



WAYPOINT

Help Along the Way

Formerly

CHILD AND FAMILY SERVICES

March 15, 2021

Good morning Mr. Chair, Members of the Committee. It is a pleasure to be before Finance Committee, Division 3. I rise today in support of HB254, *relative to placement of minors in secure facilities*. I am representing Waypoint and the Juvenile Reform Project.

Waypoint, formerly known as Child and Family Services, has served children and families in New Hampshire since 1850. The Juvenile Reform Project is a coalition working since 2013 to modernize the juvenile justice system. Our partners include, the Disabilities Rights Center, NH Legal Assistance and the American Civil Liberties Union, among others.

In 2017, HB517 restricted the offenses which permitted children to be incarcerated or detained in juvenile corrections. Before the change in law, the census at the Sununu Youth Services Center (SYSC) was nearly 70 children each day. Today, because of your efforts, there are about 10-15 children at SYSC each day. Your efforts have required more children to be treated in non-correctional settings. The legislation before you takes the next step in this process.

HB254 has three substantive sections. Section 4 amends 169-B regarding commitment to SYSC. As you changed commitment laws in 2017, this further changes the statute. HB254 permits incarceration of children only for serious violent offenses, as outlined in the bill. This becomes effective January 1, 2022. Section 2, also effective January 1, 2022, maintains the same detention standards that are in effect today. This means that any child who could be detained today, can still be detained after enactment of this bill. Finally, Section 3, which is effective July 1, 2022, changes the detention standard such that only children who can be committed can be detained at SYSC.

This legislation is important because New Hampshire has relied disproportionately on institutional care. SYSC was opened in 2007 with a capacity of 144 children. There were about 110 children incarcerated at that time. The facility planning began following a significant surge in crime through the 1990's. However, as the facility was built, the number of children appearing in court steadily declined, as did the number of children incarcerated; to the current census of about 10 children.

Research indicates that incarcerated children have worse outcomes than children



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treated in community care. DCYF has suggested that recidivism at SYSC likely exceeds 60% of incarcerated children. DCYF has also suggested that nearly 75% of children at SYSC are dealing with behavioral health concerns. This bill is well timed due to changes in children’s System of Care (SOC) services which have been underway from more than 18 months.

Key among these changes is the Federal Families First Act and the NH SOC law. Families First requires that by October 2021, each State provide a robust system of services for children that seeks to avoid institutional and residential care and prioritizes community-based care. States not complying with Federal Families First risk losing Title IV-E Medicaid funding. To assist with Families First compliance, this Legislature created the SOC. The SOC was passed as SB14 (2019) and was funded with nearly \$20M to assist in creating the services comprising the SOC. The System of Care intends to create a full range of needed services focusing on robust community services. The SOC funding in the Governor’s Budget is proposed at \$13.7M (FY22) and \$14.4M (FY23). HB254 utilizes the system of care by refocusing treatment of children in community services.

HB254 will decrease the number of children eligible for commitment at SYSC. Based on analysis of DCYF data regarding 2019-2020 commitment petitions (attached), the number of children eligible for commitment after passage of HB254 will be about half of the current number. Depending on the specifics of petitions, this number could as low as 25% of those currently eligible for commitment after HB254. A detailed analysis of the data is attached to this document.

For these reasons, we ask you to support this important and timely legislation. Please vote in favor of HB254 and the amendment offered today.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "John DeJoie". The signature is fluid and cursive, with the first name "John" and last name "DeJoie" clearly distinguishable.

John DeJoie

Waypoint

Analysis of SYSC Petition Data

The petition data provided by DCYF includes calendar years 2019 and 2020. The petitions are organized by individuals and lists the petitions for each individual. There appear to be multiple commitments or detentions per individual, but it is not possible to confirm this without additional information. Additionally, the committing offense(s) are not identified. It is possible the child was convicted on all petitions or only some. Again, additional data is required to confirm this.

For individuals with one committable offense, the analysis assumes that they may be committable. Offenses that are committable under certain circumstances (i.e. with serious injury of possession of weapon during the crime) were assumed to be committable. Given these assumptions, the analysis likely overstates the number of children who are potentially committable under HB254. This fact lends additional credence to the number of children determined to be likely committable. Additional analysis assumed all conditional offenses were not committable. This number likely understates those eligible for commitment. Both numbers are provided for comparison.

During 2019, there were 83 children incarcerated at SYSC. Of these 46 (55.4%) were committed or committed and detained and 37 (44.6%) were detained only. During 2020, there were 70 children incarcerated at SYSC. Of these 32 (45.7%) were committed or committed and detained and 38 (54.3%) were detained only.

Following passage of HB254, the analysis indicates that about half of the children at SYSC in both years, would be eligible for commitment or detention. The analysis further indicates that of the more than 1700 petitions included in the data, about 8% of all petitions may form the basis of commitment following passage of HB254 (see Table 1). The number of children remaining eligible for commitment following the passage of HB254 ranges between 25% and 50% of the children reviewed.

This range takes into account offenses which are committable dependent on aggravating conditions, such as committing the offense with a deadly weapon. There were 14 such offenses in 2019 and 12 such offenses in 2020. When assuming that all of these offenses meet aggravating conditions, about half of the current commitments would continue to be eligible for commitment at SYSC. When assuming the aggravating conditions do not exist about 25% (2019=34.9%; 2020=24.3%) of the children remain eligible for commitment.

As noted above, greater specificity in analysis is achievable with refinement of the data. This analysis assesses historic data and while consistent is not intended to be predictive. The continued decrease in juvenile charges over the past decade, along with changes in commitment standards, are clearer predictors of future secure detention needs.

	2019	2020
# of youth	83	70
# Committed/Detained	46 (55.4%)	32 (45.7%)
# Detained	37 (44.6%)	38 (54.3%)
# of petitions	945	837
# of petitions Committable (HB254)	83 (8.78%)	69 (8.24%)
# Youth Committable after HB254*	43 (51.8%)	29 (41.4%)
# Youth Committable after HB254**	29 (34.9%)	17 (24.3%)

*Assumes all conditional petitions meet aggravating circumstances and are committable

** Assumes none of the conditional petitions meet aggravating circumstances and are none committable

These refer to petitions which are committable if the perpetrator uses a deadly weapon, otherwise, are not committable.