Manchester, and each program can house up to 15 youth between the ages of 11 and 17 and provides assessment, counseling, education, and residential services.²⁶

3. PROBATION AND POST-DETENTION SERVICES IN NEW HAMPSHIRE

In New Hampshire, "probation" is known as "conditional release," and committed youth are assigned a Juvenile Probation and Parole Officer (JPPO) upon release. JPPOs prepare Parole Supervision Plans for released juveniles and refer them to hearing officers if they believe the youth has violated their parole requirements. If the hearing officer then decides there is probable cause for such a violation, the juvenile is referred back to SYSC



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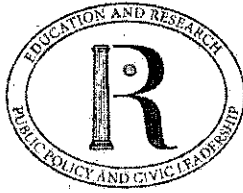
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to await a parole revocation hearing.²⁷

If a child or adolescent is placed in SYSC, he or she is released only after an independent Juvenile Parole Board comprised of five government-appointed citizen members determines through a conduct hearing that the youth should be granted parole. According to the National Center for Juvenile Justice, the Juvenile Parole Board in New Hampshire does not use a structured decision-making tool to make these release decisions.²⁸

In New Hampshire, the rate of release from correctional facilities is significantly lower than the national average. Nation-wide, two-thirds of youth committed to correctional facilities are released within six months.²⁹ In 2001, the most recent year in which New Hampshire data was recorded, only 35 percent of those who had been committed that year were released within six months.³⁰ This could be due in part to the fact that New Hampshire's overall rate of juvenile commitment is significantly lower than the national average. As a result, a larger proportion of New Hampshire's committed youth may have behavior problems and other treatment needs, which could lengthen the amount of time required for preparation before release.³¹ Another significant factor could be the proportion of serious and violent offenders in New Hampshire's committed population; 2001 data shows that 38 percent of committed juveniles had been charged with assault, while only five percent of committed juveniles nationally were charged for the same offense.³²

The second of the four stated purposes for the juvenile justice system as stated in New Hampshire's Legislative Guide for Drafting Family and Juvenile Court Acts is to remove youth from "the consequences of criminal behavior, and to substitute a program of supervision, care, and rehabilitation."³³ New Hampshire Juvenile Justice Service's responsibility is to provide supervision and rehabilitation services to youth categorized as delinquent or CHINS.³⁴ Accordingly, upon release, New Hampshire offers a voluntary aftercare program that offers eligible youth assistance in their reintegration. The program offers Education and Training Vouchers (ETV), federal funds that can be used for "cost of attendance" fees. These include such as books, room and board, and tuition, and Chafee funds, which are also federal funds that can be used for complementary expenses such as insurance and housing costs when the individual is not attending school.³⁵ Eligibility requirements for attaining these funds are restricted to individuals age 18 and 21. Moreover, individuals from JJS must have exited their placements on or after their 17th birthdays and must also have been placed in foster, relative, shelter, or residential care at some point during their last JJS case.³⁶ Thus, this restriction makes ineligible all children who have been released on parole before the age of 17 and those who were committed to SYSC instead of being diverted to alternate locations of care.



4. JUVENILE RECIDIVISM RATES IN NEW HAMPSHIRE

A key indicator of the efficacy of New Hampshire's juvenile justice system is the recidivism rate. Recidivism rates directly impact the cost of the juvenile justice system and provide insight into the effectiveness of the system's placement options, parole process and aftercare program. The Annie E. Casey Foundation has compiled all available studies on juvenile recidivism rates that have been released from state-funded juvenile correctional facilities (see Appendix A), and noted a recidivism rate of 51.7 percent for New Hampshire.³⁷ This data was collected from unpublished JJS data provided by the JJS and was based upon whether youth previously located in a juvenile corrections center who turned 17 between 1998 and 2002 were later sentenced to adult probation or prison.³⁸ It is difficult, however, to compare states' recidivism rates because states have different definition of recidivism. For instance, Massachusetts is listed as having a juvenile recidivism rate of 29 percent for youth released from the Department of Youth Services and then re-adjudicated and convicted for a new offense within twelve months.³⁹ New Hampshire's data, on the other hand, is based on a timeframe of nine to twelve years following the offender turning age 17.⁴⁰ As a result, any recidivism between one and nine years post-release in the Massachusetts system is not counted in the comparison. Moreover, the basis for the New Hampshire data does not consider juveniles released from the system and then reentered for a new offense prior to turning 17. Therefore, it is nearly impossible to assess accurately New Hampshire's recidivism rate as compared to the rest of the nation.

5. HIGH-RISK GROUPS

Another key component in an assessment of New Hampshire's juvenile justice system is how well it meets the needs of children and youth who are at higher risk for entry into the system, such as CHINS and 17-year old offenders. The absence of recidivism data complicates this analysis, but it is still beneficial to assess how the justice system currently treats such groups to then determine systemic issues that should be addressed.

5.1 Treatment of CHINS

New Hampshire separates some youth who enter the court system into the CHINS program rather than categorizing them as delinquents. This group is comprised of children under the age of 18 who continually break the law by either running away from home, driving illegally, or engaging in any other set of repeated offenses that presents a danger to themselves, their families, or their communities.⁴¹ To become a CHINS, parents or guardians must file a petition to the court. If the child is accepted, he or she is assigned a JPPO, receives guidance and counseling, and is eligible for supervision and rehabilitation. These services end once the child turns eighteen.⁴²



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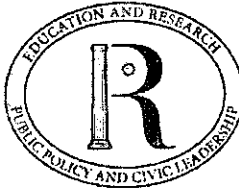
In New Hampshire, the Revised Statutes Annotated (RSA) serves as the legal authority for DCYF and JJS in terms of how such agencies should receive and respond to children who enter the justice system.⁴³ RSA-169D discusses the goals of addressing CHINS cases as first “to recognize that certain behaviors occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services and corrective action in order to protect the child from the irreversibility of certain choices, and to protect the integrity of the family and the authority it must maintain in order to fulfill its responsibilities to raise the next generation,” and second “to further provide the child with the treatment, care, guidance, counseling, discipline, supervision, and rehabilitation necessary to assist him in becoming a responsible and productive member of society.”⁴⁴

However, according to Michael Skibbie, Policy Director of the Disabilities Rights Center, funding for CHINS services was cut dramatically in the last budget cycle, leading him to believe the system as a whole is less able to respond to the early signs of behavior problems.⁴⁵ He believes this reduction will likely result in a significant rise in the number of delinquency cases entering the system because youth who may have received interventions at earlier stages through the former CHINS system may now engage in more difficult behaviors that prompt their entrance into the juvenile justice system.⁴⁶

5.2 Treatment of Children with Special Needs

Children with special needs are represented disproportionately in juvenile justice systems across the country. A report compiled by the American Bar Association Juvenile Justice Center, the Juvenile Law Center, and the Youth Law Center defines “disabilities” as Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder, developmental delays, learning disabilities, or severe emotional disturbances.⁴⁷ The report found that children with disabilities are unable to comprehend, learn, or behave appropriately in certain situations and are thus at greater risk for delinquent behavior.⁴⁸ Children with disabilities may be adversely affected at various stages of the justice process. According to the National Center for State Courts, disabled children in juvenile systems are subject to harsher treatment at arrest, adjudication, and at disposition compared to similarly situated non-disabled children. For example, at disposition, despite similar prior criminal records, children with disabilities receive an average term of incarceration and/or probation that is two to three years longer than their non-disabled counterparts.⁴⁹

In New Hampshire, several practices may affect disabled children’s experience in the justice system. The state allows pleas of “true” (in replacement of the adult plea of “guilty”) during the arraignment without counsel present as long as there is no commitment at the time of the plea. Even in cases that do involve counsel, the attorney is



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often first present after the arraignment is completed. According to Director Skibbie, the state is not doing enough to see that youth with disabilities have access to appropriate representation.⁵⁰ Additionally, New Hampshire courts only perform minimal screening at arraignment consisting of several questions to ascertain whether or not the child has been determined to have a cognitive disability, a mental illness, an emotional or behavioral disorder, or is identified as eligible for special education services.⁵¹ Youth in the juvenile justice system are more likely to have both identified and undiscovered disabilities, and accurate identification of these disabilities may help further facilitate a constructive intervention.⁵²

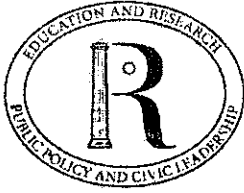
At the same time, the state has been working to develop programs that accurately assess a child's mental health needs, such as the Foster Care Behavioral Health Program, which requires a comprehensive behavioral health assessment for every child's first out-of-home placement by JJS.⁵³ The problem occurs when the state attempts to address such assessed needs. The 2010 New Hampshire Child and Family Services Review found that appropriately assessing and addressing the mental and behavioral health of youth is an "area needing improvement" in New Hampshire. The same behavioral and mental health item was also marked as an "area needing improvement" in the 2003 Review.⁵⁴

5.3 Treatment of 17-Year Olds

In 1996 New Hampshire lowered its age of criminal prosecution as an adult from 18 to 17, consequently transferring all 17-year-old offenders from the juvenile to adult justice system. Legislators at the time were particularly concerned about maintaining age consistency with Massachusetts: because the age of criminal responsibility was seventeen in Massachusetts, legislators believed 17-year-olds might commit crimes in New Hampshire rather than be tried as adults in Massachusetts.⁵⁵ Massachusetts, however, has recently considered raising the age back to eighteen in order to maintain consistency with other legislation regarding the age of majority.⁵⁶

There are significant developmental concerns associated with treating 17-year-old offenders as adults in the justice system. Many have argued that adult correctional facilities offer fewer opportunities for meaningful rehabilitation than juvenile correctional facilities. For example, a 2011 Center for Juvenile Justice report found that when seventeen-year-olds are incarcerated as adults, their parents are not necessarily notified of their arrest, they are not always required to attend school, nor are they provided with the necessary rehabilitative programs.⁵⁷ An inadequate rehabilitation program for 17-year-old offenders is particularly significant as it could contribute to higher recidivism rates.⁵⁸

Cost is another consideration in the issue of treatment of 17-year-old offenders. Raising the age of criminal responsibility back to 18 would increase the number of youth



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admitted to the state's juvenile correctional facilities. It is impossible to directly compare the costs of adult and juvenile correctional facilities because of cost variability by state and county prison system, and the existing data does not make it clear that it would be more expensive to place 17-year-old offenders in juvenile facilities.⁵⁹ The budgetary impact of changing the age of criminal responsibility thus remains unclear; even though it appears that placing 17-year-olds in juvenile facilities is more expensive, only a small percentage of youth involved in the juvenile justice system are placed in correctional facilities.

6. CASE STUDIES FOR FURTHER CONSIDERATION

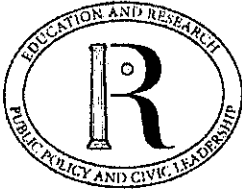
An examination of the juvenile justice systems in other New England states offers insight into available reform options that could be implemented in New Hampshire. In addition, an analysis of programs in other states that have been particularly effective in reducing recidivism among juvenile offenders can offer New Hampshire guidance on best practices.

6.1 Vermont Juvenile Justice System

In Vermont, a juvenile offender can either be placed in a detention facility or a diversion program. Most youth are placed in a diversion program, and the youth that are directed to a detention center are often placed in the same programs post-detention because of the overlap between probation and diversion options. Like New Hampshire, Vermont's Juvenile Justice System is located within its Child Welfare system. Juvenile offenders in Vermont thus have access to social workers trained in developmental issues, mental health disorders and substance abuse treatment. Furthermore, CHINS can access social workers trained in family dynamics and child abuse and neglect. However, this results in a large range of cases, resulting in a similar problem to that in New Hampshire of a lack of individuals in the justice system who have specialized specifically in delinquency matters.

6.1.1 Vermont Juvenile Justice Options

The purpose clause of Vermont's Juvenile Justice System emphasizes the restoration of the offender, the community, and victims to which the offender previously caused harm.⁶⁰ The state has Balanced and Restorative Justice (BARJ) philosophy, which holds that juvenile offenders aged 13 to 18 can either be directed to a secure detention facility or diverted to one of several diversion programs. BARJ programs stress the child's accountability to his or her community's safety through skill development classes and programs. Such programs often require children to pay restitution, complete community service, receive counseling, and participate in community panels, among other restorative



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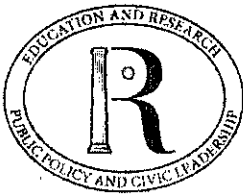
actions.⁶¹

Vermont has only one secure detention facility, the Short-Term Program at the Woodside Juvenile Rehabilitation Center. This program serves the function of New Hampshire's SYSC and Youth Detention Services Unit and has 30 available beds to accommodate youth in both short-term detention and long-term corrections.⁶² Accordingly, in 2007, Vermont had the lowest juvenile residential placement in the country at just 69 placements per 100,000 youth, compared to New Hampshire's 125 per 100,000 and the national average of 279 per 100,000.⁶³

With so few youth held in secure detention, the state relies more on community-based and diversion programs. An interesting example of a diversion program in Vermont is the Valley Court Diversion Program (VCDP) that serves the Upper Valley area of both Vermont and New Hampshire. Because of this interstate service, comparisons can be made between the operations of the program in each of the two states to make recommendations for improvement in both states' systems. Primarily, all VCDP cost an average of \$200 higher per participant in the New Hampshire counties than in the Vermont counties. The cause of this discrepancy is the aforementioned lack of funding by the New Hampshire legislature for diversion programs.⁶⁴ However, it is hard to compare the efficacy of the program in the two states because of a lack of recidivism data for New Hampshire.

6.1.2 Vermont Juvenile Probation/Aftercare System

Unlike New Hampshire, Vermont has not implemented an RAI to determine levels of probation supervision. The National Center for Juvenile Justice reports, however, that the state is currently developing this tool.⁶⁵ The state has Restorative Panels and Restitution Programs that are tasked with defining the harm of the acts of delinquents and accordingly creating and supervising a plan to rectify such harm to the most realistic extent possible. Many plans are based again on the BARJ principles. Therefore, probation options largely overlap with diversion options, and many youth placed in secure detention are subsequently admitted to BARJ programs as part of their probation plans. These programs have been proven to reduce probation periods. Currently, of the 330 juveniles on probation, 65 percent have been on for less than a year, and only 14 percent have been there for longer than two years.⁶⁶ Social workers fill the role of JPPOs in Vermont, and are in charge of supervising these plans. In addition, state Street Checkers provide assistance by working with schools, parents, and police officers to monitor youth's activities while on probation in their communities. This supervision continues until the individual turns 18 after which Department for Children and Families is no longer responsible for the child.⁶⁷



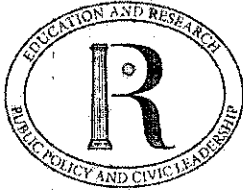
The Annie E. Casey Foundation's data on recidivism during the after care period does not include figures from Vermont.⁶⁸ Therefore, it is currently difficult to assess the efficacy of Vermont's justice system in preventing future re-entry. Specific case studies of particular programs, however, provide insight into juvenile recidivism in the state. For instance, in the VCDP, the directors are required by the attorney general's office to do quarterly reporting on their recidivism statistics. Previously, the agency would keep cases for three years before shredding them. Now, directly before shredding the files, the agency checks Vermont court records online to see whether the individual in question reoffended. If not, the agency can comfortably report that that individual has not reoffended in three years.⁶⁹ However, the agency is unable to provide such data for the New Hampshire counties that they serve (namely Lebanon and Lower Grafton County) because quarterly reporting is not required because of the lack of revenue to fund such data collection.⁷⁰

6.2 Massachusetts Juvenile Justice System

The Massachusetts juvenile justice system is a particularly relevant case study because like New Hampshire, the state treats 17-year-old offenders as adults rather than juveniles. The Massachusetts system is also an interesting case study because it underwent major reforms in the 1970s and developed a strong emphasis on community programs.

6.2.1 Massachusetts Juvenile Justice Options

Until 1972, the Massachusetts juvenile justice system was characterized by large-scale detention facilities. After undergoing major reforms in the 1970s, the system now relies predominantly on community programs to address delinquency.⁷¹ In 1970, Massachusetts closed its five juvenile correctional facilities that had come under federal scrutiny for abuse and mismanagement.⁷² In their place, the state created halfway houses, local programs for the youth that had previously occupied these facilities. These "houses" became alternatives to correctional facilities that served as group homes for youth who did not require secure confinement.⁷³ What began as a summer program designed by Harvard University students for Department of Youth Services youth developed into a comprehensive aftercare program for youth leaving the system, the Community Advocates Program (CAP), in which children were put into small groups of four or five and given access to tutoring, surrogate homes, and employment opportunities in small businesses. This model became known as the Outreach and Tracking model.⁷⁴ The CAP program, now known as the Key Program, still serves as the basis for Massachusetts's nonresidential services for children and youth in the justice system. In addition, the Outreach and Tracking model has been implemented in many states, including Maryland, Pennsylvania, and Utah,⁷⁵ as it has been shown to be a cost-effective alternative to correctional facilities and a more effective method of reintegration.⁷⁶



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In 1985, 15 years after Massachusetts closed their correctional institutions, the National Council on Crime and Delinquency did a cross-state comparison and found that Massachusetts's juvenile justice system was less reliant on secure confinement and had the lowest recidivism rate of all the states that were analyzed. This study provided strong evidence for the effectiveness of a juvenile justice system emphasizing community-based programs supported by a few secure treatment programs for the most serious delinquency cases.⁷⁷

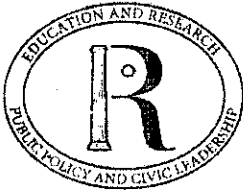
6.2.2 Massachusetts Juvenile Probation/Aftercare System

Massachusetts was the birthplace of probation and its stated purpose in the state is rehabilitation under the supervision of a probation officer and public protection.⁷⁸ The secondary purposes are punishment, deterrence, and retribution on the part of the offender.⁷⁹ Probation officers are members of the community who supervise offenders' behavior and report back to the courts. The Massachusetts Probation Service is responsible for collaborating with local agencies to provide aftercare programs to youth on parole (in addition to the abovementioned nonresidential services offered by the Key program) such as anger management and community service programs.⁸⁰

The state's aftercare programs also include the Night Light Program and the Fatherhood Program. The Night Light Program pairs one probation officer with two police officers to make surprise visits to high-risk youth probationers at night to tackle juvenile violence.⁸¹ The Fatherhood Program is a 12-week program that teaches offenders, many of whom did not grow up with a father in the home, how to be attentive parents to their own children.⁸² Such programs are two of many innovative efforts by the Massachusetts Probation Service to provide aftercare services to former youth offenders.

6.2.3 Massachusetts Juvenile Justice Treatment of Children with Special Needs

To identify children with special needs entering the court system, Massachusetts has a screening instrument known as the Massachusetts Youth Screening Instrument-Second Version (MAYSI-2). This instrument is used within the first few days of admission into the system to screen youth on seven scales for potential emotional, behavioral, or psychological disturbances.⁸³ It is brief, administered at low costs, and can be given to a wide range of male and female adolescents spanning multiple ages and ethnicities.⁸⁴ According to the Journal of the American Academy of Child and Adolescent Psychiatry, such a tool has been found to be both reliable and valid not for formal diagnoses but rather for first identifying youth in need of immediate clinical interventions.⁸⁵ The results can additionally be used to assist judges in making placement decisions for young people in the Massachusetts system.⁸⁶



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To serve children with special needs once they are in the system, Massachusetts has implemented an elaborate juvenile court clinic system.⁸⁷ Its system contracts with the law and psychiatry program at the University of Massachusetts to ensure the quality of the clinicians certified to work in such clinics.⁸⁸ The use of such clinics is controversial, however, as many argue that community mental health centers are a more appropriate and effective setting for conducting clinical treatment.⁸⁹ Therefore, more research into the costs and benefits of such clinics should be conducted before considering implementation in New Hampshire.

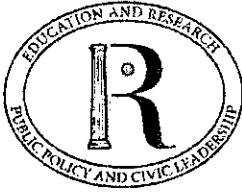
6.3 Other Best Practices Nationwide to Further Consider

Below are several practices implemented in various parts of the country that have proven effective in reducing recidivism rates among youth. They therefore provide New Hampshire with viable alternatives to secure detention facilities that could improve the efficacy of the system for all types of offenders, including the aforementioned high-risk groups of youth.

6.3.1 Juvenile Assessment Centers

Juvenile Assessment Centers (JACs) are being implemented across the nation as a way to deal more effectively with the complex needs of youth involved in the juvenile justice system. These centralized centers attempt to address needs, such as mental health and substance abuse treatment, child welfare, and other social services agencies by combining professionals in each department in a single entry point at which youth can be comprehensively assessed initially.⁹⁰

The Miami-Dade County in Miami, Florida opened a JAC in 1997. The program was created out of a belief that a broad network of community-based services should be available for youth who are entered into the justice system as they likely have multiple interrelated problems that cannot be dealt with by one approach alone or without the cooperation of community professionals who would best be able to rehabilitate and reintegrate these offenders.⁹¹ The system resulted in increased efficiency. For instance, police processing time was reduced from six hours to 15 minutes.⁹² However, this also led to an increase in the number of youth who entered the system. Therefore, Miami also created a Post-Arrest Diversion (PAD) Program for first-time nonviolent offenders.⁹³ Not only did this program better suit the needs of such offenders, but it also reduced the load on the justice system.



6.3.2 Growing Up FAST Diversion Program

Growing Up FAST (Families and Adolescents Surviving and Thriving) is a family-based diversion program that was developed using a logic-based evaluation model that sequentially evaluates inputs, program activities, outputs, and outcomes. The key to this model is assessing efficacy by dividing outcomes into causally related initial, intermediate, and longer-term outcomes. While the outcomes describe the program's actual products, such as treatment plans for youth, the outputs constitute a translation of those results into how effectively the larger societal issues of juvenile crime are being addressed through such statistics as recidivism rates. This model allows for concrete goals to be amended frequently depending on how the treatment plan is progressing.⁹⁴

The use of such a model has resulted in a five-level diversion program in which each level builds upon the successful completion of the previous level. Children between the ages of 12 and 16 are eligible for the program and must be accompanied by an adult who can be involved in each level of the process.⁹⁵ Additionally, each level requires some accomplishment on the part of the family unit. For instance, the purpose of level three is for the child to learn about various skill-building activities and then co-teach them, along with their program facilitator, back to their families to emphasize youth participation and to involve and better inform families.⁹⁶ Future levels allow the families to create their own resource maps, listing sources of support available to the child to plan for his or her rehabilitation once released from the system.⁹⁷

By focusing on youth strengths and his or her potential upon release from the program, the program resulted in a 50 to 65 percent decrease in likelihood that a participant would be arrested again, as compared to peers.⁹⁸ Although the model was implemented in only five states as of 2000, it is a representative example of how family-centered diversion options can reduce recidivism.

6.3.3 Michigan's Adolescent Diversion Project

This mentoring-based diversion program, which has now been running for 35 years, was started in 1976 by a professor at Michigan State University who spent two semesters training undergraduate psychology students on the juvenile justice system in Michigan and the principles underlying a mentor-based approach to treating juvenile offenders.⁹⁹ These students were then paired with youth found guilty of minor crimes, and the undergraduates were responsible for mentoring them and their families for 18 weeks. The goal of the program was to form a positive relationship between the mentor and the adolescent in order to help the adolescents communicate more effectively with their families. The program also sought to connect youth with constructive resources that



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fostered their interests, such as dance studios or computer labs. By emphasizing strengths, the professor who piloted the program was able to cut the recidivism rate by half, resulting in the program's replication in multiple cities around the state with funds from the National Institute of Mental Health.¹⁰⁰

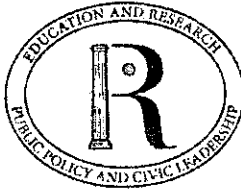
6.3.4 Washington State's TeamChild Program

TeamChild is a diversion program established in Washington State in 1995 out of the belief that low-income youth between the ages of twelve and eighteen whose basic needs are not being met can be diverted away from delinquency with the provision of simple services to meet needs, such as schooling. The program targets juveniles who are currently facing criminal charges, who have been released on parole or through diversion, or who are CHINS. The program provides access to education, housing, healthcare and other related public services for free through both state funding and private donations. Moreover, TeamChild aids children with disabilities in gaining access to quality mental health care services.¹⁰¹ This community-based program has proven to be largely effective. An evaluation done on a group of TeamChild participants six months after they left the program found that they were four times less likely than their peers to have contact with the justice system again.¹⁰²

6.3.5 Wilderness Camps

Wilderness camps are another alternative to traditional detention facilities. They vary widely with respect to setting and program components but all of them generally advocate a "learning by doing" approach. Such programs have become widespread and target individuals that range in age from eleven to seventeen. These programs generally focus on physical activities and developing interpersonal relationships in efforts to improve children's self-esteem and consequently reduce delinquent behavior.¹⁰³ According to an analysis done on 28 different studies of wilderness programs, juvenile offenders who participated in such programs had a recidivism rate of 29 percent compared to a rate of 37 percent among comparable peers.¹⁰⁴

As these programs have become increasingly widespread, a number of different models have been implemented with varying success rates. One of the most studied national programs that has demonstrated success is VisionQuest, a program in which individuals spend twelve to fifteen months in a wilderness orientation program, an outdoor adventure program, and a final community therapy program. Afterwards, these children participate in an aftercare program known as HomeQuest that offers them support in re-entering their communities. Using a one-year post-release period as a basis for comparison, participants experienced recidivism rates 50 percent lower than peers.¹⁰⁵



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7. EXPERIMENTAL STUDIES TO CONSIDER

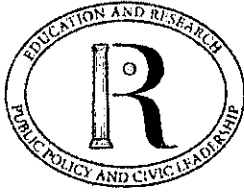
Although such studies are infrequent and results have been limited, the few research projects studying juvenile diversion programs may be useful options for New Hampshire to consider.

7.1 Control Group Study in Idaho of Diversion Programs

A 2004 study in Idaho compared the effectiveness of three different diversion programs in reducing juvenile recidivism.¹⁰⁶ First-time offenders were randomly assigned to three experimental groups: the Juvenile Accountability Program (JAP), the Youth Court or the Magistrate Court. These groups were then compared to an educational control group.

Those in the JAP initially went through an assessment process to determine whether they would need additional services, such as alcohol/substance abuse counseling, and those who were identified as being in need were diverted to such resources. While in the program, youth were required to complete a certain amount of community service, pay restitution according to their offense, attend classes on alcohol or drug awareness, make a supervised visit to the jail to visit an inmate who had been imprisoned for alcohol, drugs, or violence, and finally write an essay upon completion of the program reflecting on their experiences. Those in Youth Court were served sentences by their peers, generally high school students, who served as the jury and acted as the offenders' attorneys. Such sentences usually involved components of the above program, including community service, tobacco or alcohol education counseling. Those in the Magistrate Court were sentenced in a traditional court and, unlike those in the other two groups, received a permanent record and a fine. Furthermore, this group received no rehabilitation services, such as counseling and classes. Finally, the juveniles in the Educational Control Group were offered voluntary counseling services, given a warning, and shown a short film before being released.

Although the study is still ongoing, initial trends show that the JAP had the lowest recidivism rate and the educational control group had the highest. It is important to note, however, that the number of participants was limited: the control group had nine juveniles re-offend and the JAP had three.¹⁰⁷ At the same time, these findings do provide some evidence that diversion is more effective than not providing any sort of structured or required program for the offender.



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One final finding that may be worth consideration is the researchers' belief that a possible reason for the JAP's success is the labeling perspective, a theory that delinquents offend due to negative interactions with people in authority, such as the police.¹⁰⁸ The JAP was the only program of any of them to not incorporate such interactions, for even the Youth Court procedures are backed by authority figures..

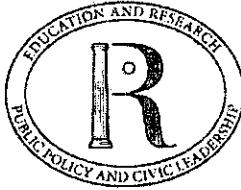
7.2 A Meta-Analysis of Experimental Studies of Diversion Programs

In 2012, researchers completed a meta-analysis comparing all previous studies done on diversion programs. This study included 28 studies that involved 57 experimental comparisons and 19,301 youth.¹⁰⁹ The study's findings are summarized below:

- The effects of diversion programs were non-significant in four of the five types of programs: case management, individual treatment, youth court, and restorative justice
- Family-based programs, however, were associated with statistically significant reductions in recidivism
- The authors reported that average recidivism rates for the experimental and control conditions were similar (31.4 percent versus 36.3 percent), but noted even this slight change could arguably be beneficial in rehabilitating juvenile offenders.
- Because of small sample sizes for studies that measured other outcomes aside from recidivism, such as drug use and school truancy, these outcomes were not analyzed.¹¹⁰
- The researchers could not draw conclusions about the effectiveness of programs for youth offenders with mental health problems because there are few of these diversion programs (only one of the studies they looked at actually was of a specialized diversion program for mental health and substance use problems and from what they found, those youth did have reduced rates of recidivism).
- Diversion program research has not yet looked into the potential benefits of matching interventions to clients specifically based on that population's characteristics, i.e. tailoring to gender, age subgroups, or even level of risk for reoffending.¹¹¹

8. IMPLICATIONS FOR NEW HAMPSHIRE

One option for the legislature to consider is increase support for community-based programs. This would be in line with how the juvenile justice system is currently structured; data from 2009 and 2010 indicate that the majority of youth involved in the juvenile justice system were placed in community-based programs rather than secure detention. The legislature could consider providing support for diversion programs. Both Massachusetts and Vermont have implemented juvenile justice models focusing on community-based and diversion programs rather than detention, and there is evidence that this has led to decreased costs and lower recidivism rates. The results of programs

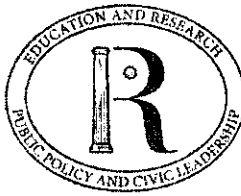


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such as the Growing Up FAST Diversion Program and Michigan's Adolescent Diversion Project provide further support for the effectiveness of diversion programs in reducing recidivism. The 2011 meta-analysis of diversion programs discussed above, however, provides a more ambiguous view of the effectiveness of diversion programs.

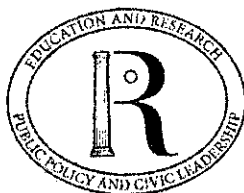
There are several different options New Hampshire could consider in modifying their treatment of high-risk youth. With regard to 17-year-olds, a viable option might be to raise the age of criminal prosecution as an adult from 17 to 18. Bearing in mind the desire to maintain consistency with Massachusetts, other considerations should be taken into account such as the fact that studies have shown that inadequate treatment of seventeen-year-old offenders treated as adults could lead to higher recidivism rates. One option to consider for children with disabilities and CHINS is the introduction of a diversion program similar to Washington's TeamChild Program that specifically focus on giving CHINS and children with disabilities access to resources. Another possibility is to implement a more extensive screening process at the time of a juvenile's arraignment. The tool used by Massachusetts to screen juveniles has been shown to be useful in formal diagnoses as well as assisting judges in their placement decisions.



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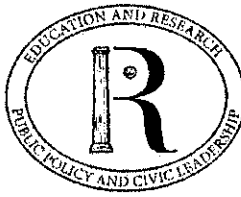
Appendix A. Annie E. Casey Foundation's Compilation of Available Recidivism Data for Youth Released From State-Funded Juvenile Correctional Facilities¹¹²

State	Recidivism measure	Population	RELEASE DATE	Time frame (months/year post-release)	Recidivism Rate	Source	Notes
Alabama	no data						
Alaska	re-adjudication/conviction for a new offense	Juveniles released from secure treatment	2008	12 months	38.1%	Alaska Office of Management and Budget, on the "Performance" report for Division of Juvenile Justice (accessed Sept. 2010).	
Arizona	return to custody (juvenile or adult) for new offense or technical violation	Youth released by the Arizona Department of Juvenile Corrections (ADJC)	2007	12 months	38.2%	Arizona Department of Juvenile Corrections Annual Report (2009)	
			2006	24 months	43.3%		
			2005	36 months	51.9%		
	incarceration as adult (Arizona Department of Corrections)	Youth released by the Arizona Department of Juvenile Corrections (ADJC)	2007	12 months	8.4%	Arizona Department of Juvenile Corrections Annual Report (2009)	
			2006	24 months	15.0%		
			2005	36 months	23.4%		
Arkansas	percentage of new admissions to juvenile custody who are returning after previous commitment	youth committed to juvenile custody in FY 2009	varied	varied	23%	Division of Youth Services Annual Statistical Report (State Fiscal Year 2010)	
California	rearrest for a new offense	28,000+ youth released from California Youth Authority facilities from 1998 through 2000	1998-2000	36 months	74%	Unpublished study by the California Youth Authority, detailed by San Jose Mercury News on Oct. 17, 2004	
Colorado	new filing for a felony or misdemeanor offense*	Youth released from Division of Youth Corrections (DYC)	2007-2008	12 months	38.8%	Recidivism Evaluation of Committed Youth Discharged in Fiscal Year 2007-08, Report of Colorado Division of Youth Corrections (Jan. 1, 2010)	*Not all rearrests result in case filings.
Connecticut	return to custody (juvenile)	Youth released from the Connecticut Juvenile Training School	January 1-December 15, 2009*	0-11.5 months	33%	Correspondence with the Department of Children and Families, Bureau of Juvenile Services	*There are no recidivism data for one or more year after release from the training school.
Delaware	rearrest for a felony offense	Juveniles released from Levels II, IV, and V juvenile facilities	2006	12 months	34%	Office Management and Budget Statistical Analysis Center - Delaware Juvenile Recidivism (2007)	
	rearrest for felony and misdemeanor offenses	Juveniles released from Levels II, IV, and V juvenile facilities	2006	12 months	67%	Office Management and Budget Statistical Analysis Center - Delaware Juvenile Recidivism (2007)	
	return to custody (juvenile or adult facility)	Juveniles released from Ferris School, the state's training school for boys.	2002	12 months	72%	Office Management and Budget Statistical Analysis Center - Delaware Juvenile Recidivism (2007)	Unlike other states, Delaware's return to custody data include youth placed into pre-trial detention, not only those committed to custody following adjudication.
				24 months	83%		
				36 months	86%		
			48 months	89%			
District of Columbia	reconviction for a new offense within Washington DC	Youth released from Department of Youth Rehabilitation Services	2007	12 months	25%	Department of Youth Rehabilitation Services Public Safety Outcomes Study (October 2008)	Does not include recidivism events that occur in nearby states of Maryland and Virginia.
Florida	rearrest for any delinquent (misdemeanor or felony) offense	Youth released from residential placements	2003-2004	12 months	59%	Florida Department of Juvenile Justice Outcome Evaluation Report (2006)	
	rearrest/referrals for a felony offense	Youth released from residential placements	2003-2004	12 months	45%	Florida Department of Juvenile Justice Outcome Evaluation Report (2006)	



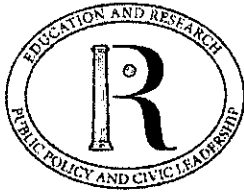
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State	Recidivism measure	Population	RELEASE DATE	Time frame (month/year post-release)	Recidivism Rate	Source	Notes
	readjudication/conviction for new offense	Youth released from residential placements - low-risk programs	2007-2008	12 months	51%	Florida Department of Juvenile Justice Comprehensive Assessment Report (2009-2009)	
		Youth released from residential placements - moderate-risk programs			45%		
		Youth released from residential placements - high-risk programs			46%		
		Youth released from residential placements - maximum-risk programs			40%		
	readjudication/conviction for a felony offense	Youth released from residential placements	2003-2004	12 months	22%	Florida Department of Juvenile Justice Outcome Evaluation Report (2006)	
	return to juvenile custody or adult conviction leading to prison or probation	Youth released from residential placements	2003-2004	12 months	28%	Florida Department of Juvenile Justice Outcome Evaluation Report (2006)	
	readjudication/conviction for new offense	Youth released from Youth Development Campuses (YDC)	2007	12 months	46.6%	Georgia Department of Juvenile Justice Recidivism Report (FY2007)	
		Youth released from other residential placements	2007	12 months	24.4%		
Georgia		Youth released from both YDC and other residential placements	2007	12 months	34.3%		
		Youth released from YDC	2006	24 months	54.3%	Georgia Department of Juvenile Justice Recidivism Report (FY2007)	
		Youth released from other residential placements	2006	24 months	39.0%		
		Youth released from both YDC and other residential placements	2006	24 months	53.0%		
		Youth released from YDC	2005	36 months	55.2%	Georgia Department of Juvenile Justice Recidivism Report (FY2007)	
		Youth released from other residential placements	2005	36 months	42.9%		
		Youth released from both YDC and other residential placements	2005	36 months	51.9%		
	Hawaii	rearrest for any delinquent (misdemeanor or felony) offense	Youth released from Hawaii Youth Correctional Facility	1996-1998	24 months	82.2%	Incarcerated Juveniles and Recidivism in Hawaii - Hawaii Attorney General (2001)
readjudication/conviction for new offense		Youth released from Hawaii Youth Correctional Facility	1996-1998	24 months	57.3%	Incarcerated Juveniles and Recidivism in Hawaii - Hawaii Attorney General (2001)	
return to custody (juvenile or adult facility)		Youth released from Hawaii Youth Correctional Facility	1996-1998	24 months	32.2%	Incarcerated Juveniles and Recidivism in Hawaii - Hawaii Attorney General (2001)	
Idaho	readjudication/conviction for new offense	Juveniles released from Idaho Juvenile Department of Corrections (JDC)	2005	12 months	27.8%	Juvenile Recidivism in Idaho, Idaho Department of Juvenile Corrections (2008)	
			2005	24 months	37.3%	Juvenile Justice in Idaho, Idaho Department of Juvenile Corrections (2006)	
	return to juvenile custody	Juveniles released from Idaho Juvenile Department of Corrections (JDC)	2005	12 months	3.5%	Juvenile Recidivism in Idaho, Idaho Department of Juvenile Corrections (2008)	
		Juveniles released from Idaho Juvenile Department of Corrections (JDC)	2002	24 months	9.4%	Juvenile Recidivism in Idaho, Idaho Department of Juvenile Corrections (2002)	
	incarceration as adult	Juveniles released from Idaho Juvenile Department of Corrections (JDC)	2005	12 months	3.2%	Juvenile Recidivism in Idaho, Idaho Department of Juvenile Corrections (2008)	
Illinois	rearrest	Youths released from Illinois youth corrections facilities	1996-2003	18 months	49%	Data cited in Research Brief, Illinois Criminal Justice Information Agency (July 2008)	
Indiana	return to juvenile custody	Juveniles released from state correctional institutions	2005	36 months	18.3%	Juvenile Recidivism, Indiana Department of Corrections (2008)	



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State	Recidivism measure	Population	RELEASE DATE	Time frame (month/year post-release)	Recidivism Rate	Source	Notes
	total return to custody (adult and/or juvenile)	Juveniles released from state correctional institutions	2005	36 months	35.9%	Juvenile Recidivism, Indiana Department of Corrections (2008)	
	total return to custody (adult and/or juvenile) for a new offense	Juveniles released from state correctional institutions	2005	36 months	25.4%	Juvenile Recidivism, Indiana Department of Corrections (2008)	
	return to juvenile custody for technical violation	Juveniles released from state correctional institutions	2005	36 months	10.4%	Juvenile Recidivism, Indiana Department of Corrections (2008)	
	incarceration as adult	Juveniles released from state correctional institutions	2005	36 months	20.8%	Juvenile Recidivism, Indiana Department of Corrections (2008)	
Iowa	percentage of new admissions to juvenile corrections facility who are returning after previous commitment	Juveniles admitted to state juvenile corrections facilities in Fiscal Year 2010	varied	varied	16%	email communication from Iowa Department of Human Services	
Kansas	return to juvenile custody or adult corrections for a new offense or technical violation		July 1, 2006 to June 30, 2007	12 months	30.1%	Kansas Juvenile Justice Authority Briefing to Legislature (September 24 and 25, 2008)	
				24 months	33.6%		
Kentucky	no data						
Louisiana	return to custody (juvenile or adult) based on a new offense	Youth discharged from juvenile custody (both secure and non-secure combined)	2007-2008	12 months	15.0%	Louisiana Office of Juvenile Justice	
			2005-2007	24 months	25.1%		
			2005-2006	36 months	29.1%		
		Youth discharged from secure juvenile custody	2007-2008	12 months	20.9%	Louisiana Office of Juvenile Justice	
			2005-2007	24 months	32.9%		
			2005-2006	36 months	39.3%		
		Youth discharged from non-secure juvenile custody	2007-2008	12 months	14.5%	Louisiana Office of Juvenile Justice	
			2005-2007	24 months	24.6%		
			2005-2006	36 months	28.2%		
Maine	no data						No data are available on recidivism rates among Maine youth released from custody. However, the state does regularly examine subsequent juvenile adjudications for all youth referred to juvenile court.
Maryland	rearrest (juvenile or adult)	Juvenile released from residential facilities	2008	12 months	56%	Maryland Department of Juvenile Services online StateStat Spreadsheet (accessed Sept. 2010)	
			2007	24 months	70%		
			2006	36 months	74%		
	re-adjudication/conviction for a new offense	Juvenile released from residential facilities	2008	12 months	20%	Maryland Department of Juvenile Services online StateStat Spreadsheet (accessed Sept. 2010)	
			2007	24 months	38%		
			2006	36 months	45%		
return to custody (juvenile or adult facility)	Juvenile released from residential facilities	2008	12 months	15%	Maryland Department of Juvenile Services online StateStat Spreadsheet (accessed Sept. 2010)		
		2007	24 months	31%			
		2006	36 months	39%			
Massachusetts	re-adjudication/conviction for a new offense	Youth released from Department of Youth Services supervision and custody	2005	12 months	29%	The book, "Just for Youth: Advocating for Youths in the Massachusetts Department of Youth Services" by the Mental Health Legal Advisors Committee cited a 2009 Department of Youth Services Recidivism Study	According to the report, 29% figure does not include other youth who had been arrested for crimes within 12 months but whose cases were still pending.



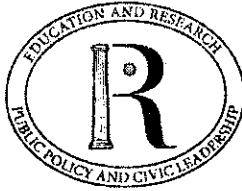
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State	Recidivism measure	Population	RELEASE DATE	Time frame (months/year post-release)	Recidivism Rate	Source	Notes
Michigan	rearrest for a felony offense	Youth supervised by the Michigan Department of Human Services and released from residential treatment	2002-2005	24 months	37%	Michigan Department of Human Services	
	readjudication/conviction for new felony offense	Youth supervised by the Michigan Department of Human Services and released from residential treatment	2002-2005	24 months	22%	Michigan Department of Human Services	
	incarceration in adult facility	Youth supervised by the Michigan Department of Human Services and released from residential treatment	2002-2005	24 months	10%	Michigan Department of Human Services	
Minnesota	readjudication/conviction for new felony offense	Juvéniles released from MCF-Red Wing	2001-2002	12 months	26%	Minnesota Department of Corrections, Performance Report Fiscal Year 2006	
				24 months	43%		
				36 months	53%		
	return to custody (juvenile or adult facility)	Juvéniles released from MCF-Red Wing	2001-2002	12 months	15%	Minnesota Department of Corrections, Performance Report Fiscal Year 2006	
				24 months	26%		
			36 months	38%			
Mississippi	no data						
Missouri	return to custody (juvenile or adult) for a new offense	Youth released from custody by Missouri Division of Youth Services	2005	12 months	9.1%	Unpublished data provided by Missouri Department of Youth Services, cited in <i>The Missouri Model: Rehabilitating the Practice of Rehabilitating Youthful Offenders</i> , Anne E. Casey Foundation, 2010.	
				24 months	14.5%		
				36 months	16.2%		
	return to custody (juvenile or adult) for a new offense or technical violation	Youth released from custody by Missouri Division of Youth Services	2005	36 months	24.3%	Unpublished data provided by Missouri Department of Youth Services, cited in <i>The Missouri Model</i> .	
	incarceration as adult	Youth released from custody by Missouri Division of Youth Services	2005	12 months	2.3%	Unpublished data provided by Missouri Department of Youth Services, cited in <i>The Missouri Model</i> .	
24 months				7.1%			
			36 months	8.5%			
Montana	return to juvenile custody for a new offense or probation/parole violation	Youth released from juvenile facilities	2007	36 months	27% boys; 29% girls	Correspondence with the Youth Services Division, Montana Department of Corrections	
	return to juvenile custody for a new offense	Youth released from juvenile facilities	2007	36 months	10% boys; 6% girls	Correspondence with the Youth Services Division, Montana Department of Corrections	
	incarceration as adult	Youth released from Pine Hills Correctional Facility	2005-2009	0-5 years	7.5%	Correspondence with the Youth Services Division, Montana Department of Corrections	
Nebraska	no data						
Nevada	no statewide data					Correspondence with Nevada Division of Children and Family Services	
New Hampshire	sentenced to adult probation or prison	Youth previously confined in a state juvenile corrections center who turned 17 between 1998-2002	varied	9-12 years after reaching of majority	51.7%	Unpublished data provided by New Hampshire Division for Juvenile Justice Services	
New Jersey	return to custody (juvenile or adult)	Youth previously committed under the New Jersey Juvenile Justice Commission	2004	12 months	25.6%	New Jersey Juvenile Justice Commission (2004, released 2007)	
				24 months	35.7%		
New Mexico	return to juvenile custody	Youth released from Children, Youth, and Families Department facilities	2009	24 months	10.1%	Children, Youth, and Families Department Key Performance Report	
New York	rearrest for any delinquent (misdemeanor or felony) offense	Youth released from New York Division for Youth	1991-95	12 months	52%	New York State Office of Justice Systems Analysis Report (1999)	
				24 months	68%		



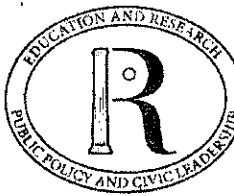
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State	Recidivism measure	Population	RELEASE DATE	Time frame (months/year post-release)	Recidivism Rate	Source	Notes
				36 months	75%		
	readjudication/conviction for new offense	Youth released from New York Division for Youth	1991-95	12 months	39%	New York State Office of Justice Systems Analysis Report (1999)	
				24 months	55%		
				36 months	62%		
	return to custody (juvenile or adult)	Youth released from New York Division for Youth	1991-95	12 months	25%	New York State Office of Justice Systems Analysis Report (1999)	
				24 months	39%		
				36 months	45%		
North Carolina	subsequent complaints	Juveniles released from Youth Development Centers	2004-2005	36 months	34.2%	North Carolina Sentencing and Policy Advisory Commission (2008)	
	rearrest (adult)	Juveniles released from Youth Development Centers	2004-2005	36 months	50.5%	North Carolina Sentencing and Policy Advisory Commission (2008)	
	rearrest (adult)	Juveniles who were first adjudicated in 1997 and later committed to training school	varied	average of 7.2 years	57.8%	Juvenile to Adult, North Carolina Governor's Crime Commission (2007)	
	criminal conviction (adult) by June 2006	Juveniles who were first adjudicated in 1997 and later committed to training school	varied	average of 7.2 years	58.3%	Juvenile to Adult, North Carolina Governor's Crime Commission (2007)	
	incarceration as an adult	Juveniles who were first adjudicated in 1997 and later committed to training school	varied	average of 7.2 years	31.7%	Juvenile to Adult, North Carolina Governor's Crime Commission (2007)	
North Dakota	return to juvenile custody or sentenced to adult probation, supervision or prison	Youth released from state custody	2007-2008	12 months	16.5%	Unpublished data provided by North Dakota Division of Juvenile Services	
Ohio	return to custody (juvenile or adult)	Youth released from a Department of Youth Services correctional facility	2002	two to three years (through end of FY2004)	46.0%	Evaluation of Reclaim Ohio	
Oklahoma	rearrest/arrest for a criminal offense	Juveniles released from residential placements	2006	12 months	25.6%	Office of Juvenile Affairs Annual Report (FY2007)	
Oregon	readjudication (juvenile court for a felony offense) or felony conviction (adult court)	Youth released from Oregon Youth Authority closed custody (parole)	2005	12 months	8.9%	Oregon Youth Authority Report (FY2001-05, published May 2007)	
		Youth under jurisdiction of Department of Corrections released to post-prison supervision from Oregon Youth Authority closed custody		12 months	8.8%		
Pennsylvania	no statewide data						*Correspondence with Pennsylvania Department of Public Welfare
Rhode Island	no data						
South Carolina	rearrest for any delinquent (misdemeanor or felony) offense	Youth born in 1981 who were incarcerated as juveniles		adult records as of 12/2002 (at age 21)	72.8%	Cohort Study (2003)	
	readjudication/conviction for a new offense	Youth born in 1981 who were incarcerated as juveniles		adult records as of 12/2002 (at age 21)	59.9%	Cohort Study (2003)	
		Juveniles released from juvenile correctional facilities	2005-2006	12 months	46.6%	South Carolina Department of Juvenile Justice Report Card (2004)	From 2004 report card, later report cards have not provided recidivism for youth released from custody or provided data only for youth served in special programs.
	new offense charge			24 months	68.1%		
	incarceration as adult	Youth born in 1981 who were incarcerated as juveniles		adult records as of 12/2002 (at age 21)	30.6%	Cohort Study (2003)	
South Dakota	return to juvenile custody	Youth released from residential youth corrections program	2007	12 months	46.0%	South Dakota Department of Corrections Annual Report (2009)	
Tennessee	return to juvenile custody			12 months	15.8%	Data cited in 2010 performance audit of the Tennessee Division of Juvenile Justice by state's Division of Audit	Rate does not include youth incarceration in adult facilities.



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State	Recidivism measure	Population	RELEASE DATE	Time frame (month/year post-release)	Recidivism Rate	Source	Notes
Texas	return to custody (juvenile or adult) for new offense or probation violation	Youth released from Texas Youth Commission custody	2005	12 months	25.9%	Texas Legislative Budget Board	
				24 months	36.4%		
				36 months	43.3%		
Utah	no data					*Correspondence with Utah Division of Juvenile Justice Services	
Vermont	no data						
Virginia	rearrest (or petitioned juvenile complaint for a new criminal offense or an adult arrest)	Juvéniles released from juvenile correctional centers	2008	12 months	46.9%	Virginia Department of Juvenile Justice	Recidense data do not include technical violations.
				24 months	71.5%		
				36 months	74.7%		
	readjudication/conviction for a new offense	Juvéniles released from juvenile correctional centers	2007	12 months	41.5%	Virginia Department of Juvenile Justice	
				24 months	56.6%		
				36 months	71.9%		
	return to juvenile or adult custody for a new crime	Juvéniles released from juvenile correctional centers	2007	12 months	27.4%	Virginia Department of Juvenile Justice	
				24 months	46.0%		
				36 months	61.8%		
Washington	readjudication/conviction for a new offense	Youth released from custody of Juvenile Rehabilitation Administration (JRA)	1990	13-year follow-up	75.0%	Washington State Institute for Public Policy (October 2005)	
West Virginia	no data						
Wisconsin	return to juvenile or adult custody for a new crime	Youth released from juvenile correctional institutions	2005	24 months	17.5%	Division of Juvenile Corrections Report (2007)	
Wyoming	no data						

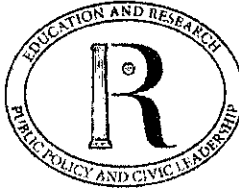


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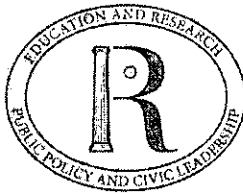
REFERENCES

- ¹New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*. N.p., July 2010. Web. 16 Oct. 2012. <<http://fosteringcourtimprovement.org/CFSR/CFSR2Reports/NH/Statewideassessment2ndRoundCFSR.pdf>>.
- ²New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*. N.p., July 2010. Web. 16 Oct. 2012. <<http://fosteringcourtimprovement.org/CFSR/CFSR2Reports/NH/Statewideassessment2ndRoundCFSR.pdf>>.
- ³Zelin, Gerald M. "A Primer on New Hampshire's Juvenile Justice Laws for Special Education Administrators." Presentation. New Hampshire Association of Special Education Administrators, 2011 Annual Conference. Sheraton Harborside Conference Center, Portsmouth, NH. 18 Mar. 2011. Drummond Woodsum. Web.
- ⁴Bowman, Lauren, Grace Hart, Soo J. Lee, Kali Montecalvo, and Melanie Wilcox. *The Minimum Age of Criminal Responsibility: A Study of the Implications of Treating Seventeen-Year-Olds as Adults in the New Hampshire Criminal Justice System*. Issue Brief No. 1011-13. Policy Research Shop: The Nelson A. Rockefeller Center at Dartmouth College, 1 May 2011. Web. 15 Oct. 2012.
- ⁵Ibid.
- ⁶O'Connor Christopher. "Prosecutor for Lower Grafton County Prosecutorial Association." Telephone interview. 17 Jan. 2013.
- ⁷"New Hampshire: Risk and Needs Assessments." National Center for Juvenile Justice, 13 Jan. 2011. Web. 16 Oct. 2012. <<http://www.ncjj.org/State/New-Hampshire/Risk-and-Needs-Assessments.aspx>>.
- ⁸New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*.
- ⁹Ibid.
- ¹⁰Ibid.
- ¹¹"Institutional Services." *Juvenile Justice Services*. New Hampshire Department of Health and Human Services, n.d. Web. 17 Oct. 2012. <<http://www.dhhs.nh.gov/djjs/institutional/index.htm>>.
- ¹²"Residential Services." *Juvenile Justice Services*. New Hampshire Department of Health and Human Services, n.d. Web. 17 Oct. 2012. <<http://www.dhhs.nh.gov/djjs/residential/index.htm>>.
- ¹³Ibid.
- ¹⁴"Institutional Services." *Juvenile Justice Services*. New Hampshire Department of Health and Human Services, n.d. Web. 17 Oct. 2012. <<http://www.dhhs.nh.gov/djjs/institutional/index.htm>>.
- ¹⁵"Division for Juvenile Justice Services (DJJS)." New Hampshire Department of Health and Human Services, n.d. Web. 24 Oct. 2012. <<http://www.dhhs.nh.gov/ocom/documents/djjs.pdf>>.
- ¹⁶*Safety and Wellbeing: Youth in Detention*. Rep. Children's Alliance of New Hampshire, n.d. Web. 24 Oct. 2012. <http://www.childrennh.org/web/Kids%20Count/Safety/76%20Safety%20and%20Wellbeing_youth%20in%20detention.pdf>.
- ¹⁷Ibid.
- ¹⁸Hammond, Sarah. *Mental Health Needs of Juvenile Offenders*. Rep. National Conference of State Legislatures, June 2007. Web. 24 Oct. 2012. <<http://www.ncsl.org/print/cj/mentaljjneeds.pdf>>.
- ¹⁹"Chapter 2: How Diversion Works." *NHJCDN Diversion Handbook*, 2005. 9-20. The New Hampshire Juvenile Court Diversion Network. Web. 16 Oct. 2012. <<http://nhcourtdiversion.org/oldweb/html/documents/chapt%202.pdf>>.
- ²⁰Rodler, Nicole. "Chairperson of the New Hampshire Juvenile Court Diversion Network." Telephone interview. 17 Jan. 2013.
- ²¹Ibid.



The Nelson A. Rockefeller Center at Dartmouth College
The Center for Public Policy and the Social Sciences

- ²²New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*.
- ²³New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*.
- ²⁴There used to be an all-female shelter, the Antrim Girls Shelter and School, but the facility closed in October 2011
- ²⁵"Shelter Care." *Juvenile Justice Services*. New Hampshire Department of Health and Human Services, n.d. Web. 24 Oct. 2012. <<http://www.dhhs.state.nh.us/djjs/community/shelter.htm>>.
- ²⁶"NH North Country Shelter." North American Family Institute, 2001. Web. 24 Oct. 2012. <http://legacy.nafi.com/program_detail.htm?id=54>.
- ²⁷"New Hampshire: Delinquency Services Summary." National Center for Juvenile Justice, 15 Oct. 2010. Web. 16 Oct. 2012. <<http://www.ncjj.org/State/New-Hampshire/Delinquency-Services-Summary.aspx>>.
- ²⁸NCJJ Website: Delinquent Services Summary
- ²⁹Skibbie, Michael. *Children With Disabilities in the New Hampshire Juvenile Justice System*. Rep. The University of New Hampshire, Apr. 2004. Web. 16 Oct. 2012. <<http://www.drcnh.org/ChildrenwDisabilities.pdf>>.
- ³⁰Ibid.
- ³¹Ibid.
- ³²Ibid.
- ³³Ibid.
- ³⁴"Juvenile Justice Services." *Division of Children and Youth Services*. New Hampshire Department of Health and Human Services, n.d. Web. 21 Feb. 2013. <<http://www.dhhs.state.nh.us/djjs/index.htm>>.
- ³⁵"Aftercare Program." *Division of Children and Youth Services*. New Hampshire Department of Health and Human Services, n.d. Web. 16 Oct. 2012. <<http://www.dhhs.state.nh.us/dcyf/aftercare.htm>>.
- ³⁶Ibid.
- ³⁷Recidivism by Youth Released from State-funded Juvenile Correctional Facilities. N.d. Raw data. The Annie E. Casey Foundation. Web. 24 Oct. 2012. <<http://www.aecf.org/OurWork/JuvenileJustice/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/StateRecidivismStudiesTable.pdf>>.
- ³⁸Ibid.
- ³⁹Ibid.
- ⁴⁰Ibid.
- ⁴¹"CHINS Diversion Program." *Keene Youth Services*. City of Keene, 2011. Web. 16 Oct. 2012. <<http://www.ci.keene.nh.us/departments/youth-services/chins-diversion>>.
- ⁴²"Children In Need of Services (CHINS)." *Probation and Parole Services*. New Hampshire Department of Health and Human Services, n.d. Web. 16 Oct. 2012. <<http://www.dhhs.nh.gov/djjs/probation/chins.htm>>.
- ⁴³New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*.
- ⁴⁴Ibid.
- ⁴⁵Skibbie, Michael K. "Policy Director of the Disabilities Rights Center." Telephone interview. 29 Oct. 2012.
- ⁴⁶Ibid.
- ⁴⁷Rosado, Lourdes M., ed. *Special Ed Kids in the Justice System: How to Recognize and Treat Young People with Disabilities That Compromise Their Ability to Comprehend, Learn, and Behave*. Rep. American Bar Association Juvenile Justice Center, Juvenile Law Center, and Youth Law Center, June 2000. Web. 16 Oct. 2012. <<http://www.njdc.info/pdf/mac5.pdf>>.
- ⁴⁸Ibid.



⁴⁹Ibid.

⁵⁰Skibbie, Michael K. "Policy Director of the Disabilities Rights Center." Telephone interview. 29 Oct. 2012.

⁵¹N.H. Rev. Stat. Ann. § 169-B: 13 I (f)

⁵²Skibbie, Michael. *Children With Disabilities in the New Hampshire Juvenile Justice System*.

⁵³New Hampshire. Department of Health and Human Services. Division for Children, Youth, and Families. *Child and Family Services Review*.

⁵⁴Ibid.

⁵⁵Ferdinand, Pamela. "Seventeen an Awkward Age, N.H. Juvenile Justice Finds." *The Washington Post*, 27 March 2002. Web. 19 January 2013. <http://www.washingtonpost.com>

⁵⁶Becker, Deborah. "Legislature Considers Raising Juvenile Justice Age." *Wbur: Boston's NPR News Station*. N.p., 8 Feb. 2012. Web. 18 Feb. 2013.

⁵⁷*Minor Transgressions. Major Consequences: A Picture of 17-year-olds in the Massachusetts Criminal Justice System*. Rep. Citizens for Juvenile Justice, Dec. 2011. Web. 17 Oct. 2012. <<http://www.cfjj.org/pdf/cfjj-minor-transgressions-report.pdf>>.

⁵⁸Redding, Richard E. "Juvenile Transfer Laws: An Effective Deterrent to Delinquency?" *Office of Juvenile Justice and Delinquency Prevention Juvenile Justice Bulletin*. 2010. Web. 19 January 2013. <http://www.ojp.usdoj.gov>.

⁵⁹Bowman et al., 5.

⁶⁰"Vermont." *State Juvenile Justice Profiles*. National Center for Juvenile Justice, 2011. Web. 16 Oct. 2012. <<http://www.ncjj.org/pdf/State%20Profile%20Reports/VERMONT%208-28-11.pdf>>.

⁶¹Ibid.

⁶²Ibid.

⁶³United States. Department of Justice. Office of Juvenile Justice and Delinquency Prevention. *Juveniles in Residential Placement, 1997-2008*. By Melissa Sickmund. National Criminal Justice Reference Service, Feb. 2010. Web. 24 Oct. 2012. <<https://www.ncjrs.gov/pdffiles1/ojjdp/229379.pdf>>.

⁶⁴Barker, Regina R. "Executive Director of Valley Court Diversion Programs." Telephone interview. 25 Oct. 2012.

⁶⁵"Vermont." *State Juvenile Justice Profiles*.

⁶⁶*Juvenile Justice Commission Report*. Rep. Agency of Human Services, 15 Jan. 2007. Web. 24 Oct. 2012. <<http://humanservices.vermont.gov/publications/JJCreport07.pdf>>.

⁶⁷"Vermont." *State Juvenile Justice Profiles*.

⁶⁸Recidivism by Youth Released from State-funded Juvenile Correctional Facilities.

⁶⁹Barker, Regina R. "Executive Director of Valley Court Diversion Programs." Telephone interview. 25 Oct. 2012.

⁷⁰Ibid.

⁷¹Loughran, Edward J. "The Massachusetts Experience: A Historical Review of Reform in the Department of Youth Services." *Social Justice* 24.4 (1997): 170. *ProQuest*. Web. 24 Oct. 2012. <<http://search.proquest.com/docview/231941895/fulltextPDF?accountid=10422>>.

⁷²Ibid.

⁷³Ibid., 173.

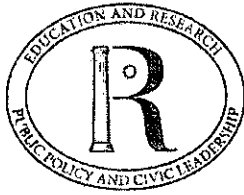
⁷⁴Ibid., 174.

⁷⁵Greenwood, Peter W. "Responding to Juvenile Crime: Lessons Learned." *The Juvenile Court* 6.3 (1996): 76. Web. 24 Oct. 2012. <http://futureofchildren.org/futureofchildren/publications/docs/06_03_05.pdf>.

⁷⁶Loughran, 174.

⁷⁷Loughran, 177.

⁷⁸"Massachusetts Probation Service Fact Sheet." The Massachusetts Court System, 31 July 2012. Web. 24 Oct. 2012. <<http://www.mass.gov/courts/probation/whatisprobation.html>>.



The Nelson A. Rockefeller Center at Dartmouth College
The Center for Public Policy and the Social Sciences

⁷⁹ *An Overview of the Law of Probation Violations*. Publication. Juvenile Defense Network, n.d. Web. 24 Oct. 2012. <<http://www.youthadvocacydepartment.org/jdn/resourcedocs/probation-violations.pdf>>.

⁸⁰ "Massachusetts Probation Service Fact Sheet."

⁸¹ "Operation Night Light." *Profile No. 33*. Office of Juvenile Justice and Delinquency Prevention, n.d. Web. 24 Oct. 2012. <http://www.ojjdp.gov/pubs/gun_violence/profile33.html>.

⁸² The Massachusetts Court System. Office of the Commissioner of Probation. *Probation's Fatherhood Programs Help Offenders Develop Better Parenting Skills*. The Massachusetts Court System, 16 June 2008. Web. 24 Oct. 2012. <<http://www.mass.gov/courts/probation/pr061608.html>>.

⁸³ Grisso, Thomas, Richard Barnum, Kenneth E. Fletcher, Elizabeth Cauffman, and Dawn Peuschold. "Massachusetts Youth Screening Instrument for Mental Health Needs of Juvenile Justice Youths." *Journal of the American Academy of Child and Adolescent Psychiatry* 40.5 (2001): 541. National Center for Mental Health and Juvenile Justice. Web. 24 Oct. 2012.

<http://www.ncmhjj.com/resource_kit/pdfs/Screening%20and%20Assessment/References/MAYSIMHJJ.pdf>.

⁸⁴ *Ibid.*, 542.

⁸⁵ *Ibid.*, 547.

⁸⁶ *Ibid.*, 541.

⁸⁷ Keevey, Richard F., and Dale Sattin, comps. *Vulnerable Populations in the Juvenile Justice System: A Research and Policy Conference*. Publication. Ed. Jamie D. O'Leary. Woodrow Wilson School of Public & International Affairs, Princeton University, 14 Nov. 2008. Web. 24 Oct. 2012.

<<http://www.princeton.edu/research/prior-publications/conference-books/Final-PRIOR-Justice-issue.pdf>>.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ Cocozza, Joseph J., Bonita M. Veysey, Deborah A. Chapin, Richard Dembo, Wansley Walters, and Sylvia Farina, "Diversion from the Juvenile Justice System: The Miami-Dade Juvenile Assessment Center Post-Arrest Diversion Program." *Substance Use & Misuse* 40 (2005): 935. *Academic Search Premier*. Web. 24 Oct. 2012. <<http://web.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=b6c8a7e5-c76c-48ef-b94e-c06cc4911a13%40sessionmgr10&vid=4&hid=10>>.

⁹¹ *Ibid.*

⁹² *Ibid.*, 940.

⁹³ *Ibid.*, 936.

⁹⁴ Gavazzi, Stephen M., Deborah Wasserman, Charles Partridge, Sarah Sheridan. "The Growing Up Fast Diversion Program: An Example of Juvenile Justice Program Development for Outcome Evaluation." *Aggression and Violent Behavior* 5.2 (2000): 160. *Science Direct*. 6 December 1999. Web. 24 October 2012.

⁹⁵ *Ibid.*, 167.

⁹⁶ *Ibid.*, 168.

⁹⁷ *Ibid.*, 169.

⁹⁸ DeAngelis, Tori. "Better Options for Troubled Teens." *Monitor on Psychology* 42.11 (2011): 69. American Psychological Association, Dec. 2011. Web. 20 Oct. 2012.

<<http://www.apa.org/monitor/2011/12/troubled-teens.aspx>>.

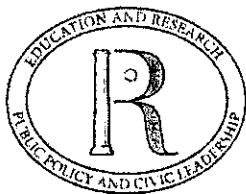
⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ *Juvenile Diversion Guidebook*. Publication. Models for Change Juvenile Diversion Workgroup, Mar. 2011. Web. 18 Oct. 2012. <<http://www.ncmhjj.com/pdfs/publications/juvdiversionguide0628.pdf>>.

¹⁰² *Ibid.*

¹⁰³ "Wilderness Camps." *OJJDP Model Program Guide*. U.S. Department of Justice, n.d. Web. 24 Oct. 2012. <<http://www.ojjdp.gov/mpg/progTypes/Wilderness.aspx>>.



The Nelson A. Rockefeller Center at Dartmouth College

The Center for Public Policy and the Social Sciences

¹⁰⁴Ibid.

¹⁰⁵Ibid.

¹⁰⁶Patrick, Steven, Robert Marsh, Wade Bundy, Susan Mimura, and Tina Perkins. "Control Group Study of Juvenile Diversion Programs: An Experiment in Juvenile Diversion--the Comparison of Three Methods and a Control Group." *Social Science Journal* 41.1 (2004): 129. *Academic Search Premier*. Web. 24 Oct. 2012.

¹⁰⁷Ibid.

¹⁰⁸Ibid.

¹⁰⁹Schwalbe, Craig S., Robin E. Gearing, Michael J. MacKenzie, Kathryne B. Brewer, Rawan Ibrahim. "A meta-analysis of experimental studies of diversion programs for juvenile offenders." *Clinical Psychology Review* 32.1 (2012). *Science Direct*. Web. 5 Dec. 2012.

¹¹⁰Ibid.

¹¹¹Ibid.

¹¹²Recidivism by Youth Released from State-funded Juvenile Correctional Facilities. N.d. Raw data. The Annie E. Casey Foundation. Web. 24 Oct. 2012.

K. Sgamhatsi
SB 129-JN

Prior CHINS definition:

Child in need of services means a child who is under the age of 18 and who is expressly found to be:

- (a) Subject to compulsory school attendance, and who is habitually, willfully and without good and sufficient cause truant from school; or
- (b) A child who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian or custodian and places himself or herself or others in unsafe circumstances; or
- (c) A child who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 year of age or older, would be violations under the motor vehicle code of the state; and,
- (d) Is expressly found to be in need of care, guidance, counseling, discipline, supervision, treatment or rehabilitation.

SFY'11 CHINS total costs under **PRIOR CHINS** definition:

\$10,870,876 TF \$7,174,778 GF \$3,696,098 FF

Current CHINS definition:

Child in need of services means a child under the age of 18 with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or other and who is otherwise or ineligible to receive services under RSA 169-B or RSA 169-C.

SFY'13 estimated costs under **CURRENT CHINS** definition

\$3,120,509 TF \$1,255,802 GF \$1,864,707 FF

Proposed CHINS definition:

"Child in need of services" means a child under the age of 18:

- (a) Who is subject to compulsory school attendance, and who is habitually, willfully and without good and sufficient cause truant from school;
- (b) Who habitually runs away from home, or who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian or custodian and places himself or herself or others in unsafe circumstances;
- (c) Who has exhibited willful repeated or habitual conduct constituting offenses which would be violations under the criminal code of this state if committed by an adult or, if committed by a person 16 years of age or older, would be violations under the motor vehicle code of this state; or
- (d) With a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under RSA 169-B or RSA 169-C.

Estimated costs under PROPOSED CHINS definition (this total includes the cost of the current "high end" CHINS under section (d) above as well as the cost to provide services only (no placement) in (a), (b) and (c) above except for runaways. The youth would be eligible for community and placement services.

\$8,222,049 TF \$5,426,552 GF \$2,795,497 FF

Summary of CHINS Changes:

In response to law enforcement, parents, and school concerns Governor Hassan's budget proposal includes several significant proposed changes to the CHINS statute. The Governor is also supporting a CHINS study committee to determine the best service approach as both the expanded CHINS definition of the past and the recent restrictions have had problems. By combining the study with an immediate interim solution, Governor believes we can create the most effective approaches to help the children turn their lives around and resolve current community concerns.

Definition of CHINS:

In the 2011/12 session, the CHINS program was reduced to serve a single group of children- those who have a diagnosis of severe emotional, cognitive, or other mental health issues who engages in behaviors that pose a danger to the child or others. Truants, runaways and status offenders were no longer served by the program, unless they were also diagnosed with a severe mental illness *and* engaged in behaviors that posed a threat to themselves or others. Total appropriations were reduced from \$10.8 million per year (SFY 11) to \$3.1 million in SFY 13.

The definition proposed by Governor Hassan restores three of the previous categories of service and retains the criteria from last session. Senator Odell's amendment, which is similar to the provisions of HB 2 adds to the CHINS definition, children who are truant, runaways, willfully and repeatedly disobedient.

Change in Scope of Service:

The changes proposed by this bill and by the Governor also include a new service limit. Under the new law, young people who qualify as CHINS will be served in the community but they will not be eligible for placement. Those services are reserved for those who meet the existing CHINS definition and for runaways. The intent is to maintain children in their homes and communities, while stabilizing the costs of the program.

Change in Petitioners:

Only school districts or truant officers will be able to file CHINS petitions on behalf of a child who is habitually truant.

Annual Costs:

Total Funds: \$ 8,222,049
General Funds: \$ 5,426,552
Federal Funds: \$ 2,795,497

Senate Bill 129: Reducing the Unnecessary Incarceration of Children in the Juvenile Justice System

New Hampshire has historically overused its youth corrections institutions. It incarcerates children for less serious offenses than the country as a whole -- a higher proportion of youth in corrections population is confined due to property offenses and a lower proportion for violent offenses. In a recent quarter, *more than one out of three children given short-term detention at the Sununu Center did not score high enough for placement* on an objective risk assessment instrument used by the courts.

New Hampshire children also spend more time confined than in the country as a whole. *Nationally, two-thirds of children are released from youth corrections by the six month point, while in New Hampshire the average length of stay is between eight and twelve months.*

This overuse of our juvenile corrections facility raises several concerns. We are institutionalizing children who can be successfully treated in the community, and in doing so unnecessarily subjecting them to the risks of injury and emotional trauma that even the best-run institution presents¹. Removal from the community also increases the chances that a child will not complete school, will become separated from protective relationships with parents and other adults, and will engage in further criminal activity. Because community-based treatments are less expensive and more effective, we are misapplying limited resources².

In recent years, pressure has been brought to put new groups of non-dangerous children into the Sununu Center rather than in safer and more therapeutic community settings. One of only three shelter care facilities has recently closed due to dwindling referrals. This has made it harder for judges to place children closer to their home communities. In recent years SYSC has been touted as a beneficial treatment setting even for children whose behavior would not have previously made them candidates for a corrections facility. Two legislative sessions ago, the Department of Health and Human Services proposed to close several community-based shelter care facilities and move their residents to SYSC. There is a continuing concern that this or a similar proposal will be renewed.

It is critical that we strengthen our juvenile laws to make it clear that children who do not present a danger to themselves or to the public should be treated in the community rather than in institutions. To do that, Senate Bill 129 provides that:

- 1) Children may only be committed to SYSC if there is evidence that it is necessary to ensure their safety or that of the public;
- 2) Parole will be required from SYSC after 6 months if a child has not committed any new offenses or SYSC cannot establish a continuing need for protection of the child or the community;
- 3) Children with disabilities will have the assistance of counsel when they are being returned from the community to a corrections facility. The overwhelming majority of children at the SYSC have disabilities; requiring them to have the assistance of counsel will make it more likely that they will be able to advocate successfully to remain in appropriate community settings;

- 4) Courts will have the power, upon request, to review the decision to return a released child to the Sununu Center following release;
- 5) Shelter facilities must remain small and community-based. This provision will prevent the transfer of children from community-based shelter care to the Sununu Center facility;
- 6) The Department must make all types of treatment available in both community and institutional settings. This provision will ensure that children will not be inappropriately placed in a corrections facility for the sake of treatment availability rather than a real need for security.

¹ Investigations in recent years by the Disabilities Rights Center have found that there has been an overuse of force by the staff at the Sununu Center. See <http://drcnh.org/SYSCReport.pdf>

² The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense (Justice Policy Institute) (May 2009); OJJDP Model Programs Guide (available at http://www.justicepolicy.org/images/upload/09_05_REP_CostsofConfinement_JJ_PS.pdf); and Holman, Barry and Jason Ziedenberg, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities (Justice Policy Institute Report). Fact Sheet: Community-Based and Home-Based Alternatives to Incarceration (Center for Children's Law and Policy) (available at http://www.cclp.org/documents/JJDPAResources/Community_Based_Alternatives_Fact_Sheet___Full.pdf); Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost (Washington State Institute for Public Policy Institute) (June 2007); and Best Practices in Juvenile Justice Reform (The Future of Children - Princeton/Brookings).



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March 5, 2013

Senate Judiciary Committee
State House
107 N Main Street
Concord, NH 03301

Re: DRC's Investigatory and Monitoring Activities at SYSC

Dear Members of the Senate Judiciary Committee:

We are writing to provide information regarding DRC's ongoing monitoring activities at the Sununu Youth Services Center ("SYSC"). DRC is New Hampshire's designated Protection and Advocacy agency and is authorized by federal statute "to pursue legal, administrative and other appropriate remedies" on behalf of individuals with disabilities and to "investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred." *See* 42 U.S.C. § 10805(a)(1)(A).

In an investigation report issued in January 2009, DRC found that two residential youth counselors at SYSC used unnecessary and excessive force against a fourteen-year old boy committed to the facility. Prompted by information DRC obtained from this investigation, DRC initiated a broader, systemic investigation as to whether practices, including the use of force and restraints at SYSC placed youth at risk of harm. As part of the systemic investigation, DRC reviewed 139 incidents involving some form of restraint against 109 children and conducted a detailed analysis of each incident. In a report issued in October, 2010, DRC found a pervasive pattern of inappropriate restraints and excessive use of force by facility staff during the time period reviewed. This pattern was particularly troubling considering the dangers associated with restraints and the nature of the children at SYSC, many of whom have been exposed to high levels of trauma and have at least one diagnosable mental health disorder.

As part of its investigation, DRC engaged an expert on children's services and the mental health care of abused, neglected and adjudicated children, Christina Crowe, MSW. Ms. Crowe examined that adequacy of mental health screening and treatment at SYSC and found that many children with mental and emotional disorders placed at SYSC are likely being unnecessarily and inappropriately institutionalized. She cited research showing that treatment in community-based settings is more effective than placement in an institution and that it is far more efficacious for children to learn and apply life skills in a community setting rather than in an institution. Ms. Crowe also cited research showing that institutionalizing youth does not further public safety and that incarcerating youth has been shown to have detrimental effects on them, including their mental and physical well-being, education, employment and ability to reintegrate into their communities. Other findings in the report suggested that prevention programs and community-

based alternatives to incarceration are also more cost effective than incarcerating children in large institutions and are proven to improve public safety by reducing recidivism rates and overall juvenile crime.

Since 2010, DRC has conducted numerous monitoring visits to the facility and reported its findings to the Department. The use of restrictive interventions at SYSC, including the use of force, has been a continuing concern for DRC. More recently, DRC has identified issues regarding the legality and clinical appropriateness of the facility's new Stabilization Unit, now called the Crisis Services Unit. This unit is used to confine residents away from the rest of the SYSC population. Many residents assigned to the Crisis Services Unit have emotional disabilities which manifest themselves in behavioral challenges.

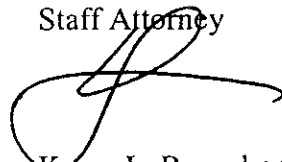
The types of behaviors which result in a transfer (or referral) to the Crisis Services Unit appear similar to, if not identical to, behaviors which are considered violations of SYSC's code of conduct. Contrary to the conduct code, however, removal to the Crisis Services Unit does not require SYSC to provide any of the due process protections afforded to residents under the code. Furthermore, DRC remains concerned that the conditions of the Crisis Services Unit closely approximate segregation or solitary confinement, the most severe disciplinary sanctions available. These conditions include confining residents to their rooms for 23 hours per day¹ (with the exception of bathroom breaks) and limiting or eliminating educational and other programming. DRC has consistently recommended that rather than exclude such residents from the facilities' services, programs and activities, SYSC should implement appropriate positive behavior interventions and supports to prevent segregation and promote equal opportunities for all SYSC residents.

Thank you for the opportunity to provide information regarding DRC's work at SYSC to the committee. Please feel free to contact us with any questions.

Sincerely,



Rebecca G. Whitley
Staff Attorney



Karen L. Rosenberg
Staff Attorney

¹ The Crisis Services Unit policy indicates that youth are required to remain in their bedrooms, with the door unlocked. If the youth cannot leave his/her room, this can only be considered room confinement.

Brief Summary of the New Hampshire Juvenile Delinquency System

Cases under Chapter 169-B proceed through the following stages, and in the following order:

Juvenile Petition: Similar to an adult criminal charge, a juvenile delinquency petition is the beginning of a prosecution. It lays out the specific criminal offense that the juvenile is alleged to have committed. Unlike an adult charge, a delinquency petition does not differentiate between grades of offense; all delinquency charges carry the same potential penalties¹.

Arraignment: The arraignment is the first court proceeding in most delinquency cases. The court allows the juvenile to enter an initial plea and determines what conditions may apply while the court proceedings are pending, such as a curfew, drug testing, or confinement while the case proceeds.

Adjudicatory Hearing: The adjudicatory hearing is similar to a criminal trial, although it is held before a judge without a jury. If the charge is established with proof beyond a reasonable doubt, the court enters a delinquency finding. If the charge is not proven, the case ends and the juvenile is released.

Dispositional Hearing: Similar to an adult sentencing hearing, the dispositional hearing may be held up to a few weeks after the adjudicatory hearing or plea of true to the offense. The dispositional order may include a wide variety of sanctions, including:

Conditional Release allows the juvenile to remain unconfined, subject to the supervision of a Juvenile Probation/Parole Officer (JPPO). It may involve a wide range of conditions including substance or mental health treatment, curfew, attendance at school, restitution, and community service.

Residential Treatment: The court may order that the juvenile be placed in the care and supervision of a group home or residential treatment center. There are a variety of such agencies available in the state and region, with a variety of treatment orientations and degrees of supervision.

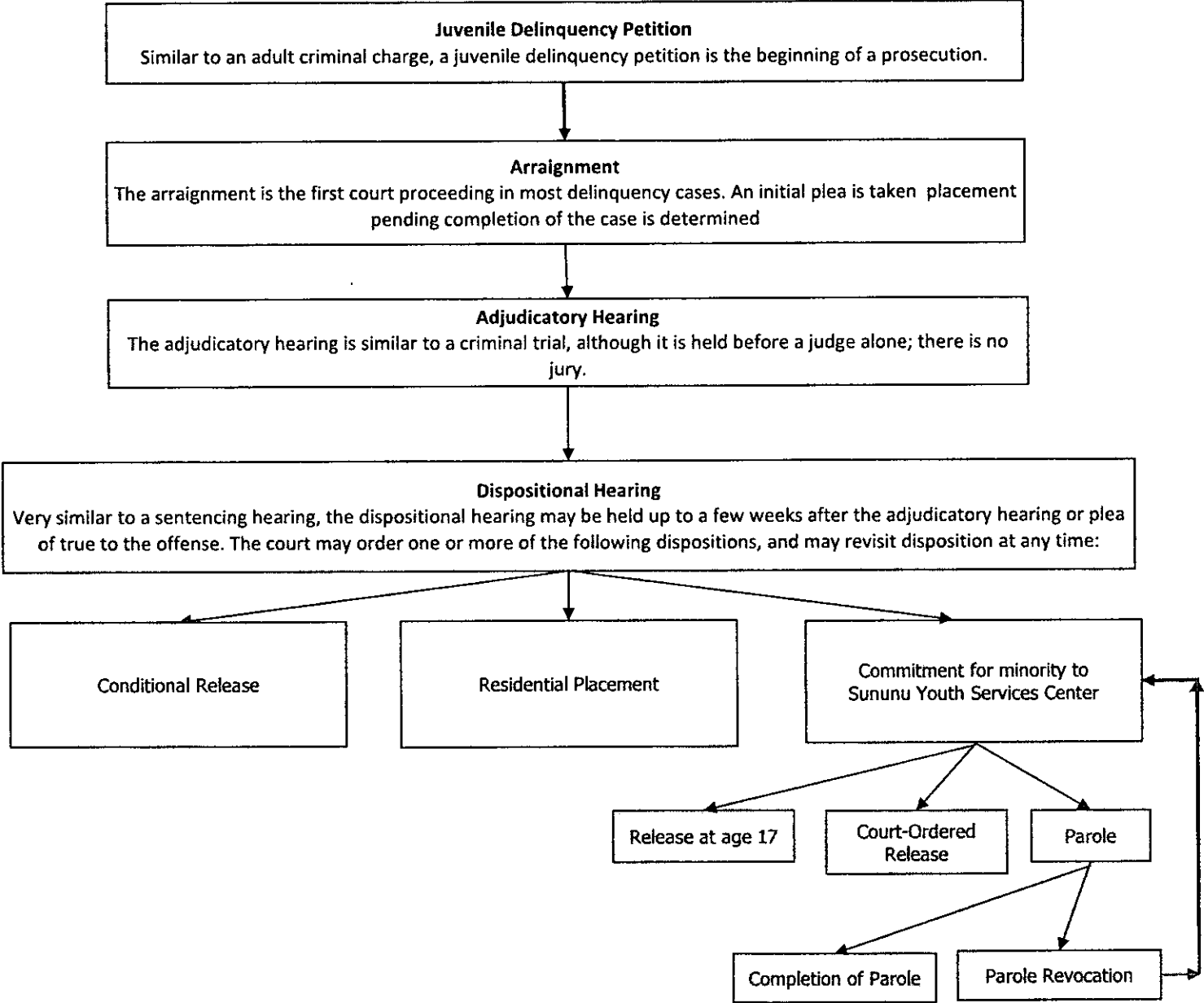
Commitment to the Sununu Youth Services Center until age 17. SYSC is the state's locked youth corrections facility. Most stays are between 8 and 12 months. Release from the Youth Services Center can be by court order, parole, or by reaching age 17.

Parole may be revoked and a juvenile returned to the Sununu Center due to violation of the conditions of parole by the juvenile. A juvenile has a right to a hearing before the parole board on the issue of whether the conditions were violated. There is no limitation on the number of times a juvenile can be paroled and re-paroled.

Further court involvement: The court retains jurisdiction over the case after disposition, and must review the case at least annually until the juvenile reaches age 17 or the case is closed.

¹ In very severe cases, the prosecution may seek to have the juvenile transferred to the adult criminal justice system. See RSA 169-B:24.

Steps in the New Hampshire Juvenile Justice System

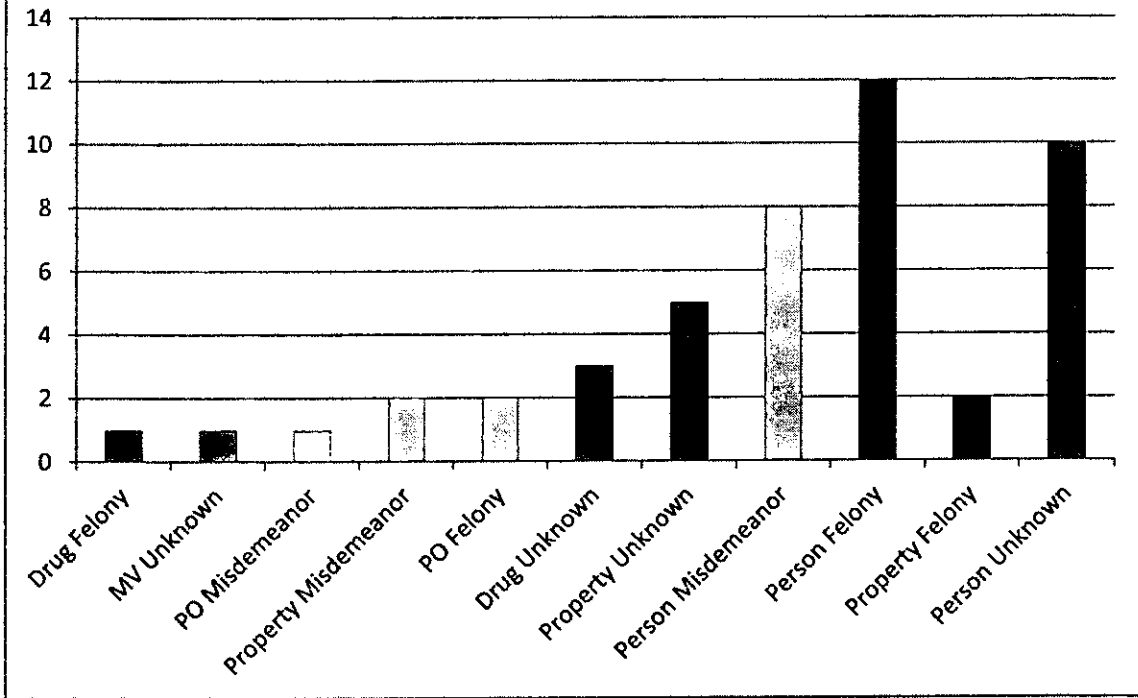


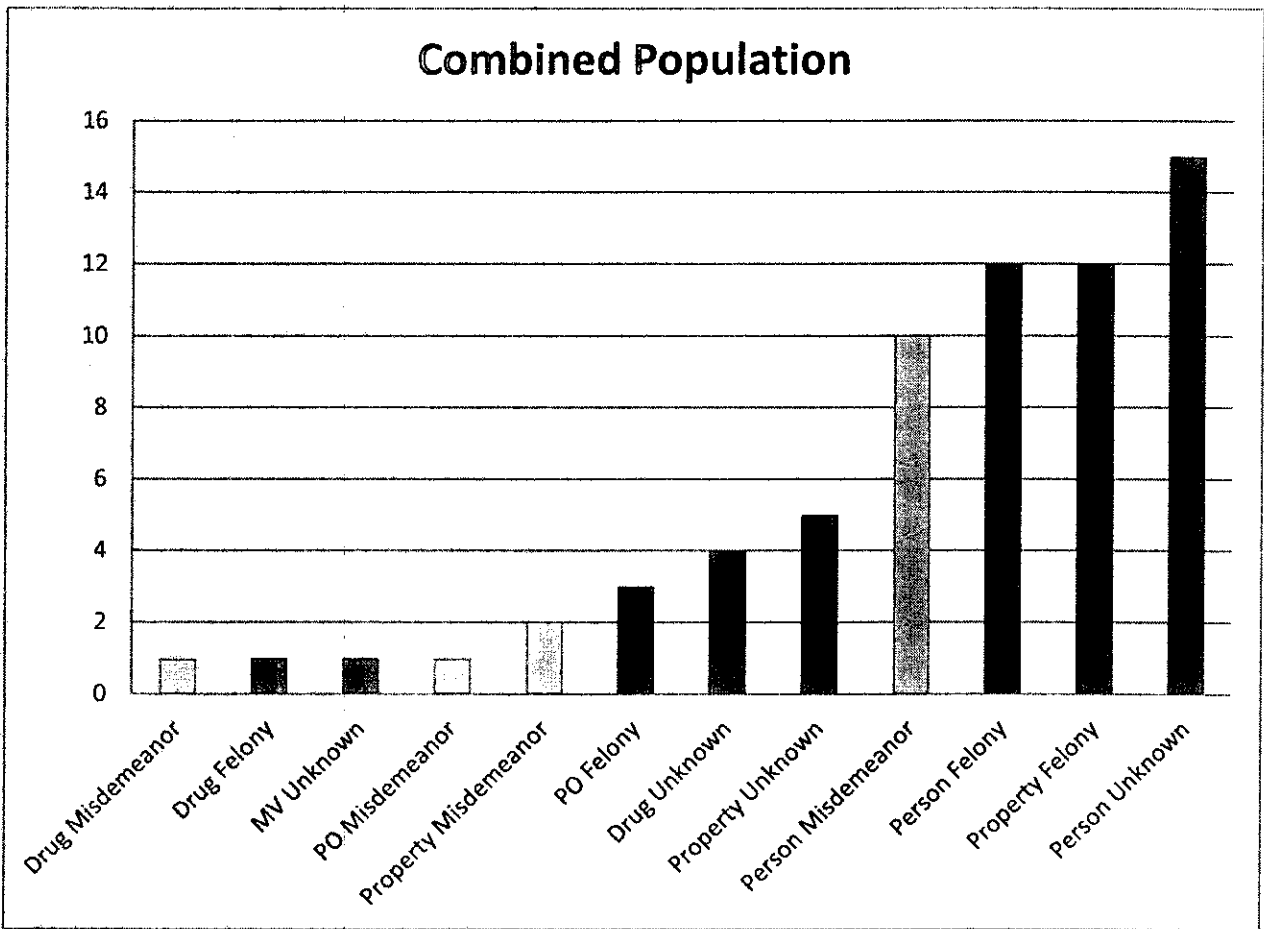
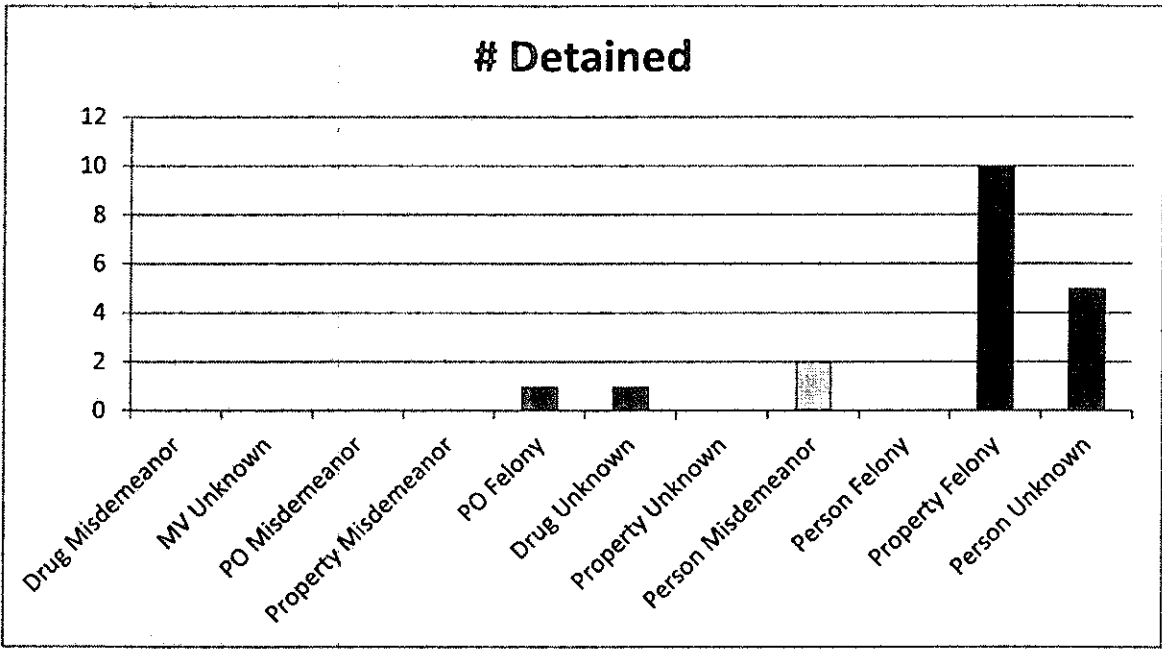
Michael Skibbie
Disabilities Rights Center
March 5, 2013

Analysis of Sununu Center Population, June 28, 2012

(Most serious offense in history)

Committed





**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**
<http://www.courts.state.nh.us>

Court Name: _____
Case Name: _____
Case Number: _____
(if known)

DETENTION ASSESSMENT SCREENING INSTRUMENT

Date Screened / Time: _____

I. IDENTIFYING DATA

Last First MI DOB

Number and Street/City/State/Zip Telephone Number

Gender Race Ethnicity

Student at: (Name of school and address)

Employed by: (Name of company and address)

Parent / Guardian Non-Custodial Parent

Number and Street/City/State/Zip Number and Street/City/State/Zip

Telephone Number(s) Telephone Number(s)

Alleged Present Offense(s) (Specify level and class / Felony, Misdemeanor A, B, etc.)

N/A

Regarding the juvenile, did the arresting / investigating officer observe evidence of:
alcohol abuse? Yes No drug abuse? Yes No

Did the arresting officer note any signs or symptoms of suicidal ideations or actions?
 Yes No

Parent / Guardian Interviewed Yes No

1. Face to Face 2. Telephone

3. Unable to Contact 4. Message Left With Whom:

Name Relationship

Law Enforcement Agency

Officer's Name and ID or Badge No. (officer who completes this form)

(JPPO) District Office Contacted? Yes No

Case Name: _____

Case Number: _____

DETENTION ASSESSMENT SCREENING INSTRUMENT

Prior Juvenile Convictions or Diversion Yes No

Specify (Court or Law Enforcement Agency)

Juvenile Contacts (Counseled & released) Yes No

Specify (Court or Law Enforcement Agency)

Juvenile Record Check: Yes Not Available No Priors

II. ADMISSION CRITERIA

If answered in the affirmative, the following criteria indicate the youth's potential eligibility for detention.

- Yes No 1. The youth is alleged to be an escapee from jail, youth attendant program, shelter care, detention unit, an absconder from a residential program, or the youth is wanted in another jurisdiction for an offense, which if committed by an adult, would be a felony;
- Yes No 2. The youth has been charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his/her personal safety (attach documentation);
- Yes No 3. The youth is charged with a capital crime, a Class A Felony, a Class B Felony or Felony violation under chapter 318-B;
- Yes No 4. The youth is charged with a Class A Misdemeanor or any offense involving the use of firearm and if one of the factors set forth below exists:
 - Yes No (a) youth has a record of failure to appear at court hearings after being properly notified in accordance with the rules of juvenile procedure;
 - Yes No (b) youth has a record of law violations prior to court hearings;
 - Yes No (c) youth has already been detained or has been released and is awaiting final disposition of his case; or
 - Yes No (d) youth has a record of violent conduct resulting in physical injury to others;
 - Yes No (e) youth found to be in possession of a firearm or other deadly weapon;
 - Yes No (f) present offense involves a domestic violence charge.

**If any of the above (1-4) are answered Yes, proceed to Section III.
If each of the above (1-4) is answered No, the youth should not be detained.**

Case Name: _____

Case Number: _____

DETENTION ASSESSMENT SCREENING INSTRUMENT

A youth delivered with a judicial order requiring detention must be detained. The screening instrument still must be completed for informational purposes, but the youth must be detained regardless of the point score.

III. RISK ASSESSMENT (indicate charge used for calculation) _____

- A. Most serious current offense. (Count only most serious, do not add charges together) (Max)
1. Capital, first degree, second degree homicides and manslaughter: or _____ 15
 2. Level IV offenses under Detention/Dispositional Offense Rankings _____ 15
or youth is wanted by another jurisdiction for a felony offense; or
 3. Level III offenses under Offense Rankings; or _____ 8
 4. Level II offenses under Offense Rankings and _____ 4
any misdemeanors charged as Class A
- B. Other pending charges (separate, non-related events occurring prior to instant offense).
Pending charges are charges on which a juvenile is awaiting an adjudicatory or dispositional hearing.
1. Prior felony arrest within last seven days _____ 6
 2. Each felony - **2 points** (if not included in #1) total _____
 3. Each Class A misdemeanor - **1 point** total _____
- C. Legal Status (Open Delinquency Cases Only)
1. Presently committed or detained by prior Court Order _____ 8
 2. Active case with last adjudication/disposition or adjudication _____ 6
continued within **90 days** whether on conditional release or not
 3. Active case with last adjudication/disposition or adjudication _____ 2
continued more than **90 days** ago whether on conditional release or not
- D. Prior History (Closed Delinquency Cases Only)
1. 3 adjudications/dispositions or 3 adjudications continued for **felony** _____ 9
level offenses in last twelve months, or
 2. 2 adjudications/dispositions or 2 adjudications continued for **felony** _____ 5
level offenses in last twelve months, or
 3. 1 adjudication/disposition for **felony** level offense or adjudication _____ 2
continued or 2 **Class A misdemeanor** adjudications/
dispositions or adjudications continued in the last twelve months, or
 4. 3 or more adjudications/dispositions for **Class A misdemeanor** _____ 3
offenses or 3 or more adjudications continued for **Class A**
misdemeanor offenses in last 12 months
- E. Aggravating/Mitigating Factors
1. Aggravating factors (add to score) specify: _____ 0-3
(example: presently in shelter care)

 2. Mitigating factors (subtract from score) specify: minus _____ (0-3)
(example: domestic assault involved mutual combat)

Fully explain the reasons for scoring aggravating or mitigating points

Duncan, Susan

From: Chroniak, Deborah on behalf of Carson, Sharon
Sent: Tuesday, April 02, 2013 1:10 PM
To: Duncan, Susan
Subject: FW: Juvenile Justice in New Hampshire
Susan,

Everyone seems to have received a copy of this. Here is your copy. I have one for Senator Carson and it looks like all committee members have received via email.

Deb

Deborah A. Chroniak
Legislative Aide
Assistant to Senator Sharon Carson, District 14
Aide to the Executive Department and Administration Committee
New Hampshire State Senate
State House Room 106
107 North Main Street
Concord, New Hampshire 03301-4951
603-271-1403

From: Dennis Delay [mailto:ddelay@nhpolicy.org]
Sent: Tuesday, April 02, 2013 12:52 PM
To: Carson, Sharon; Lasky, Bette; Boutin, David; Soucy, Donna; Cataldo, Sam
Subject: Juvenile Justice in New Hampshire

Good morning Senator Carson,

I attended this morning's hearing on the findings of two reports on NH's juvenile justice system and the effectiveness of adult drug courts.

We thought you might be interested in the attached report on New Hampshire's juvenile justice system that we released in December of last year. We did this report as part of our mission to raise new ideas and improve policy debates through quality information and analysis on issues shaping New Hampshire's future.

Please contact me if you have any questions.

Sincerely,

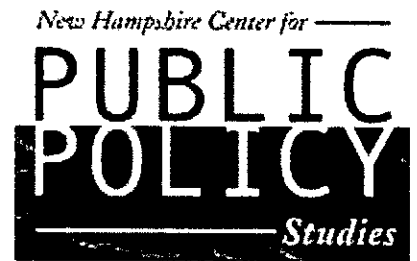
Dennis Delay
New Hampshire Center for Public Policy Studies
One Eagle Square
Suite 510
Concord, NH 03301-4903
Tel: 603 226 2500
Fax: 603 226-3676
ddelay@nhpolicy.org

4/2/2013

*"...to raise new ideas
and improve policy
debates through quality
information and analysis
on issues shaping New
Hampshire's future."*

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New Hampshire's Juvenile Justice System

December 2012

Authors

Dennis Delay
Economist

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About this paper

This paper is one of a series published by the New Hampshire Center for Public Policy Studies on the broad topic of juvenile justice and corrections in New Hampshire. The Concord-based Endowment for Health has sponsored this work.

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Contact the Center at info@nhpolicy.org or call 603-226-2500.
Write to: NHCPPS, One Eagle Square, Suite 510, Concord, NH 03301

New Hampshire's Juvenile Justice System

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Executive Summary

The Endowment for Health partnered with the New Hampshire Charitable Foundation, the New Hampshire Department of Health and Human Services, the New Hampshire Department of Education, and a number of family and advocacy organizations to lead a Children's Behavioral Health Collaborative. One anticipated output of this initiative is the creation of a strategic plan that will serve as a roadmap for reform in the children's behavioral health delivery systems. One important part of the behavioral health delivery system is the juvenile justice system.

Thousands of young people move through New Hampshire's juvenile justice system each year, all of them having been adjudicated by the state's court system and many facing mental health or behavioral challenges. If efforts to reform that system are to be successful, policymakers outside of the Division for Juvenile Justice Services (DJJS) and administrators within DJJS need a clear understanding of the population now being served, the trends in juvenile crime, and the data collection methods necessary to improve the way services are provided.

This paper was designed to provide an analysis of the existing juvenile justice system in the year 2011. For this analysis, the Center conducted three analyses. In the first, the Center sought to understand the characteristics of youth in the juvenile justice system in 2011. Second, the Center documented what data was available in DJJS which might help document trends in service provision and their associated costs. A third task was to determine whether the service provision matched the identified risk factors for NH's juvenile justice population and how this compares to other states.

Our major findings associated with these questions are described below.

Juvenile crime is declining. Contrary to the popular impression that juvenile crime is on the rise, our analysis suggests that both juvenile crime and the provision of juvenile justice services is on the decline in New Hampshire. Since 2008, juvenile crimes per 10,000 youth have declined from a rate of approximately 437 to below 359 in 2011.

The number of juveniles in the DJJS system is declining. The number of youth in the DJJS system has also been on the decline since 2008. Thus, the demand for services within the juvenile justice system – at least measured by the number of youth involved in the system – has decreased. This reduction in the number of clients could continue into the future because of a decline in the number of children in the state, and as a result of changes in the requirement for filing a CHINS (“children in need of services”) petition, described below. But understanding the relative role of program interventions versus demographic factors on these trends is not possible, given the lack of public data available on critical characteristics of the DJJS system.

Data necessary to understand the effectiveness of the programming, or to understand potential reform efforts, are not publicly available. The Division of Juvenile Justice Services has taken steps to increase the availability of data for decision making, but data on many basic and important characteristics of the system are not

publicly available. Basic trends on delinquency and rates of recidivism – arguably the two most important measures of success – are not available to the public. While there is some limited data on the DJJS population and case load, the lack of information on the risk profile of the population served and no tracking of measures of success of each treatment against the overall goals of the juvenile justice program make it very difficult to evaluate the appropriateness of existing resources and programming.

Overview of the Juvenile Justice System

Until 2001, juvenile justice services in New Hampshire were divided between two separate departments: the Department of Health and Human Services (DHHS) and the Department of Youth Development Services (DYDS). DHHS, through its Division for Children, Youth and Families (DCYF) oversaw Juvenile Probation and Parole Officers. DYDS was charged with managing secure institutions for juveniles.

However, in late 2001, the personnel and functions of DYDS were transferred to DHHS. A new division, the Division for Juvenile Justice Services (DJJS), was created within DHHS to supervise Juvenile Probation and Parole Officers and to run the state's Sununu Youth Services Center in Manchester and the Youth Services Center at Concord. Currently DJJS and DCYF have one director for both divisions. Cases involving minors are handled in New Hampshire's Family Division and District Courts. Two types of court cases involve minors in the juvenile justice system¹:

- **Delinquency:** A juvenile delinquent is a person under age 17 who has done something that would be a crime if committed by an adult. Delinquent youth enter as the result of a juvenile petition filed by a law enforcement officer, because the youth has allegedly committed a crime. When a juvenile faces a delinquency charge the juvenile taken into custody by police has the right to remain silent and to be represented by a lawyer; the court must appoint an attorney if the juvenile cannot afford one. Detained juveniles are never housed with adult offenders. A juvenile is entitled to a hearing before a judge within 24 hours of arrest; there is no right to trial by jury in juvenile court.
- **Children in Need of Services (CHINS):** Children under age 18 who repeatedly refuse to attend school, run away from home, or are found uncontrollable. This definition was narrowed considerably in September of 2011². Juvenile cases may also be filed as a CHINS petition by a parent/guardian/custodian, school official or law enforcement officer.

¹ Source: "Your Guide to New Hampshire Courts", New Hampshire Bar Association

² The definition of Children in Need of Services (CHINS) and the requirements for filing a CHINS Petition changed on September 30, 2011, when changes to RSA 169-D went into effect. A Child in Need of Services is now defined as, "a child under the age of 18 with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services under 1 RSA 169-B or RSA 169-C". The chronically truant, runaways and other less severe cases are no longer funded under the program. <http://www.courts.state.nh.us/fdpp/chins.htm>

DJJS provides supervision and rehabilitative services for youth adjudicated under state law as delinquent or as children in need of services (CHINS). DJJS also provides services to kids who were petitioned and not yet adjudicated – shelter care, for example. Juvenile Probation and Parole Officers (JPPOs), employed by DJJS, work in communities across the state conducting investigations and supervising CHINS and delinquents, including delinquents released from Sununu Youth Services Center (SYSC) on parole.

JPPOs support the District and Family Courts from numerous locations across the state of New Hampshire. Each JPPO works under the supervision of a Juvenile Probation and Parole Supervisor (who also manages the field office's daily operations).

The Sununu Youth Services Center (SYSC) is the DJJS secure correctional facility, which provides residential placement, educational services, and treatment for detained and committed New Hampshire youth involved with the New Hampshire court system. SYSC is used only for juvenile delinquents, and not for CHINS clients. Community-based providers, licensed and/or certified by DHHS community based services, provide residential and nonresidential community-services to the DJJS population.

Table 1 below shows the expenditures for DJJS for the year 2010, authorized for 2011, and budgeted for the years 2012 and 2013. Juvenile field services comprise about one third of the expenditures within DJJS, with another third dedicated to rehabilitative programs, educational programs and health services.

Table 1: Division of Juvenile Justice Services Expenditures.

Activity	Accounting Unit	2008 Actual	2009 Adj Auth	FY 2010 Actual	FY 2011 Adj Auth	2012 Budget	2013 Budget	Change (2008 - 2013)	Agg Change (2008-103)
BFS410010	DIV FOR JUVENILE JUSTICE SERV	\$24,031,382	\$28,371,337	\$28,579,588	\$28,093,633	\$29,093,748	\$29,248,514	22%	\$5,215,132
	58090000 JUVENILE FIELD SERVICES	\$8,333,341	\$9,398,650	\$9,197,502	\$9,355,221	\$10,320,405	\$10,304,774	24%	\$1,971,433
BRS412010	YOUTH DEVELOPMENT CENTER	\$11,962,717	\$13,893,775	\$12,620,663	\$12,724,712	\$12,713,165	\$12,802,111	7%	\$839,394
	58110000 CUSTODIAL CARE	\$780,748	\$918,587	\$839,051	\$954,303	\$882,870	\$697,822	28%	\$217,074
	58120000 MAINTENANCE	\$1,866,581	\$2,220,905	\$1,767,545	\$2,046,825	\$1,965,853	\$2,004,841	7%	\$138,260
	58150000 REHABILITATIVE PROGRAMS	\$5,203,583	\$6,152,015	\$5,463,914	\$5,503,415	\$5,363,753	\$5,417,245	4%	\$213,662
	58170000 REHABILITATIVE EDUCATION	\$2,725,230	\$2,929,016	\$3,048,868	\$3,063,196	\$3,399,679	\$3,374,343	24%	\$649,113
	58210000 JUVENILE DETENTION UNIT	\$1,386,595	\$1,673,252	\$1,501,285	\$1,156,973	\$1,001,010	\$1,007,860	-27%	-\$378,735
DIR411010	OFFICE OF THE DIRECTOR	\$3,037,420	\$3,732,784	\$3,541,663	\$3,877,681	\$3,919,961	\$3,943,177	30%	\$905,757
	58080000 DIRECTOR'S OFFICE	\$405,546	\$401,348	\$433,506	\$512,738	\$508,700	\$509,483	26%	\$103,937
	58100000 ADMINISTRATION	\$610,174	\$796,700	\$633,750	\$743,369	\$850,043	\$858,777	41%	\$248,603
	58130000 HEALTH SERVICES	\$1,388,032	\$1,682,694	\$1,618,106	\$1,966,765	\$1,970,575	\$1,981,343	43%	\$593,311
	58140000 QUALITY IMPROVEMENT/TRAINING	\$383,527	\$441,992	\$312,477	\$440,667	\$372,218	\$370,780	-3%	-\$12,747
	60190000 WORKERS COMPENSATION	\$248,036	\$423,857	\$426,222	\$207,661	\$211,814	\$216,051	-13%	-\$31,985
	85770000 UNEMPLOYMENT COMPENSATION	\$2,105	\$6,193	\$117,602	\$6,481	\$6,611	\$6,743	220%	\$4,638
DJJ413010	DJJS GRANTS	\$697,904	\$1,346,128	\$1,219,760	\$2,096,019	\$2,140,217	\$2,196,452	215%	\$1,498,548
	20230000 QJJD	\$435,669	\$767,622	\$662,157	\$1,066,483	\$1,101,258	\$1,122,489	158%	\$686,820
	20240000 JAIBG	\$168,307	\$339,448	\$353,195	\$665,633	\$682,120	\$691,203	311%	\$522,898
	20330000 QJJD TITLE V GRANT	\$30,033	\$104,858	\$121,097	\$109,737	\$111,932	\$114,170	280%	\$84,137
	58320000 CHAPTER 1 - IDEA	\$1	\$14,500	\$0	\$15,174	\$0	\$0	-100%	-\$1
	58630000 CHAPTER 1 NEGLECTED - DISAD	\$59,561	\$68,133	\$79,649	\$173,669	\$178,251	\$200,576	237%	\$141,015
	60050000 DOJ - SUBSTANCE ABUSE	\$4,333	\$51,567	\$3,662	\$65,323	\$66,656	\$68,014	1470%	\$63,681

Source: New Hampshire State Budget, No further detail available from that source

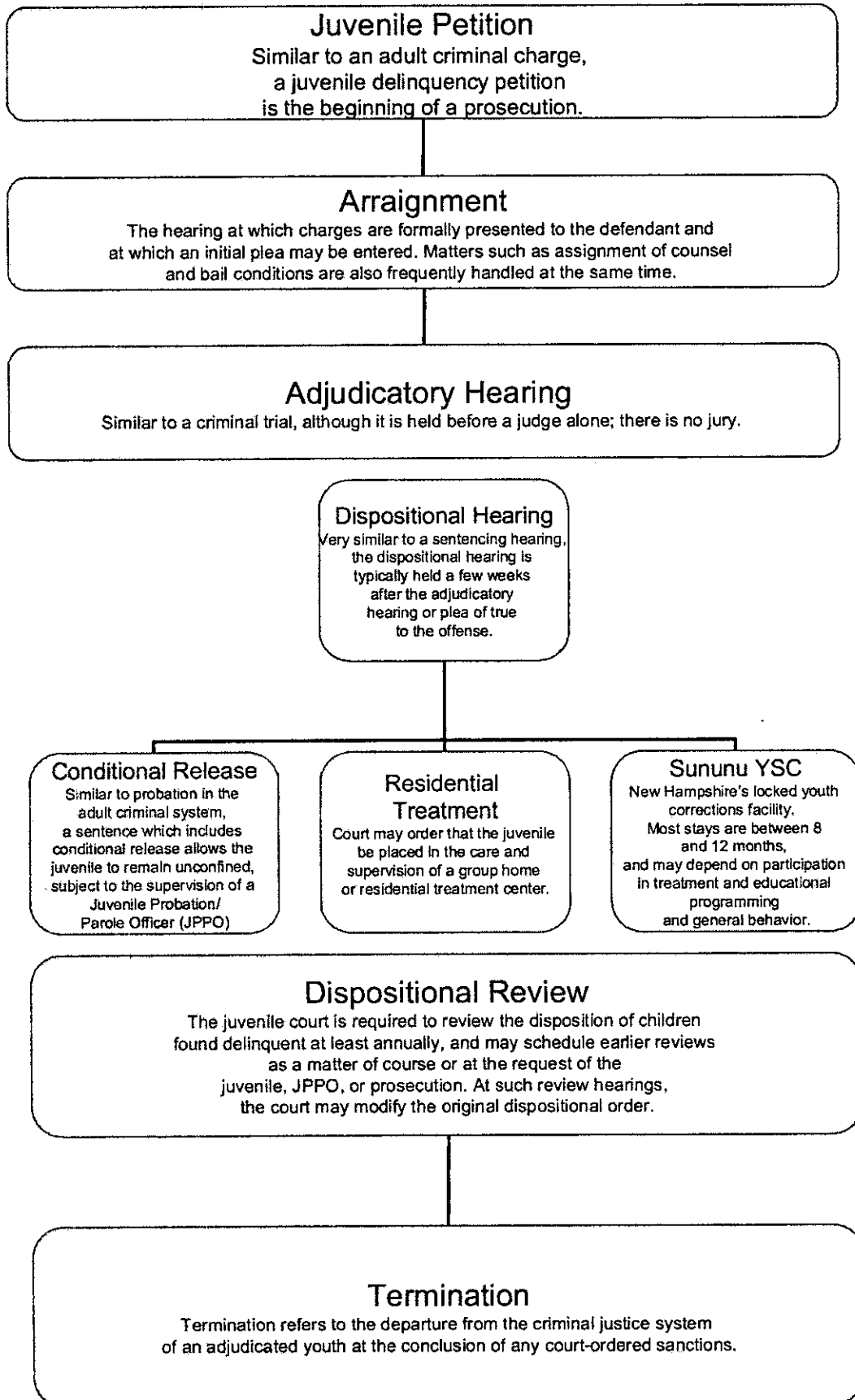
While it would be valuable to “drill down” on the data in the above table, no further relevant detail is available from the state budget documents which provide the source of the above expenditures. Such data may be collected and available to DJJS, but the Center was not given access to that data and reports on that data were not publicly available.

Youth are arraigned in a court proceeding, which is followed by an adjudicatory hearing (see flow chart in Figure 1). A subsequent dispositional hearing can sentence youth to an array of interventions including but not limited to conditional release, residential treatment, or to detention in a secure facility (the Sununu Youth Services Center and the Youth Detention Services Unit). The juvenile court reviews the disposition of each youth while he or she remains in the juvenile justice system. Youth exit from the system upon the completion of court ordered sanctions, or if he or she reaches the age of 17.³ A glossary describing the DJJS system is contained in an appendix to this report.⁴

³ In New Hampshire the maximum age for delinquency is 16. Persons age 17 and older are prosecuted as adults. The maximum age for CHINS depends upon the offense; however, persons age 18 and over are adults, so CHINS offenses no longer apply. <http://www.dhhs.nh.gov/djjs/probation/court.htm>

⁴ The glossary is transcribed from a flowchart of the Juvenile Justice System developed by Justiceworks, and available at: <http://www.unh.edu/justiceworks/index.cfm?ID=EBD727A3-F8C5-5B17-2024CFD29D933849>

Figure 1: Juvenile Justice Flowchart



Juvenile justice system trend data

While popular opinion may be that juvenile crime is on the rise, juvenile justice data tell a much different story. Our analysis below demonstrates that both juvenile delinquency and crimes have been declining in New Hampshire (and nationally) for the past several years.

The following figures and tables are based on two sources.

The first source for data on New Hampshire juvenile crime trends comes from the Uniform Crime Reporting unit of the New Hampshire Department of Safety. The Uniform Crime Reporting (UCR) Program of the U.S. Department of Justice collects data on all offenses which are reported to law enforcement agencies in order to measure the level and scope of crime occurring throughout the nation.⁵

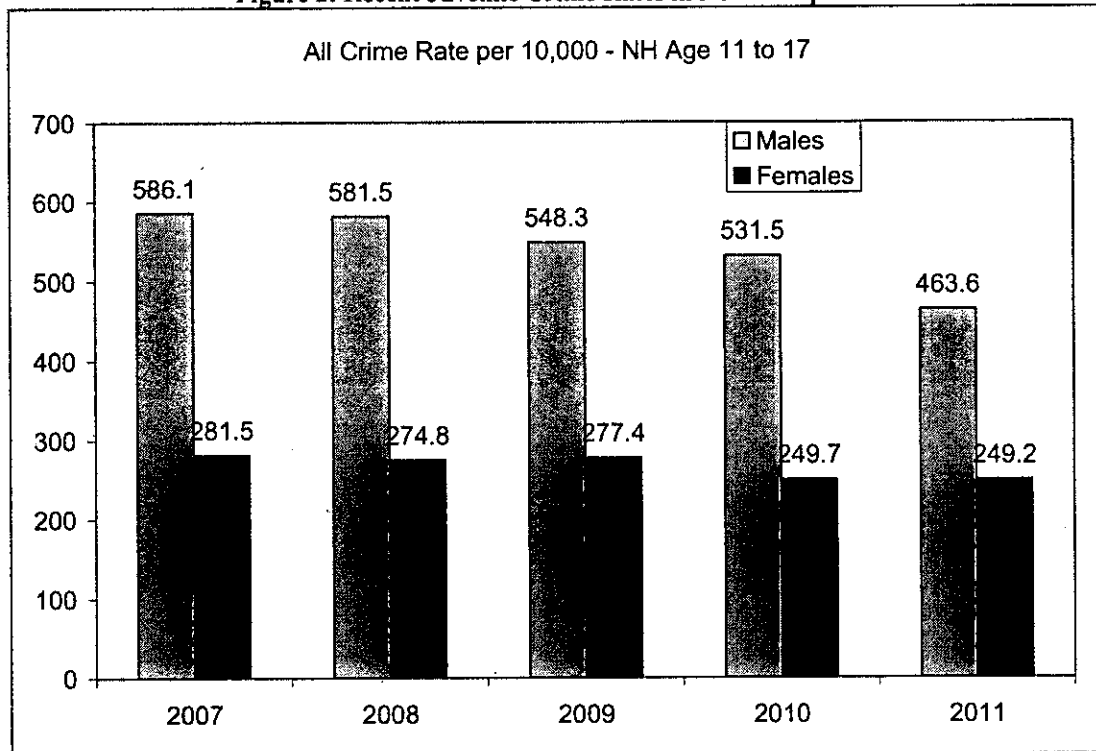
The data from the Department of Safety summarizes New Hampshire offense arrests and associated age, gender, and race. This includes not only the major index crimes, such as robbery, aggravated assault and burglary, but also most minor offenses, such as liquor law violations, driving under the influence (DUI), drunkenness, trespass, vandalism, passing bad checks, prostitution, narcotic violations and disorderly conduct, among others. The availability of this data for the 11 to 17 age group allows us to estimate juvenile crime rates by gender and over time. However, prior to 2007 New Hampshire's largest city, Manchester, did not report data in this format, so we have relied on the data from that year forward.

Data from the New Hampshire Department of Safety indicates that juvenile crime rates are holding steady or declining. As shown in Figure 2, juvenile male crime rates dropped from about 586 arrests (per 10,000 juveniles 11 to 17 years old) in 2007 to 464 in 2011, while female crime rates declined from 281 in 2007 to 249 in 2011.⁶ Males are nearly twice as likely to be arrested for an offense compared to females.

⁵ In the late 1980s, the U.S. Department of Justice recognized the need for more detailed crime statistics and called for a thorough evaluative study that led to the modernization of the UCR Program. The redesigned UCR Program, called the National Incident-Based Reporting System, or NIBRS, was promoted to the states as a significant improvement on the existing crime reporting system. New Hampshire collects and reports data under the NIBRS system.

⁶ Persons age 17 and older are prosecuted as adults, but Department of Safety crime statistics are only reported for the 11-17 age group.

Figure 2: Recent Juvenile Crime Rates in New Hampshire



Source: State Arrest Reports, New Hampshire Department of Safety

This decline appears to mirror trends in the rest of New England and across the country. For example, the number of young criminal offenders in the custody of the Massachusetts juvenile justice agency has dropped to historically low levels, according to testimony from the commissioners of the Massachusetts Department of Youth Services. In 2010, there were 730 young offenders in DYS custody for the entire year, down from 1,113 in 2006.⁷

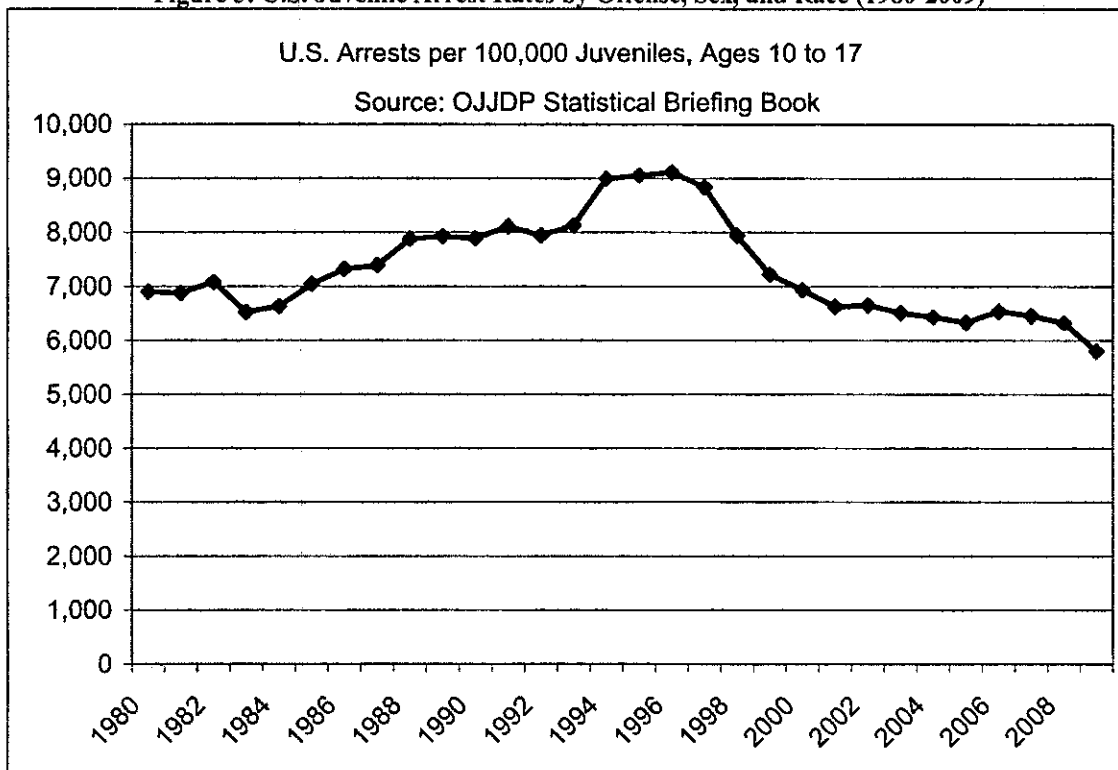
Across the country, the juvenile arrest rate for all offenses reached its highest level of the past two decades in 1996, and then declined 36 percent by 2009, as shown in Figure 3.⁸ In addition, the number of juvenile offenders in residential facilities declined in most states between 2000 and 2008.⁹

⁷ <http://www.milforddailynews.com/archive/x1595585988/Juvenile-offenders-drops-to-historically-low-levels-state-says#ixzz1PvcmbJpo>, June 6, 2011

⁸ National Center for Juvenile Justice (October 16, 2011). Juvenile Arrest Rates by Offense, Sex, and Race. Online. Available: http://www.ojjdp.gov/ojstatbb/crime/excel/JAR_2009.xls.

⁹ Butts, Jeffrey A. and Douglas N. Evans (2011). Resolution, Reinvestment, and Realignment: Three Strategies for Changing Juvenile Justice. New York, NY: Research and Evaluation Center, John Jay College of Criminal Justice, City University of New York.

Figure 3: U.S. Juvenile Arrest Rates by Offense, Sex, and Race (1980-2009)



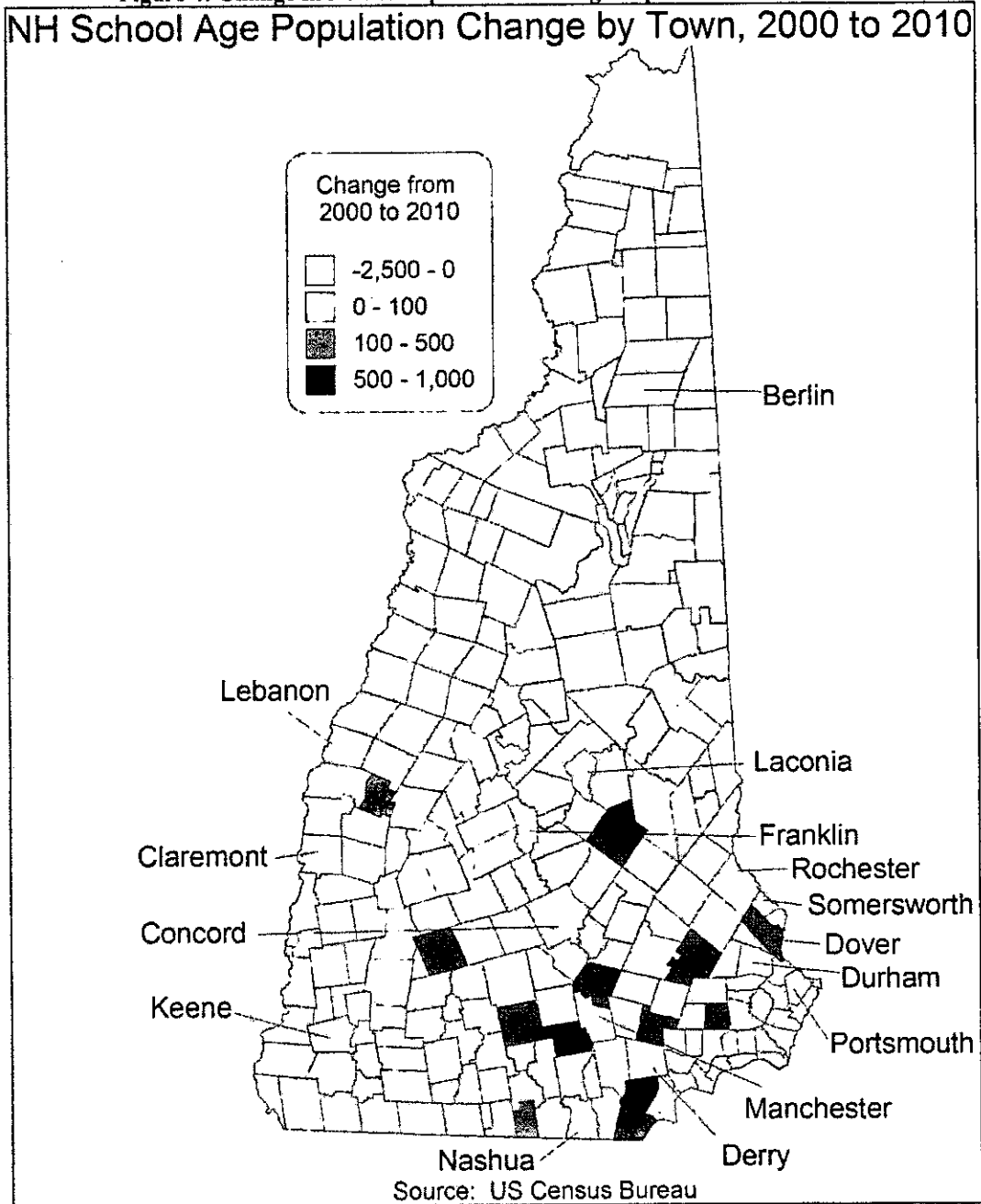
Source: National Center for Juvenile Justice (October 16, 2011)

Juvenile crime is decreasing across the United States, as are violent and property crime rates for the adult population. Criminologists and other national experts are still debating the reasons for the decline in crime since the mid 1990's. Some point to changes in administrative and investigative emphases of law enforcement, new policies in other components of the criminal justice system (i.e., prosecutorial, judicial, correctional, and probational), and crime reporting by average citizens. A recent analysis also credits 'hot-spot intervention' (sending police where crime is repetitively present at high rates, sustaining the police presence there, and putting out that fire); destruction of public drug markets; and "stop and frisk" policies for the decline in crime rates¹⁰.

The decline in New Hampshire juvenile crime probably comes from two sources. First, the number of young people in New Hampshire has declined over the past ten years. According to U. S. Census data from 2000 to 2010, the overall state population increased, but the number of school-aged children (age 0 to 18) fell from 309,000 in 2000 to 287,000 in 2010. That is a loss of more than 22,000 juveniles, or a 7 percent decline since 2000. That drop was spread across the state, with only a few towns gaining in school-age population, as shown in Figure 4.

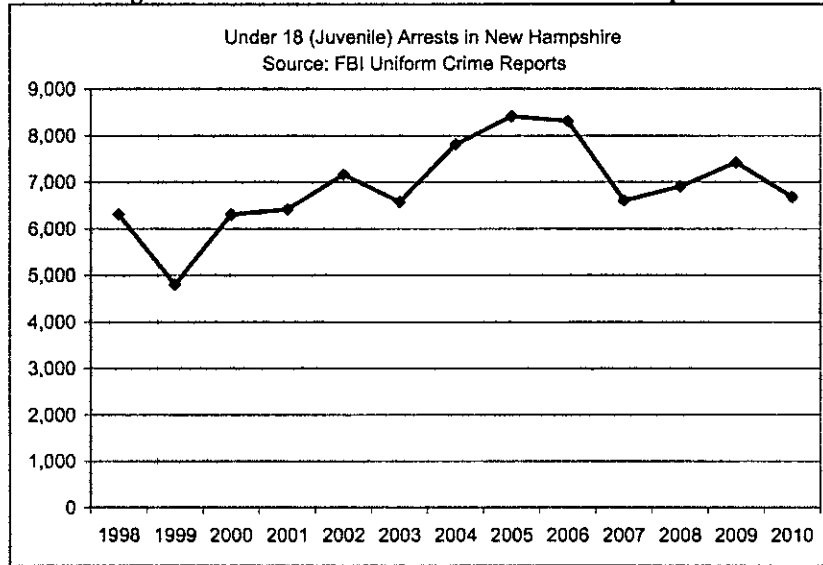
¹⁰ Franklin Zimring, "The City that Became Safe: New York's Lessons for Urban Crime and its Control"

Figure 4: Change in New Hampshire School Age Population 2000 to 2010



Secondly, crime statistics show that the number of juvenile arrests in New Hampshire has been declining since 2005, as shown in Figure 5.

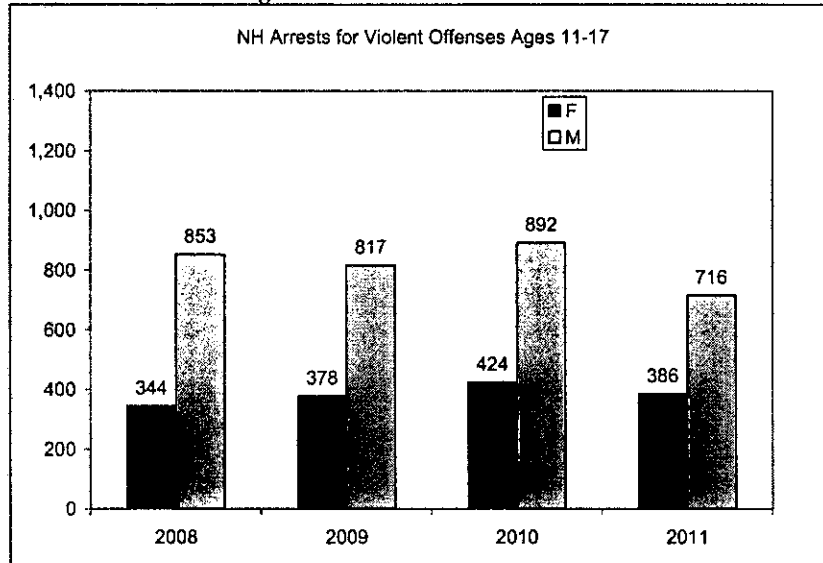
Figure 5: Number of Juvenile Arrests in New Hampshire



Source: Uniform Crime Reports, Table 69, available at www.fbi.gov

Looking at juvenile arrests by type, it appears that juvenile violent offenses have stayed nearly constant over the last three years, as shown in Figure 6. Simple assault¹¹ comprises the majority of violent offenses for youth in New Hampshire.

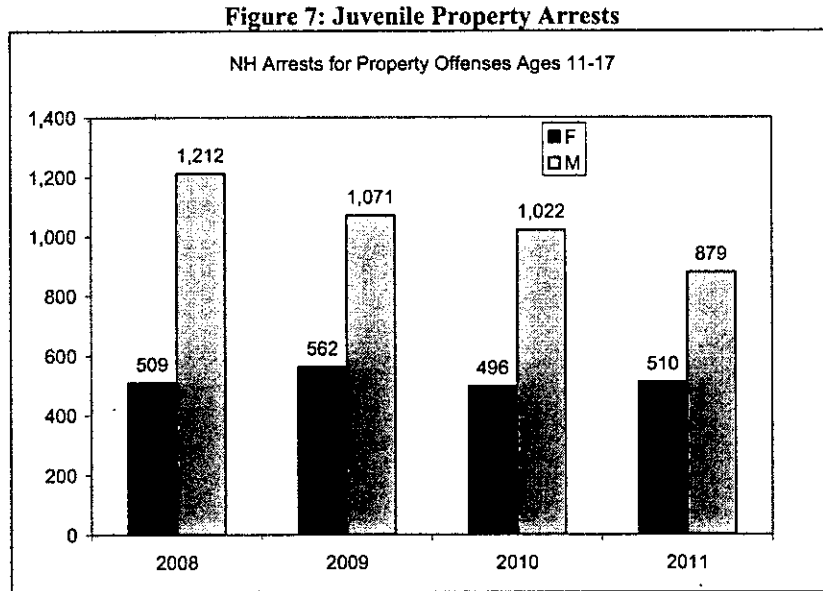
Figure 6: Juvenile Violent Arrests



Source: State Arrest Reports, New Hampshire Department of Safety

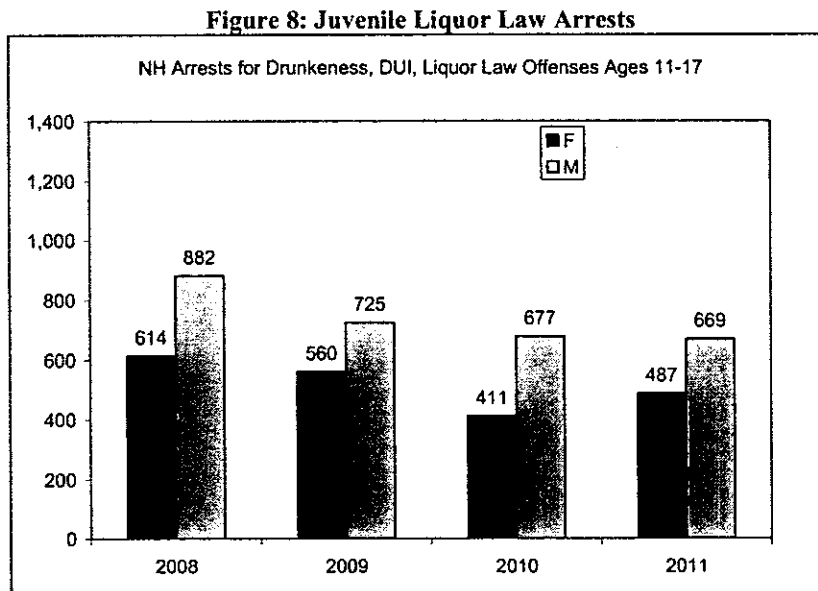
¹¹ NIBRS defines “simple assault” as an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness (FBI, 1992).

Arrests for property offenses for males have declined, according to the data shown in Figure 7. Within this grouping, shoplifting predominates for females and vandalism for males. Property offenses are the largest major category of arrests for males.



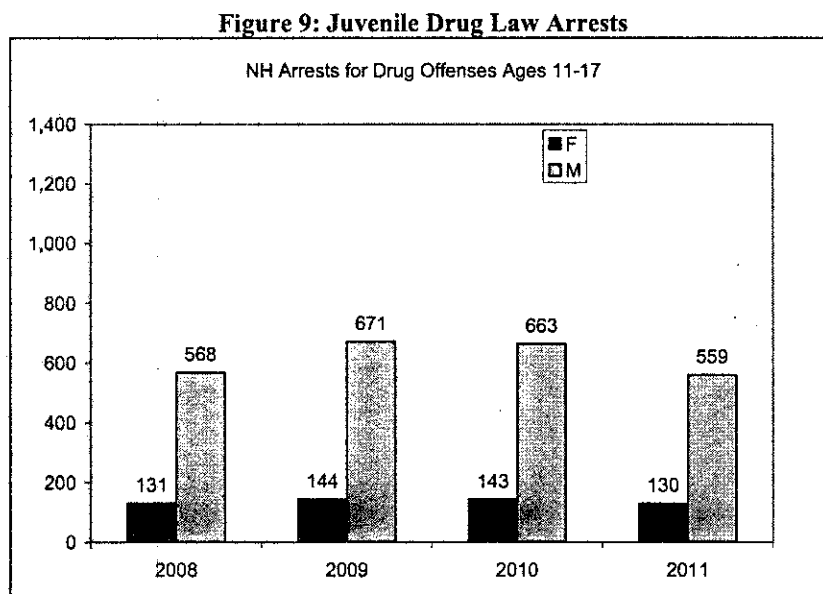
Source: State Arrest Reports, New Hampshire Department of Safety

Arrest for drunkenness, driving under the influence (DUI) and other liquor law violations are shown in Figure 8, and also reveal a declining trend over the last four years for which data is available, although arrests of females for these offenses did increase in 2011. These arrests are predominantly for liquor law violations, specifically alcohol acquired and consumed by minors.



Source: State Arrest Reports, New Hampshire Department of Safety

Finally, arrests for drug use, while the smallest major offense category, have shown a slight increase over the three years 2008 to 2010, but a decline in 2011. As shown in Figure 9, males are four times more likely to have a drug arrest than females.



Source: State Arrest Reports, New Hampshire Department of Safety

The second source of aggregate trends in the DJJS system comes from the New Hampshire Department of Health and Human Services. In May 2012 the Center filed a formal data request with the Division for Children, Youth and Families requesting the following data:

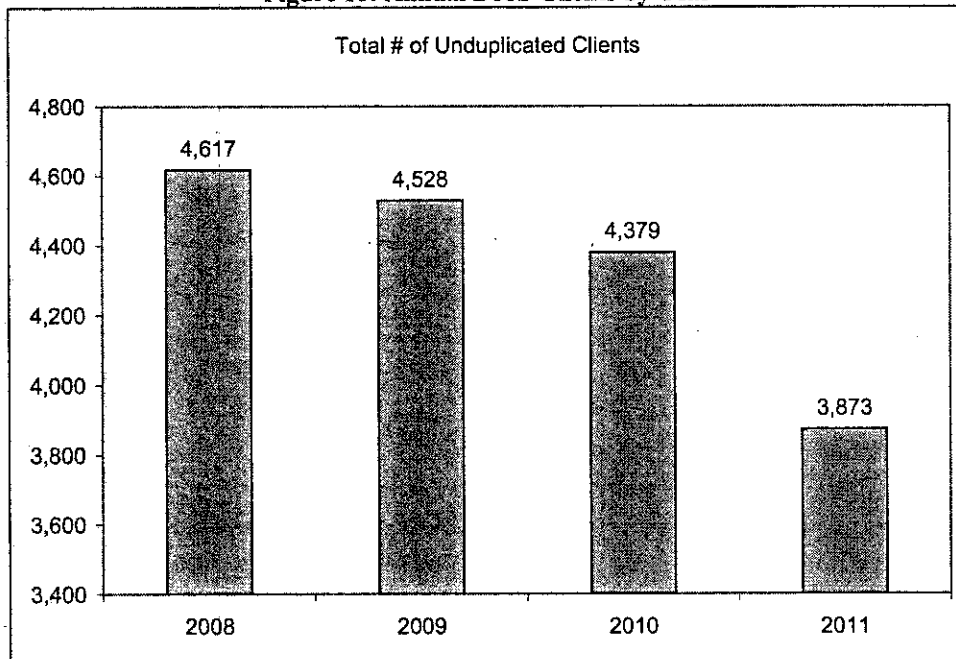
- Annual DJJS Petitions, 2005 to 2011
- DJJS Case Loads by Type, 2005 to 2011
- New DJJS Cases by Calendar Year and Case Type, 2005 to 2011
- Petition Findings Resulting from Adjudicatory Hearings by Calendar Year, 2005 to 2011
- Unique Petitioned Individuals by Calendar Year and County of Residence, 2005 to 2011
- Unique Petitioned Individuals by Calendar Year and Race/Ethnicity, 2005 to 2011
- Unique Petitioned Individuals by Calendar Year and Gender, 2005 to 2011
- Number of Placements by Placement Type and Calendar Year, 2005 to 2011
- Petitioned Offenses by Calendar Year and Offense Group Type, 2005 to 2011
- Average Daily Individuals in Placement by Placement Category and Calendar Year, 2005 to 2011
- Average Placements Among Placed Children Ever in Juvenile Justice by Age Out Calendar Year, 2005 to 2011
- Average Total Time in Placement for Placed Children Ever in Juvenile Justice by Age Out Calendar Year, 2005 to 2011

- Percentage of Clients That Return to Sununu Youth Services Center After Initial Release, by Calendar Age-Out Year
- Unique Individuals in Placement by Age and Calendar Year, SYSC and Other Placements, 2005 to 2011

In response to the data request the Center received aggregate summary DJJS data from the New Hampshire Department of Health and Human Services, Division for Children, Youth & Families (DCYF). The data set received from DCYF includes annual data for the DJJS system number of clients for the years 2008 through 2011, with limited detail by type of placement, and by race and ethnicity. That data are presented on the following pages.

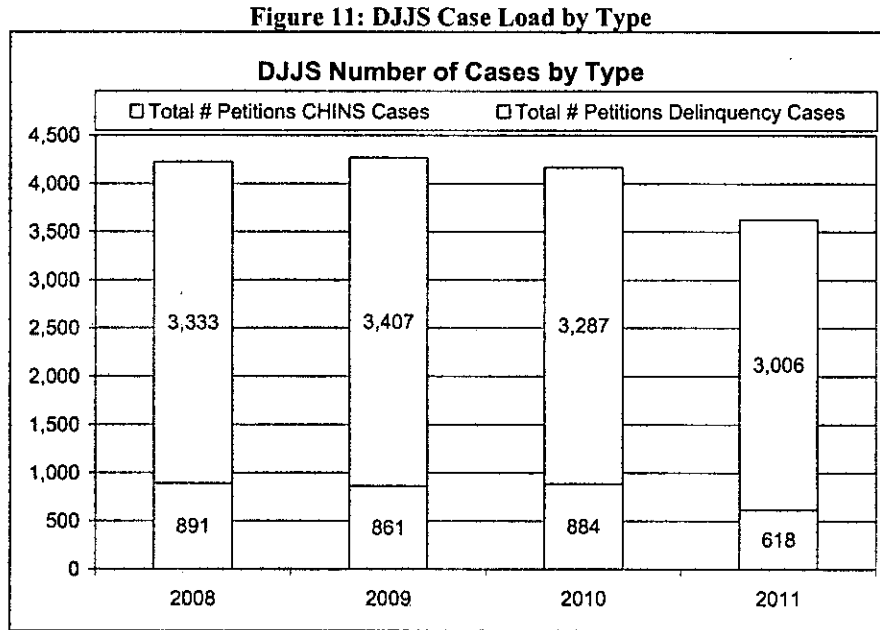
As shown in Figure 10, the number of youth in the DJJS system has been declining since 2008. In that year, 4,617 unique clients were part of the DJJS system in New Hampshire, but by 2011 the number of clients had fallen to 3,873.

Figure 10: Annual DJJS Clients by Year



Source: Division for Children, Youth & Families

Delinquency accounts for the bulk of the DJJS caseload, as shown in Figure 11. There were about 900 clients under Children in Need of Services (CHINS) in most years, although that number was reduced to about 600 in 2011, when changes in state law and budget cuts reduced the scope of the program.¹²

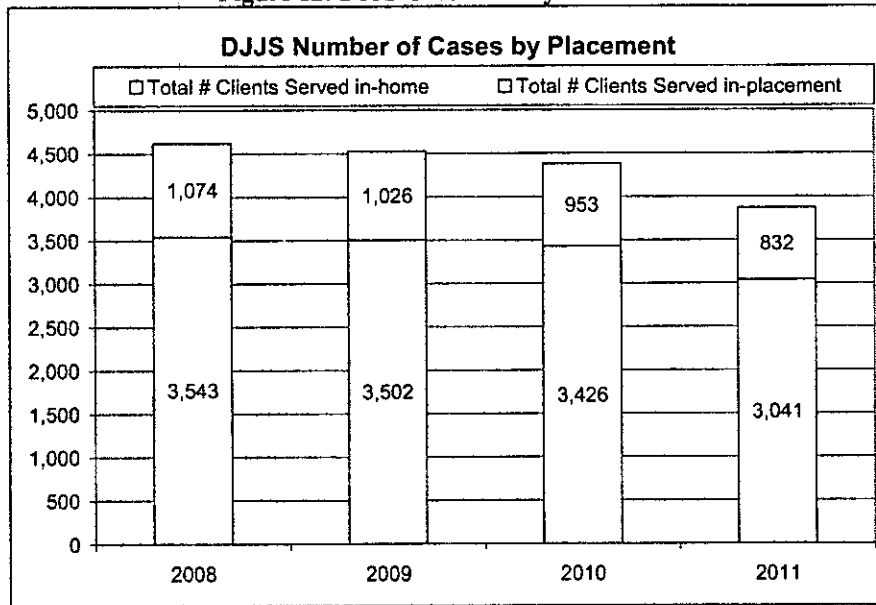


Source: Division for Children, Youth & Families

Most DJJS clients, about 80 percent, are served in an in-home environment. As shown on Figure 12 about 20 percent of DJJS clients are placed in a facility, or served in-placement. This could include an array of residential services, such as foster homes, group homes, and intensive treatment facilities.

¹² The definition of Children in Need of Services (CHINS) and the requirements for filing a CHINS Petition changed on September 30, 2011, narrowing the scope of CHINS to apply to more violent youth. The chronically truant, runaways and other less severe cases are no longer funded under the program. <http://www.courts.state.nh.us/fdpp/chins.htm>

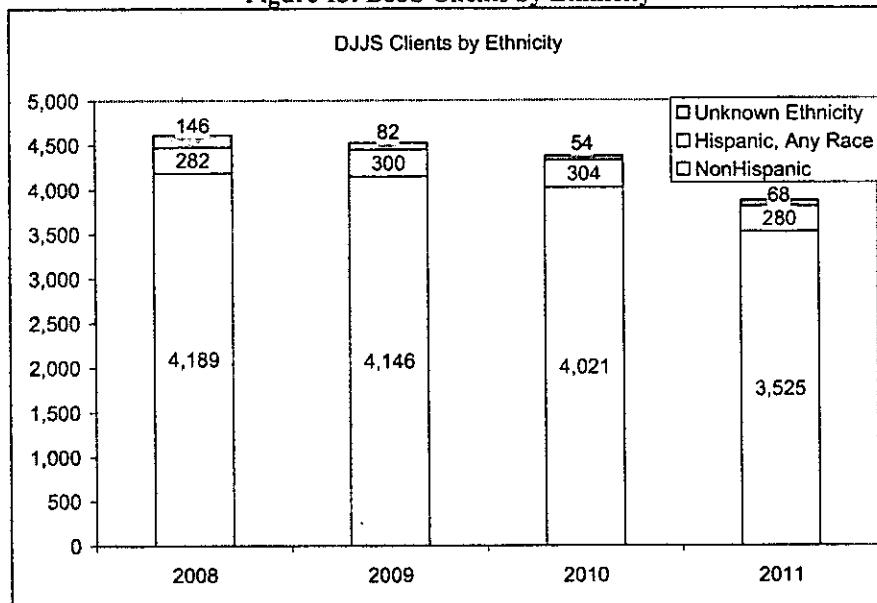
Figure 12: DJJS Case Load by Placement



Source: Division for Children, Youth & Families

Individuals in New Hampshire's juvenile justice system are overwhelmingly white and non-Hispanic. The number of non-Hispanic clients has declined from about 4,200 in 2008 to approximately 3,500 in 2011 (Figure 13). However, the number of Hispanic clients has remained at nearly 300 in the last four years.

Figure 13: DJJS Clients by Ethnicity



Source: Division for Children, Youth & Families

When looking at DJJS clients by race, the overwhelming majority of the DJJS client population is White. Black-African Americans are the second largest racial group of clients, and amount to about 200 each year, as shown in Table 2.

Table 2: DJJS Clients by Race

DJJS Unduplicated Clients by Race						
Calendar Year	White	Black-African American	Asian	Native Hawaiian/Other Pacific Islander	American Indian/Alaskan Native	Unknown Race
2008	4,224	185	38	10	33	127
2009	4,188	202	37	6	37	58
2010	4,024	214	32	9	48	52
2011	3,483	219	32	9	42	88

Source: Division for Children, Youth & Families

However, relative to New Hampshire's demographic composition, minority populations are over represented in the New Hampshire DJJS system. Table 3 shows the number of DJJS clients in selected racial and ethnic groups, compared to the number of New Hampshire residents in the 10 to 17 year old age group. On average there are about 31 DJJS clients per 1,000 age 10 to 17 year olds in New Hampshire in the year 2010. But the ratio of DJJS clients to the general population is almost twice as high for Hispanics, and three times as high for Black-African American youth.

Table 3: DJJS Minority Population Compared to New Hampshire

	Total	White	Black-African American	Hispanic, Any Race
2010 NH Population Age 10 to 17	139,672	128,636	2,108	5,694
DJJS Clients 2010	4,379	4,024	214	304
<i>DJJS Clients per 1,000</i>	31.4	31.3	101.5	53.4

Source: Division for Children, Youth & Families, and US Census Bureau

Disproportionate Minority Contact (DMC) in the juvenile justice system is the phenomenon of racial disparity among juvenile offenders. DMC is the over representation of racial and ethnic minorities at all points in the juvenile justice system, from arrest to referrals, adjudication, diversion, detention, confinement and finally movement into the adult court and corrections systems. National data suggests that minorities are over represented in juvenile justice systems across the country, and that DMC increases as youth move through the juvenile justice system. DJJS is currently tracking DMC, subject to data availability, at the nine points of contact within the juvenile justice system.¹³

¹³ The nine contact points are: 1. Arrest, 2. Referral, 3. Diversion, 4. Detention, 5. Petition/charges filed, 6. Delinquency findings, 7. Probation, 8. Confinement in secure correctional facilities, and 9. Transfers to adult Court.

Table 4 shows that placements to the Sununu Youth Services Center have been declining. The number of detained and committed males has dropped by half, while the number of females in SYSC has changed little over the last four years.¹⁴

Table 4: DJJS Sununu Youth Services Center Clients
(*Unique Count of All Youth Served During CY)

Detained*			Committed*				
	Female	Male	Total		Female	Male	Total
CY 2008	51	193	244	CY 2008	42	186	228
CY 2009	38	169	207	CY 2009	26	122	148
CY 2010	41	158	199	CY 2010	31	110	141
CY 2011	53	118	171	CY 2011	39	92	131

Source: Division for Children, Youth & Families

Declining placements to the Sununu Youth Services Center have been credited by Sununu Center staff to the adoption of a statewide risk assessment, under the Juvenile Detention Alternative Initiative (JDAI). The JDAI effort began in the late 1990s with the development of a Risk Assessment Instrument (RAI) involving key stake holders, followed by a pilot program in two New Hampshire counties. Since October 2008, all New Hampshire courts have been utilizing a detention screening instrument (RAI) which helps the court identify violent youth and better determine which youth are detained. JPPOs currently use standardized assessment tools to assist in making appropriate dispositional recommendations to the courts and for case planning.¹⁵

The Center cannot confirm that the JDAI program has been the sole cause of declining admissions and placement at SYSC. Previously we have noted that the number of juvenile arrests has also declined over time. The drop in juvenile arrests, along with early intervention and prevention programs that divert juveniles before they end up in the delinquency system, could also be significant contributing factors to the recent decline in placements at the Sununu Center.

DJJS Goals and Measurement

In addition to an assessment of the trends in the juvenile justice system, and the demographic and policy factors driving those trends, a third part of our analysis was to be an effort to understand what information would be useful in determining whether, and which, policy changes could have a meaningful impact on outcomes of interest to the DJJS. Our analysis suggests that data that would support an understanding of the existing goals of the system, impact of recent policy changes, or new policy changes is not publicly available.

¹⁴ The Sununu Youth Services Center and the Youth Detention Services Unit provide an architecturally secure placement for committed juveniles and for NH youth involved with the NH court system prior to their adjudication. (<http://www.dhhs.state.nh.us/djjs/index.htm>)

¹⁵ All New Hampshire courts now participate in the Juvenile Detention Alternative Initiative (JDAI). Each juvenile detention decision in New Hampshire is now guided and determined by a risk assessment instrument. Source: NH JDAI State Coordinator and Quarterly Reports to the JDAI Steering Committee

Understanding Policy Changes and Their Impact

As noted previously, declining admissions and placements to the SYSC have been credited to adoption of a statewide risk assessment. Since October 2008, JPPOs currently use standardized assessment tools to assist in making recommendations to the court regarding the need for detention or placement. The data to assess whether this programmatic change has been successful, however, is not currently available, as DJJS staff indicated they did not have the resources to support this information.¹⁶ An analysis of the effectiveness of this change would include a review of changes in placements by category (home, foster care, group home, and the Sununu Center as examples), as well as information on recidivism rates.

In the end, the Center was unable to find data that would support an understanding of the primary goals for DJJS. According to state budget documents, the DJJS has four major goals:¹⁷

1. Community Safety: Youth will leave the juvenile justice system better than when they entered.
2. Restoration of the Community and the Victims of Juvenile Offenses: Repair the harm caused by misconduct through restitution and community service.
3. Reintegration into Communities and Permanency of Youth into Families: Fewer youth in out-of-home placements and successful expedited transitions from residential placements back to families and communities.
4. Cost effective intervention through appropriate rehabilitative services for juvenile offenders and CHINS.

In our analysis of DJJS data, we were unable to discover existing reports that routinely inform practice regarding the above stated goals within DJJS. The Center could see no evidence that DJJS tracks objective measures of whether youth leaving the DJJS system are "better" than when they entered. Because we have found no data on the risk profile of the population, whether the treatments offered to youth in the system are appropriate, and few measures of success of each treatment against the overall goals of the particular program, we were unable to determine whether the service provision matched the identified risk factors for NH's juvenile justice population and how this compares to other states.

Simply put, the data on the characteristics of the youth placed in each program and on the outcomes achieved by youths in each of their programs is not available. DJJS does not have a public report describing the interventions now being utilized in New Hampshire, nor does it appear to collect information on outcomes associated with those interventions. For example, there is no publicly available information from DJJS on what interventions youth are receiving annually (i.e., delinquency vs. CHINS). There is also no routinely produced publicly available information on the specialized interventions delivered to youth in the DJJS system, or how long individual youth remain in out-of-home

¹⁶ Data was available on a longitudinal basis, but the staff of DJJS indicated that they did not have the resources to maintain that data and analysis.

¹⁷ <http://www.dhhs.state.nh.us/ocom/documents/senate-djjs.pdf>

placement. There is no information on which interventions and rehabilitative services have been the most cost effective. Finally, the Center could discover no uniquely defined recidivism measures for the juvenile justice system.

Developing data capture in juvenile justice

While there is no “one size fits all” approach to data capture and evaluation, there are some basic – and critical – data elements that must be captured to demonstrate program effectiveness¹⁸. To this end, the data on juveniles within New Hampshire’s DJJS system should include screening to develop the demographic profile of each program participant and should document each type of service and treatment that is provided to a participant.

The necessary data elements captured should assist in evaluation of the overall juvenile justice goals. A common element for all programs is to reduce juvenile delinquency and recidivism (consistent with the DJJS stated goal of “leaving the juvenile justice system better than when they entered”), but it is also important to measure how each program or treatment will reduce delinquency and recidivism rates. Some programs may focus on education and literacy services, while others might address behavioral and mental health issues.¹⁹

Models for Change, a national juvenile justice reform group, has noted that close to 70 percent of youth in the juvenile justice system “meet the criteria for at least one mental health disorder such as major depression, bipolar disorder or anxiety conditions”²⁰. Many studies have found that some of these health issues occur at higher rates than in the general adolescent population. Further national analysis suggests that although some youth in the national juvenile justice system are treated by health care providers in their community on a regular basis, others have had inconsistent or nonexistent care, even while the health needs of these youth are commonly identified when they are admitted to a juvenile custodial facility²¹. Our concern is that New Hampshire does not appear to have the data collection capacity to understand the prevalence of behavioral and mental health issues systematically in the DJJS system.

Linking interventions in the New Hampshire DJJS system with their associated costs is also not currently possible. Discussions with DJJS management indicate that the broad costs of programs are available, but linking specific delivery costs with individual clients is not publically available. The Center notes that juvenile justice programs in several

¹⁸ “Evaluating Corrections Reentry Programs - The Hillsborough County Reentry Program”, NHCPPS and Council of State Governments Justice Center, March 2010, <http://www.nhpolicy.org/reports/reentryevalplusapp.pdf>

¹⁹ The Center’s suggestions are based on our independent evaluation of New Hampshire’s juvenile drug courts and the state’s “Reclaiming Futures” initiative, funded by the Robert Wood Johnson Foundation. Reports available on our website at: <http://www.nhpolicy.org/topic.php?sub=13>

²⁰ <http://www.modelsforchange.net/about/Issues-for-change/Mental-Health.htm>

²¹ Health Care for Youth in the Juvenile Justice System, American Academy of Pediatrics, December 2011, <http://pediatrics.aappublications.org/content/early/2011/11/22/peds.2011-1757>

other states do publically report the most likely make-up of costs linked to specific interventions.²²

In a recent paper by the Brookings Institution and Princeton's Woodrow Wilson School of Public and International Affairs, researchers examined why so few states have adopted evidence based treatment programs in their juvenile justice systems:

"First, agencies rarely invest in developing data systems that permit them to monitor which programs are working and which are not; therefore, most states' juvenile justice systems have no idea if they are spending their money wisely. Second, many policymakers are often unaware of research evidence on programs and policies that are not only effective in reducing juvenile delinquency but also cost-effective. Third, often what works is at odds with "get tough on crime" public sentiment, and some policy makers are unwilling to choose evidence over politics."²³

The bottom line is that there is insufficient data and analysis currently available to answer the most important questions about the DJJS system:

- Who are the youth involved in New Hampshire's juvenile justice system?
- What are their needs?
- What risk factors do adjudicated youth have (i.e. history of trauma, poverty, single-parent households)?
- What behavioral health problems do adjudicated youth have, and how are they screened? Who does the screening?²⁴
- What do best practices tell us about the best way to meet the needs of the kinds of youth New Hampshire is currently serving in its system?
- How do we make systemic changes to re-engineer the system to reflect these best practices?

The following questions are particularly pertinent to juveniles being served in the Sununu Youth Services Center.

²² Butts, Jeffrey A. and Douglas N. Evans (2011). *Resolution, Reinvestment, and Realignment: Three Strategies for Changing Juvenile Justice*. New York, NY: Research and Evaluation Center, John Jay College of Criminal Justice, City University of New York. Examples in California, Ohio, Illinois and Texas.

²³ *Best Practices in Juvenile Justice Reform (18_02_highlights.pdf)*, The Future of Children: A Collaboration of The Woodrow Wilson School of Public and International Affairs at Princeton University and The Brookings Institution.

²⁴ "One of the commonly used screening tools for mental health and substance abuse specifically developed for the juvenile justice system is the Massachusetts Youth Screening Instrument-Second Version (MAYSI-2). This 52-item screening instrument takes 10 minutes to complete and is validated as a self-report response tool that requires no clinical expertise to administer, score, or interpret; is low cost and can be used by a range of ages, different ethnic groups, and both genders; and has good psychometric properties." Source: *Health Care for Youth in the Juvenile Justice System*, <http://pediatrics.aappublications.org/content/early/2011/11/22/peds.2011-1757>

- Are the youth within this facility “violent offenders,” based on the data?
- How does this compare to incarcerated youth in other states?
- Do the interventions match the risk factors, behavioral problems or crimes committed based on national best practices?
- Does New Hampshire need a facility as large as the Sununu Center, or could these youth be served more effectively and efficiently elsewhere?

The best practices for evaluating a juvenile justice system should include a well-established process for collecting information, including an electronic method of data entry and storage and a management system for redistributing that information back to those who can affect practice. There must also be a commitment to collecting the right information in order to adhere to basic principles of research and management. Indeed, these activities require commitment of resources, but the ability to make an empirical case for continuing a program is incumbent upon these processes.

An Example: Aggregate Reporting by the Department of Corrections

The Center has published several papers examining the New Hampshire adult corrections system, including papers published in 2006 and 2009 documenting trends in New Hampshire's inmate population, and also papers supporting the more recent Justice Reinvestment reforms²⁵. None of these Center reports would have been possible without the New Hampshire Department of Corrections (DOC) creating and maintaining data sets that identify important aggregate trends that inform routine policy and practice, and DOC sharing that data with the public.

The New Hampshire DOC produces an annual report, which includes summary data number of inmates by gender, race, age, and crime type, admissions and releases by type, statistics on inmates by minimum and maximum sentence, and expenditures by incarceration facility and cost per day per inmate. Also the Department of Corrections has published several reports on recidivism, including studies of the number of inmates returned to prison within three years of their release, and more recently an examination of the primary reason inmates return to prison.²⁶

Finally, the Department of Corrections provides the Center with several monthly data reports, from the DOC CORIS database, which allow the examination of broad trends in the state's inmate population.

One report, updated monthly and shown in Table 5, details the existing inmate population by major crime type, by gender and by the age of the inmate.

²⁵ Refers to the research driven reforms adopted by DOC under the SB500 law in October 2010.

²⁶ DOC recidivism and annual reports are available on the DOC website at <http://www.nh.gov/nhdoc/divisions/publicinformation/index.html>

Table 5: DOC Inmates by Major Crime Type

NH State Prison Reporting Crime Type Summary for 7/1/2012											
#	Type Description	Total Count	Total Males	Total Females	Total 17-21	Total 22-25	Total 26-30	Total 31-40	Total 41-50	Total 51-60	Total Over 60
1	Unknown	107	99	5	1	5	14	19	30	22	13
2	Drugs/Alcohol	336	296	40	6	38	83	127	52	22	8
3	Other	231	221	10	3	27	25	79	59	29	9
4	Violent	1,387	1,333	54	31	130	166	305	352	242	161
5	Property	665	594	71	26	105	141	210	122	53	8
TOTALS=		2,726	2,543	180	67	305	429	740	615	368	199

Source: New Hampshire Department of Corrections

The above report is also available by sentencing offense description, including the identification of the state criminal statute for the reporting crime.

Another report, shown in Table 6, provides detailed monthly data on inmate admissions and releases by type.

Table 6: Monthly DOC Admissions and Releases

NH DOC Monthly Facility Population Summary Report - ALL -													
	Jul 1	Aug 1	Sep 1	Oct 1	Nov 1	Dec 1	Jan 1	Feb 1	Mar 1	Apr 1	May 1	Jun 1	Jul 1
	2011	2011	2011	2011	2011	2011	2012	2012	2012	2012	2012	2012	2012
Total NH in Facility	2,359	2,353	2,325	2,315	2,257	2,293	2,323	2,367	2,390	2,427	2,452	2,458	2,472
Total Non-NH in Facility	85	85	87	91	93	96	100	100	96	95	93	91	91
Total in facility	2,444	2,438	2,412	2,406	2,350	2,389	2,423	2,467	2,486	2,522	2,545	2,549	2,563
Total In Facility-Prev Month	2,457	2,444	2,438	2,412	2,408	2,350	2,389	2,423	2,487	2,488	2,522	2,545	2,549
New Admission	21	14	15	19	20	16	20	33	25	24	23	18	20
New Admission (Previous Record)	30	29	27	35	21	26	32	30	19	42	36	22	31
Parole Violators													
Start Detention-Pending PV	55	46	52	40	29	39	35	52	37	40	30	53	40
Start Detention-7 Day Sanction	5	6	4	7	16	19	9	13	18	18	14	10	21
Start Detention-Unknown/Incomplete	3	7	16	8	5	13	15	12	11	14	4	11	6
Probation Violators	13	15	8	11	7	18	15	13	13	12	14	17	17
AHC Returns	1	0	1	1	1	1	3	2	0	2	0	2	3
Escape/Returned	1	0	0	3	0	1	0	0	2	1	0	1	2
Other Jurisdictions	15	4	8	22	10	6	10	9	7	14	14	8	13
Transfer IN	1	1	0	3	2	2	1	1	1	2	2	1	1
Total Admissions-Prev Month	145	122	130	149	111	145	140	165	133	167	137	143	154
Max Out-Released to Society	5	10	7	6	6	2	4	8	5	7	3	10	3
Max Out-Released to FS	0	0	0	2	0	1	0	1	2	0	1	1	1
Released to Parole													
End Detention-Pending PV	8	6	11	15	6	4	6	1	9	6	6	6	15
End Detention-7 Day	4	7	4	10	16	21	10	12	18	16	18	12	18
End Detention-90 Days	39	41	46	37	30	28	20	11	7	15	9	17	17
End Detention-90 Day Extended	0	0	0	0	0	0	2	1	1	1	6	2	0
End Detention-PV Discretionary	0	0	0	1	3	0	2	7	9	6	3	7	8
End Detention-Parole	5	3	4	5	2	3	2	2	0	1	0	1	3
Required-9 Month	0	1	3	4	0	0	0	1	0	0	1	0	0
Required-120%	0	1	2	0	1	0	0	0	0	0	0	0	0
Parole (Discretionary)	71	46	67	61	77	39	48	67	49	63	43	58	59
Unknown/Incomplete Detention	0	1	0	0	0	0	0	0	0	1	0	0	0
Released to Probation	18	5	3	2	7	6	6	4	3	8	7	7	5
Released to AHC	1	3	3	3	10	1	0	2	1	3	3	2	9
Released/Escape Status	1	0	2	1	0	0	0	1	1	1	2	0	1
Released to Other Jurisdictions	5	3	3	7	5	2	7	1	6	3	9	11	5
Transfer OUT	0	1	1	1	4	2	0	1	0	2	1	3	2
Total Releases-Prev Month	157	128	156	155	167	107	105	121	111	133	114	139	146
Total Prev Admission/Release	2,302	2,317	2,288	2,262	2,242	2,248	2,288	2,305	2,359	2,360	2,413	2,549	2,358
Exceptions	1	0	2	1	0	-1	1	1	2	2	2	0	-5
Total Physical Population	2,444	2,438	2,412	2,406	2,350	2,389	2,423	2,467	2,486	2,522	2,545	2,549	2,563
Total NH Out of Facility/Escapees	200	204	204	201	204	199	191	187	187	187	189	186	184
Total DOC Responsible	2,644	2,642	2,616	2,607	2,554	2,588	2,614	2,654	2,675	2,709	2,734	2,735	2,757
Variance	0	-2	-26	-9	-53	34	26	40	21	34	25	1	22
Total NH in Facility	2,359	2,353	2,325	2,315	2,257	2,293	2,323	2,367	2,390	2,427	2,452	2,458	2,472
Escape Status	8	8	10	9	9	8	8	9	8	9	11	10	9
Total NH Out of Facility	192	196	194	192	195	191	183	178	179	178	178	176	185
Total NH Sentenced	2,559	2,557	2,529	2,516	2,461	2,492	2,514	2,554	2,577	2,614	2,641	2,644	2,666
Variance	2,559	-2	-28	-13	-55	31	22	40	23	37	16	14	22

Source: New Hampshire Department of Corrections

The above report is available at the same level of detail by gender.

The foregoing reports from the Department of Corrections have allowed the DOC to better track the outcomes of their practices, policies and programs, including the reforms associated with the Justice Reinvestment Initiative. Despite tight budgets and increased demands, the DOC believes it is imperative that they continue to develop ways to accurately measure what they do to meet their goals and achieve success. The DJJS should strive to meet this standard of measurement and reporting.

Juvenile Justice Data Development Plan

In September 2012 DCYF outlined its proposed data development plan for juvenile justice, as detailed below. While the proposed internal reports noted here are represented by DCYF as becoming potentially important management tools in the near future, all these reports are planned for internal DCYF use only, due to confidentiality concerns.²⁷

1. In May 2012 the Division added JJS data to the Chapin Hall Multistate Foster Care Data Archive (FCDA). FCDA is a longitudinal analytical tool that enables the Division to conduct powerful statistical analyses of existing data and monitor outcomes. It has been used to track Child Protection data for approximately 6 years. FCDA is updated with new data every 6 months. This tool enables DCYF management to track such measures as length of stay, placement stability, first/last/predominant placement type, exit type, etc. Additionally, it enables the agency to track these outcomes by such demographic indicators as age, gender, and race/ethnicity.
2. In March 2012 the Division started their work with the University of Kansas on development of NH Result Oriented Management (ROM). ROM is a web-based management reporting system that consists of over 40 reports that track various indicators and measures for assessments, family services in-home and placement cases. This tool will provide Child Protection Social Workers and Juvenile Probation and Parole Officers with updated data on a weekly basis. They will be able to track such measures and outcomes as timeliness of reunification and adoption, achievement of permanency for children in long-term care, placement stability, permanency outcome indicators, case loads, child visitation, etc. **It is anticipated that the system will be rolled out live in 2013.**
3. In May 2012 the Division developed and implemented a Juvenile Justice Supervisory Report. This report provides supervisors and the management team with information regarding caseloads (number of children and cases by case type), face-to-face visits with clients, petitions, legal status, restitution, etc. This report is produced on a monthly basis, and reviewed and discussed at monthly Leadership Meetings.
4. In 2011 the Division developed and implemented a data policy. The purpose of this policy is to ensure that all DCYF data are managed as institutional assets for fulfilling the DCYF Practice Model and mission of serving children, youth and

²⁷ This plan was provided to the Center via e-mail and is quoted verbatim.

families through quality services. To accomplish this, this policy guides the actions of each staff member when working with data. As part of the policy the Division has developed and implemented Data & Reports Request Forms, which are required to be used for all internal and external data requests.

5. With New Hampshire's development and implementation of a Practice Model (PM) and Program Improvement Plan (PIP), the agency continues to strive to collaborate with the larger state system that serves youth in juvenile justice or child protection cases, in order to improve outcomes for these children and their families. In order to do so, DCYF is attempting to partner with multiple agencies around sharing information that would inform and impact their practice.
6. For example, a team of 5 DCYF (including JJS) employees applied and was accepted to the Information Sharing Certificate Program that will take place on October 1st- 4th at Georgetown University in Washington, DC. This Certificate Program is an opportunity for the Division's team to increase their knowledge around building successful information sharing with the other agencies involved in identifying and implementing appropriate service interventions for our children, such as the Department of Corrections and the Department of Education as examples. The team will learn more about communication and coordination to develop concrete action plans to address (break through) barriers and challenges to improving information and data sharing to enhance outcomes for youth and families. It is specifically intended that this program will enhance the Division's collaboration with the Department of Corrections around recidivism data.

The Center encourages DJJS to continue its efforts to obtain and analyze various data sets that can help provide a more comprehensive view of outcomes for youth and families served by the DJJS in conjunction with other state agencies.

While the above plan suggests that Juvenile Justice has been developing data resources that will potentially be accurate, comprehensive, accessible, and used to drive internal practice and management decisions, none of these reports or data sets are represented as being available to the public. At the very least DJJS should produce an annual report, similar to that produced by the Department of Corrections, which will allow the public to understand the effectiveness of the programming, or to understand potential reform efforts within DJJS.

Conclusion

The Center has performed an examination and analysis of reports and data that already exist in the DJJS system. We have searched for routine data reports that inform policy and fill in the gaps in management of youth in the DJJS system.

We have been able to document trends in the juvenile justice system at a very superficial level. More detailed routine data reports on services, risk factors and outcomes are not available to the public, and we were therefore unable to determine whether the services provided matched the identified risk factors for New Hampshire's juvenile justice population and how this compares to other states (the third goal of this research).

The Center suggests that the ability of policy makers to understand, and think about improvements in, the Juvenile Justice System in New Hampshire could be improved in several areas. First, there is an absence of publically available measurable outcomes within DJJS that make it difficult to understand how to begin to assess programmatic interventions²⁸. As with other work the Center has done within corrections, recidivism is a critical definitional concept and one for which data is not currently available. Therefore the Center strongly recommends that DJJS define recidivism and figure out a way to measure it.

Second, data development in the juvenile justice system needs to be improved, as there is currently a dearth of useful information on the clients being served, the programs being implemented, and the outcomes associated with each program. The Center has seen no evidence that DJJS determines risk profile of each client, how that risk profile translates into placement in a secure facility, cost per case, and how that relates to risk profile. Moreover, the treatments received by juveniles within DJJS are not publicly available, making it very difficult to track treatment with outcome measurements (which have their own issues, as identified above).

Finally, the Center recommends that DJJS develop a set of public data reports to allow measurement of DJJS outcomes. Such reports should gather and utilize data that could inform practice. Examples of these data reports would include trend data points, petitions, average probation case load, percent of delinquents with a child dependent history²⁹, as well as DJJS aggregate characteristics (gender, age, race and ethnicity).

²⁸ DJJS staff said in August 2012 that “measurable performance outcomes have been identified, which include recidivism. A preliminary definition of recidivism has been determined, and initial data is being collected and provided monthly to field staff.” See the previous section of this report.

²⁹ Delinquent youth often have prior histories of abuse and/or neglect, and therefore may have received services under the Division for Children, Youth and Families. Source: “The History of Defining Youth: Current Implications for Identifying and Treating Delinquent Youth”, <http://newyorksociologist.org/08/Hartinger-08.pdf>

Appendix

Glossary of Terms³⁰

Youth in New Hampshire enter the DJJS system as the result of a juvenile petition. Youth are then arraigned in a court proceeding, which is followed by an adjudicatory hearing. A subsequent dispositional hearing can send youth to conditional release, residential treatment, or to detention in a secure facility (usually the Sununu Youth Services Center in Manchester). While in the DJJS system the juvenile court reviews the disposition of each youth. Youth will exit from the DJJS system upon the completion of court ordered sanctions, or if the youth reaches the age of majority. In New Hampshire, the age of majority is 17 years old.

- **Juvenile Petition** is similar to an adult criminal charge. A juvenile delinquency petition is the beginning of a prosecution. Under New Hampshire law, anyone may file a petition with a district court alleging the delinquency of a minor. Police officers and JPPOs have the discretion to either file formal delinquency petitions against arrestees or release them to the custody of their parents or guardians without court referral. Police officers, JPPOs, and prosecutors may also refer a juvenile to any court-approved diversion program rather than file a formal petition, subject to local diversion referral procedures approved by the district's administrative judge. However, the court must approve any diversion once a delinquency petition has been filed.
- **Arraignment** is the first court proceeding in most delinquency cases. At the arraignment, the court allows the juvenile to enter an initial plea "true" or "not true" in place of the adult pleas of "guilty" or "not guilty." The court also determines what conditions may apply to the juvenile while the court proceedings are pending, such as a curfew, drug testing, or confinement while awaiting conclusion of the case. An attorney may be appointed to represent the juvenile if the family cannot afford counsel.
- **Adjudicatory Hearing** is similar to a criminal trial, although it is held before the judge alone; there is no jury. Juvenile delinquency cases are heard in the district courts, which are courts of limited jurisdiction. There are 36 district courts in the state. In 2005, the legislature voted to expand family courts to cover the entire state by 2008.
- **Dispositional Hearing** is very similar to a sentencing hearing. The dispositional hearing is typically held a few weeks after the adjudicatory hearing or plea of true to the offense. At the hearing the court may have a report from a juvenile probation/parole officer that describes the background of the juvenile, his/her treatment needs, and the consequences of the offense to any victims. The report may also recommend some combination of punishment and rehabilitative services be ordered against the juvenile. The prosecutor and the juvenile or his/her

³⁰ The glossary is transcribed from a flowchart of the Juvenile Justice System developed by Justiceworks, and available at: <http://www.unh.edu/justiceworks/index.cfm?ID=EBD727A3-F8C5-5B17-2024CFD29D933849>

attorney are permitted to make their own recommendations and the court enters a dispositional order, or sentence. It may include a wide variety of sanctions, including conditional release, similar to probation, rehabilitative services such as substance abuse counseling, placement in a residential facility, or commitment to the SYSC for the remainder of the juvenile's minority.

- **Conditional Release** is similar to probation in the adult criminal system. A sentence which includes conditional release allows the juvenile to remain unconfined, subject to the supervision of a Juvenile Probation/Parole Officer (JPPO). Conditional Release may involve any of a wide range of conditions set by the court and/or JPPO, including substance or mental health treatment, curfew, attendance at school, restitution, and community service. Violation of any of the terms of conditional release may subject the juvenile to any of the penalties that were available at the initial dispositional hearing, up to and including commitment to the SYSC.
- **Residential Treatment** can be part of the disposition of a delinquency case. The court may order that the juvenile be placed in the care and supervision of a group home or residential treatment center. There are a variety of such agencies available in the state and region, with a variety of treatment orientations and degrees of supervision.
- **Detention at a secure facility (SYSC)** The John H. Sununu Youth Services Center is New Hampshire's locked youth corrections facility. It can hold up to 108 boys and girls at any one time, and its residents can range in age from 12 to 17. When a youth is committed to the SYSC, the first stage of residence is a classification and assignment process used to assign an appropriate secure placement within the SYSC. There are several levels of security and supervision at the SYSC, and a youth will typically progress through several of them during the term of commitment. Although commitments to the SYSC are typically for the length of a youth's minority (in New Hampshire until age 17), most stays are between 8 and 12 months, and may depend on participation in treatment and educational programming and general behavior. Release from the SYSC can be by court order, parole, or by reaching age 17. In some rare circumstances, a youth may be ordered to stay at the SYSC after reaching age 17.
- **Dispositional Review** The juvenile court is required to review the disposition of children found delinquent at least annually, and may schedule earlier reviews as a matter of course or at the request of the juvenile, JPPO, or prosecution. At such review hearings, the court may modify the original dispositional order.
- **Termination** refers to the departure from the criminal justice system of an adjudicated youth at the conclusion of any court-ordered sanctions, or if the youth reaches the age of majority (the age at which a youth is considered an adult if they commit a criminal act).

Testimony from Kathy Squanbati

3-18-13

Summary of CHINS Changes

In response to law enforcement, parents, and school concerns the Governor's budget includes several significant changes to the CHINS statute. The language in SB219, as amended, mirrors the language in HB2.

Definition of CHINS:

In the 2011/12 session, the CHINS program was reduced to serve a single group of children- those who have a diagnosis of severe emotional, cognitive, or other mental health issues who engages in behaviors that pose a danger to the child or others.

Truants, runaways and status offenders were no longer served by the program, unless they were also diagnosed with a severe mental illness and engaged in behaviors that posed a threat to themselves or others. Total appropriations were reduced from \$10.8 million per year (SFY 11) to \$3.1 million in SFY 13.

The definition proposed Senator Odell's amendment and in **HB2 restores three of the previous categories** of service and retains the criteria from last session including children who are repeatedly truant, runaways, children who are willfully and repeatedly disobedient or who are status offenders.

Change in Scope of Service:

The changes proposed by this bill and by the Governor also include a new service limit. Under the new law, young people who qualify as CHINS will be served in the community but they will not be eligible for placement. Those services are reserved for those who meet the existing CHINS definition and for runaways. The intent is to maintain children in their homes and communities, while stabilizing the costs of the program.

Change in Petitioners:

Only school districts or truant officers will be able to file CHINS petitions on behalf of a child who is truant.

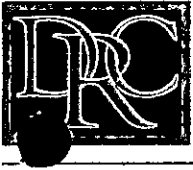
Annual Costs:

Total Funds: \$ 8,222,049 General Funds: \$ 5,426,552 Federal Funds: \$ 2,795,497

Two concerns: The Governor is also supporting a CHINS study committee to determine the most effective means of serving these children and their families. Both current and past definitions have had problems.

By combining a study with this immediate interim solution, we believe we can create a cost effective approach to help the children turn their lives around -- and to resolve current community concerns.

Ask that you consider replacing "habitual" with "repetitive" to provide more definition.



DISABILITIES RIGHTS CENTER, Inc.

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March 21, 2013

Senator Bob Odell
State House, Room 302
107 North Main Street
Concord, NH 03301

RE: Senate Bill 129

Dear Senator Odell:

At Tuesday's Finance Committee hearing on Senate Bill 129, you asked me whether the recent LBA juvenile justice performance audit was consistent with my view of the current overuse of the Sununu Center and I responded in the affirmative. Following my testimony Mr. Kennedy from DCYF testified that the report indicated that detention was being underutilized. I was surprised at that interpretation so I have reviewed the report again, and am writing now to explain what the report says about the use of detention.

Mr. Kennedy's interpretation may rely on the following passage from page 11 of the report:


DCYF and police department personnel we interviewed reported, with the focus on permanency and maintaining juveniles in the home, juveniles are more likely to be placed in less restrictive placements than appropriate or may be maintained at home even though the JPPO or the police department had advocated for a placement.

(emphasis in original). The report also includes the results of surveys of DCYF personnel which indicate that only 9.5% of them believe that children are sometimes placed in more restrictive placements than necessary.

Of course, neither the quoted passage nor the survey results are findings or conclusions of the report, but rather a recounting of the opinions of persons associated either with the prosecution of juvenile cases or the juvenile corrections system itself. In our adversarial system, police and department representatives are often in the position of asking for more restrictive placement than the judge actually orders. It should not be surprising that such persons would believe that their recommendation of more restrictive placement should have been followed by the court. But such beliefs or opinions do not indicate that in fact children are being placed in less restrictive settings than appropriate, and the report does not make such a conclusion.

Please let me know if there is any additional information I can provide.

Sincerely,


Michael Skibbie

Policy Director

FINANCE COMMITTEE
SENATOR MORSE
SB 129-FN
MARCH 28-, 2013

RC 24-6
✓

Thank you Mr. President. I move SB 129-FN ought to Pass. The overall purpose of the bill is to ensure that our children who are in trouble are placed in the least restrictive environment.

The Finance committee agreed to a second hearing and after deliberation regarding an interim step toward a CHINS proposal, the full committee believes that the policy portion of the bill should move forward and that the financial components of the bill will be dealt in the upcoming budget.

The Finance recommends that the bill be adopted with and asks for your support.

Thank you Mr. President.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 5, 2013

THE COMMITTEE ON Judiciary

to which was referred Senate Bill 129-FN

AN ACT relative to court-ordered placements in shelter care
 facilities and at the Sununu Youth Services Center.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5 to 0

AMENDMENT # 0743s

Senator Bette Lasky
For the Committee

Susan Duncan 271-3076

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: March 21, 2013

THE COMMITTEE ON Finance

to which was referred Senate Bill 129-FN

AN ACT

(New Title) relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 6-0

Senator Chuck Morse
For the Committee

Shannon Whitehead 271-4980

New Hampshire General Court - Bill Status System

Docket of SB129

Docket Abbreviations

Bill Title: (New Title) relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Official Docket of SB129:

Date	Body	Description
1/3/2013	S	Introduced and Referred to Judiciary; SJ 4
2/8/2013	S	Hearing: 3/5/13, Room 100, SH, 9:00 a.m.; SC9
3/6/2013	S	Committee Report: Ought to Pass with Amendment #2013-0743s, NT, 3/14/13; SC11
3/14/2013	S	Chair Ruled Non-Germane Amendment
3/14/2013	S	Without Objection Rule 3-17 is Suspended to Allow Non-Germane Amendment 0743s, NT, Without Objection, 2/3 necessary, MA, VV;
3/14/2013	S	Committee Amendment 0743s, NT, AA, VV;
3/14/2013	S	Ought to Pass with Amendment 0743s, NT, MA, VV; Refer to Finance Rule 4-5;
3/14/2013	S	Hearing: 3/19/13, Room 103, SH, 1:00 p.m.; SC12
3/21/2013	S	Committee Report: Ought to Pass, 3/28/13; SC13
3/28/2013	S	Ought to Pass: RC 24Y-0N, MA; OT3rdg;
4/3/2013	H	Introduced and Referred to Children and Family Law; HJ35 , PG.1191
4/9/2013	H	Public Hearing: 4/16/2013 10:00 AM LOB 206
4/16/2013	H	Subcommittee Work Session: 4/23/2013 10:00 AM LOB 206
4/16/2013	H	Executive Session: 4/24/2013 1:00 PM LOB 206 ==Or One Hour After House Session==
4/25/2013	H	Committee Report: Ought to Pass with Amendment #1378h(NT) for May 8 (Vote 16-0; CC); HC36 , PG.1195
4/25/2013	H	Proposed Committee Amendment #2013-1378h (New Title); HC36 , PG.1216-1217
5/8/2013	H	Amendment #1378h(NT): AA VV; HJ41 , PG.1387
5/8/2013	H	Ought to Pass with Amendment #1378h(NT): MA VV; HJ41 , PG.1387
5/8/2013	H	Referred to Finance; HJ41 , PG.1387
5/13/2013	H	DIV III, Public Hearing on Proposed Amendment #2013-1655h(NT): 5/23/2013 10:30 AM LOB 210-211
5/13/2013	H	DIV III, Public Hearing on Proposed Amendment #2013-1656h(NT): 5/23/2013 11:00 AM LOB 210-211
5/13/2013	H	Division III Work Session: 5/23/2013 11:15 AM LOB 210-211
5/15/2013	H	Executive Session: 5/29/2013 10:00 AM LOB 210-211
5/30/2013	H	Majority Committee Report: Ought to Pass with Amendment #1905h(NT) for June 5 (Vote 15-8; RC); HC42 , PG.1432-1433
5/30/2013	H	Proposed Majority Committee Amendment #2013-1905h (New Title); HC42 , PG.1453-1454
5/30/2013	H	Minority Committee Report: Ought to Pass; HC42 , PG.1432-1433

6/5/2013	H	Amendment #1905h(NT): AA RC 175-137
6/5/2013	H	Floor Amendment # 2013-1967h (NT) (Rep John Hunt): AF RC 140-170
6/5/2013	H	Ought to Pass with Amendment #1905h(NT): MA RC 179-132
6/5/2013	H	Print Debate in Permanent Journal (Rep John Hunt): MA DIV 214-95
6/12/2013	S	Sen. Carson Moved Nonconcur with House Amendments #1378h, NT, #1905h, NT, RC 13Y-11N, MA

NH House

NH Senate

New Hampshire General Court - Bill Status System

Docket of SB129

Docket Abbreviations

Bill Title: (New Title) relative to court-ordered placements in shelter care facilities and at the Sununu Youth Services Center, relative to the children in need of services (CHINS) program, and establishing a committee to study programs for children in need.

Official Docket of SB129:

Date	Body	Description
1/3/2013	S	Introduced and Referred to Judiciary; SJ 4
2/8/2013	S	Hearing: 3/5/13, Room 100, SH, 9:00 a.m.; SC9
3/6/2013	S	Committee Report: Ought to Pass with Amendment #2013-0743s, NT, 3/14/13; SC11
3/14/2013	S	Chair Ruled Non-Germane Amendment; SJ 7
3/14/2013	S	Without Objection Rule 3-17 is Suspended to Allow Non-Germane Amendment 0743s, NT, Without Objection, 2/3 necessary, MA, VV; SJ 7
3/14/2013	S	Committee Amendment 0743s, NT, AA, VV;
3/14/2013	S	Ought to Pass with Amendment 0743s, NT, MA, VV; Refer to Finance Rule 4-5; SJ 7
3/14/2013	S	Hearing: 3/19/13, Room 103, SH, 1:00 p.m.; SC12
3/21/2013	S	Committee Report: Ought to Pass, 3/28/13; SC13
3/28/2013	S	Ought to Pass: RC 24Y-0N, MA; OT3rdg;
4/3/2013	H	Introduced and Referred to Children and Family Law; HJ35 , PG.1191
4/9/2013	H	Public Hearing: 4/16/2013 10:00 AM LOB 206
4/16/2013	H	Subcommittee Work Session: 4/23/2013 10:00 AM LOB 206
4/16/2013	H	Executive Session: 4/24/2013 1:00 PM LOB 206 ==Or One Hour After House Session==
4/25/2013	H	Committee Report: Ought to Pass with Amendment #1378h(NT) for May 8 (Vote 16-0; CC); HC36 , PG.1195
4/25/2013	H	Proposed Committee Amendment #2013-1378h (New Title); HC36 , PG.1216-1217
5/8/2013	H	Amendment #1378h(NT): AA VV; HJ41 , PG.1387
5/8/2013	H	Ought to Pass with Amendment #1378h(NT): MA VV; HJ41 , PG.1387
5/8/2013	H	Referred to Finance; HJ41 , PG.1387
5/13/2013	H	DIV III, Public Hearing on Proposed Amendment #2013-1655h(NT): 5/23/2013 10:30 AM LOB 210-211
5/13/2013	H	DIV III, Public Hearing on Proposed Amendment #2013-1656h(NT): 5/23/2013 11:00 AM LOB 210-211
5/13/2013	H	Division III Work Session: 5/23/2013 11:15 AM LOB 210-211
5/15/2013	H	Executive Session: 5/29/2013 10:00 AM LOB 210-211
5/30/2013	H	Majority Committee Report: Ought to Pass with Amendment #1905h(NT) for June 5 (Vote 15-8; RC); HC42 , PG.1432-1433
5/30/2013	H	Proposed Majority Committee Amendment #2013-1905h (New Title); HC42 , PG.1453-1454
5/30/2013	H	Minority Committee Report: Ought to Pass; HC42 , PG.1432-1433

6/5/2013	H	Amendment #1905h(NT): AA RC 175-137; HJ49 , PG.1611-1614
6/5/2013	H	Floor Amendment # 2013-1967h (NT) (Rep John Hunt): AF RC 140-170; HJ49 , PG.1614-1617
6/5/2013	H	Ought to Pass with Amendment #1905h(NT): MA RC 179-132; HJ49 , PG.1611-1618
6/5/2013	H	Print Debate in Permanent Journal (Rep John Hunt): MA DIV 214-95; HJ49 , PG.1619-1623
6/12/2013	S	Sen. Carson Moved Nonconcur with House Amendments #1378h, NT, #1905h, NT, RC 13Y-11N, MA

NH House

NH Senate

Other Referrals

SB 129-FN -- (NEW TITLE) RELATIVE TO COURT-ORDERED PLACEMENTS IN SHELTER CARE FACILITIES AND AT THE SUNUNU YOUTH SERVICES CENTER, RELATIVE TO THE CHILDREN IN NEED OF SERVICES (CHINS) PROGRAM, AND ESTABLISHING A COMMITTEE TO STUDY PROGRAMS FOR CHILDREN IN NEED.

COMMITTEE REPORT FILE INVENTORY

ORIGINAL REFERRAL RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- | | |
|--|--|
| <input checked="" type="checkbox"/> - AMENDMENT # <u>0645s</u> | <input checked="" type="checkbox"/> - AMENDMENT # <u>0743s</u> |
| <input checked="" type="checkbox"/> - AMENDMENT # <u>0690s</u> | <input checked="" type="checkbox"/> - AMENDMENT # <u>1378h</u> |

ALL AVAILABLE VERSIONS OF THE BILL:

- | | |
|---|--|
| <input checked="" type="checkbox"/> AS INTRODUCED | <input checked="" type="checkbox"/> AS AMENDED BY THE HOUSE |
| <input type="checkbox"/> FINAL VERSION | <input checked="" type="checkbox"/> AS AMENDED BY THE SENATE |

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

Fiscal Note # 13-0845 (1/29/13)

DATE DELIVERED TO SENATE CLERK

7/3/13

By:

Susan A. Dunbar
COMMITTEE AIDE

COMMITTEE REPORT FILE INVENTORY

SB 129-FN

ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
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- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 2013-0743s - AMENDMENT # 2013-1655h
- AMENDMENT # 2013-1378h - AMENDMENT # 2013-1656h
- 2013-1915h 2013-1967h

ALL AVAILABLE VERSIONS OF THE BILL:

- AS INTRODUCED AS AMENDED BY THE HOUSE
- FINAL VERSION AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): FN, transcript, floor remarks

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 8-16-13

SBW
BY COMMITTEE AIDE