



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

## MEMORANDUM

DATE: June 14, 2021

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Terri Hancharick – Chairperson *TH*  
State Council for Persons with Disabilities

RE: H.B. 162 (Services for Youth)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 162, which is an Act to Amend Title 31 Of the Delaware Code Relating to Services for Youth. SCPD has the following observations and recommendations.

House Bill 162 (“HB 162”) seeks to amend Chapter 51, Title 31 of the Delaware Code relating to services for youth by adding § 5113 to establish a fund which would allow the Department of Services for Children, Youth, and their Families to award grants for targeted provision of effective services in helping youth avoid contact with the juvenile justice system. It also would allocate \$500,000 for fiscal year (“FY”) 2022 to the fund for the provision of cognitive behavioral therapy (“CBT”) and vocational training services. Finally, the bill updates outdated language.

Specifically, HB 162 will create the “Juvenile Re-Entry Services Fund, which

shall:

1. Be overseen and administered by DSCYF.
2. Be used exclusively for the provision of re-entry services for minors who have been adjudicated delinquent or convicted of a crime and detained in a secure facility as a result of adjudication.
3. Include an appropriation of \$500,000 for FY 2022 to be used exclusively for CBT and vocational services.
4. Award grants to public or private third parties through a competitive process for the provision of proven, evidence-based re-entry services.

It is unclear whether funds will be allocated past FY 2022 and any remaining monies at the end of the FY will return to the General Fund. The fiscal note submitted with the bill only indicates funding for FY 2022, with an “N/A” for FYs 2023 and 2024.

Over the course of the late 20<sup>th</sup> century, there has been a push to rethink how we, as a country, have considered and dealt with juvenile delinquency. In a line of U.S. Supreme Court cases, the highest court recognized that young people are inherently different than adults. Considering the social and neuroscience literature available in 2005, the Court held that sentencing a young person to death for a crime committed when they were under the age of eighteen (18) was unconstitutional. In its ruling, the Court recognized three general characteristics that separated young people from adults: (1) lack of maturity and possession of an underdeveloped sense of responsibility, which result in impetuous and ill-considered actions and decisions; (2) more vulnerable and susceptible to negative influences and outside pressures; and (3) early stages of character development.<sup>1</sup> Because of these, and other, characteristics, youth are considered much more able to be rehabilitated than adults; a developing brain is different than a developed brain.

Although it would be preferable for our communities if we could establish programs that would prevent, or at least reduce, the opportunities for young people to come in contact with the juvenile justice system<sup>2</sup>, the next best option is a focus

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<sup>1</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>2</sup>Out-of-home placements, including juvenile detention, have been linked with: higher rates of recidivism, increased likelihood of incarceration as an adult, increased likelihood of dropping out of school, decreased educational achievement, decreased likelihood of employment, and decreased earning potential in the labor market.

on preventing, or reducing, subsequent contacts with the juvenile justice system. That is to say, it would be preferable to review why young people come into contact with the juvenile justice system in the first place and tackle those problems – such as expulsion or suspension from school<sup>3</sup>. But that does not diminish the importance of establishing reentry programs that are evidence-based with proven efficacy.

Youth.gov – a website run by the U.S. government and aimed at helping individuals create, maintain, and strengthen effective youth programs – outlines five (5) factors to consider when planning for a successful reentry<sup>4</sup>.

1. Family: What services and supports are needed to ensure family and home stability, skill development, and healing of damaged relationships?
2. Substance abuse: What are the services and supports that promote a reduction or cessation of substance use and/or abuse?
3. Peer association/friends: What services and supports need to be in place to promote positive use of leisure time, prevent gang involvement, and discourage association with peers engaged in delinquent activities? Learn more about positive youth development.
4. School conflict and achievement: What services are in place to promote the transference of educational records and placement in the appropriate school settings that will support educational success and achievement?
5. Mental, behavioral, and physical health: What services and supports are in place to address mental health, social/behavioral concerns, and/or chronic health problems?

In terms of vocational training, youth.gov points to a study from 2009 which finds that reentry and aftercare programs which connect youth with professionals and employment opportunities have been found to reduce recidivism rates.<sup>5</sup> Likewise, CBT has been proven effective at reducing recidivism rates among young people. In a study by Crime Solutions, CBT programs were found to be 79.2% effective or

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<https://www.baltimorepolice.org/sites/default/files/General%20Website%20PDFs/Baltimore%20Youth%20Diversity%20Assessment%20-%20Final.pdf>

<sup>3</sup><https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system>

<sup>4</sup><https://youth.gov/youth-topics/juvenile-justice/reentry>

<sup>5</sup><https://youth.gov/youth-topics/juvenile-justice/reentry>; *see also*: <https://cte.ed.gov/initiatives/juvenile-justice-reentry-education-program#portland> (shows four (4) career and technical education programs across the country who won grant awards through the U.S. Department of Education's Office of Career, Technical, and Adult Education.)

promising among a cohort of twenty-four (24) young people.<sup>6</sup>

HB 162 is the third bill introduced this legislative session relating to juvenile justice. And it follows a slew of other bills in Delaware signed into law in 2017 which were aimed at diverting young people from the juvenile and criminal justice systems.<sup>7</sup>

Furthermore, HB 162 seems to partly heed the recommendations of Delaware's Juvenile Justice Advisory Group ("JJAG"), a specialized committee with knowledge and expertise in juvenile justice. In March of 2019, JJAG released its annual report and recommendations to the Governor and the Delaware State Legislature.<sup>8</sup> JJAG puts forth nine (9) policy recommendations including, but not limited to, investing in prevention-based services for young people, potentially establishing a mentoring program, and allocating state and local resources to fund programs aimed at strengthening family units. Furthermore, JJAG notes the importance of reentry services for young people:

Consistent with the adult justice system, re-entry services and coordination are essential to aiding the successful return to the community for juveniles exiting secure detention in our state. The JJAG will continue to seek ways to improve community-based support services for youth prior to exiting Delaware facilities, and once they are in the home setting to maximize the youth's potential for success after secure detention. The JJAG recommends the further analysis of existing re-entry services for youth within the [DSCYF], and the Department of Corrections (DOC) and committing state and federal resources where applicable and available to meet the needs of the DSCYF.<sup>9</sup>

Although children with disabilities are not specifically mentioned in the bill, data shows that such children will likely be impacted by its passage (or failure). According to a 2015 white paper, 65-70 percent of justice-involved youth have a

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<sup>6</sup><https://nij.ojp.gov/topics/articles/does-cognitive-behavioral-therapy-work-criminal-justice-new-analysis-crimesolutions>; *See also*: <https://nicic.gov/cognitive-behavioral-therapy> and <https://thecrimereport.org/2018/08/15/can-cognitive-behavioral-therapy-help-juvenile-offenders/>

<sup>7</sup> <https://whyy.org/articles/delaware-juvenile-justice-reforms-signed-law/>

<sup>8</sup> <https://cjc.delaware.gov/wp-content/uploads/sites/61/2019/06/Delaware-2018-JJAG-ReportvPRINTER.pdf>

<sup>9</sup> *Id.*

disability.<sup>10</sup> Furthermore, in its Juvenile Justice Guide Book for Legislators focused on reentry and aftercare, the National Conference of State Legislatures reports that “[a]bout 70 percent of juveniles in the system are affected with at least one mental illness.<sup>11</sup> The number is likely similar in Delaware.

As written, HB 162 will continue Delaware’s trend toward recognizing that young people, including those with disabilities, are separate and distinct from adults. Although HB 162 will surely make an impact, SCPD endorses the proposed legislation with the following recommendations:

1. Consistent with Rep. Briggs King’s comments during the May 12 Committee hearing, HB 162 should be written to require that the grantees use evidence-based vocational and CBT programs.
2. Consistent with Rep. Briggs King’s comments during the May 12 Committee hearing, HB 162 should be written to require that the grantees are adequately monitored in their provision of services to this population.
3. Consistent with Rep. Collins’ comments during the May 12 Committee hearing, HB 162 should be amended to require specific reporting related to results of the programs awarded funds under this grant. Specifically, the reporting should include the number of young people served, the program implemented, and the recidivism rate. As it is currently written, it may be difficult to discern which programs/grantees are actually making a positive impact and reducing recidivism rates.

Furthermore, SCPD asks how the drafters of the bill arrived at the \$500,000 amount for the fund. It is likely that \$500,000 is not enough to make the type of difference SCPD wants to see – which could lead to a reduction in funding for subsequent years if there is a lack of positive movement.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position and observations on the proposed legislation.

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<sup>10</sup> The Arc’s National Center on Criminal Justice and Disability. “Justice Involved Youth with Intellectual and Developmental Disabilities: A Call to Action for the Juvenile Justice Community.” (2015). [https://thearc.org/wp-content/uploads/forchapters/15-037-Juvenile-Justice-White-Paper\\_2016.pdf](https://thearc.org/wp-content/uploads/forchapters/15-037-Juvenile-Justice-White-Paper_2016.pdf).

<sup>11</sup> <https://www.ncsl.org/documents/cj/jjguidebook-reentry.pdf>

cc: Ms. Laura Waterland, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HB 162 services for youth 6-14-21