MOVING JUVENILE JUSTICE REFORM FORWARD

12.7.17

DCF and Justice System Stakeholder Response to Council of State Government's Justice Center Recommendations

BACKGROUND

Acts 153 and 72 changes a number of aspects of the juvenile justice system, including:

- Making it mandatory to file cases involving 16 and 17 year-olds (except for the Big 12 offenses) in family court
- Expanding Youthful Offender (YO) Status to:
  - include young adults up to the age of 21;
  - allow cases to start in family court so confidentiality can be afforded to youth eligible for YO status; and
  - incorporate supervision tools and strategies utilized by DOC to allow more young adults to be supervised in their community.

BACKGROUND

DCF, with a grant from the Children and Family Council for Prevention Programs, contracted with the Justice Center of the Council of State Government to map policy adjustments and the potential impact of the reforms on the existing system.

The Justice Center conducted numerous stakeholder focus groups and analyzed data available to put together a report and recommendations presented to this body on October 26th, 2017.

Since the presentation, DCF has convened many meetings with the Juvenile Justice Stakeholder group which is comprised of representatives from **DCF, DOC, the Judiciary, the Office of the Defender General, and the Department of State's Attorneys and Sheriffs.**

The compiled response that follows includes recommendations from DCF along with the stakeholder group as well as some solely from DCF or from particular members.

OVER-ARCHING RECOMMENDATION FROM STAKEHOLDER GROUP: ENSURE THAT YOUTH ARE DIVERTED WHEN APPROPRIATE

Our overall vision for Acts 153 and 72 implementation is that youth who commit low level offenses will be diverted from the system.

We want to avoid building a system that ends up involving more youth in court. Therefore we recommend:

- Continuing to explore pre-filing options for youth; and
- Seeking geographic consistency.

RIGHT-SIZING THE SYSTEM MINIMIZE LONG-TERM CONSEQUENCES

Recommendations and Responses to Justice Center's 10.26 Report

ESTABLISH CLEAR CRITERIA FOR YOUTHFUL OFFENDER STATUS – CSG/JUSTICE CENTER

Responses:

DCF: Our hope is that we will not see hundreds of new cases being considered for YO and that more youth and young adults will be diverted.

DOC/DCF are exploring gradations of YO that would allow for a light touch, possibly by one department, as well as mid to high level supervision. Much of this could be achieved in policy.

ESTABLISH CLEAR CRITERIA FOR YOUTHFUL OFFENDER STATUS

Response:

Consider approaches in and outside of the courtroom:

- Currently 95% of cases involving 18-21 year-olds in criminal court are resolved with stipulation and end up on DOC caseload. Is there any reason we can't have YO cases resolved via stipulation or plea agreement?
- If all parties agree that youth should have youthful offender status, the YO Consideration Hearing could be utilized as a hearing for the court to approve YO stipulation and could also include the disposition case-plan.
    - The youth would need to admit in this scenario.
    - This would truncate the court process and allow for wrapping up disposition case plan all at the same time.
    - We are exploring whether this will need a statutory or policy change.

EXTEND FAMILY COURT JURISDICTION TO INCLUDE ALL 18-YEAR-OLDS.

Response:

The Stakeholder Group is in support of studying this recommendation more.

DCF, DOC and the ODG would support efforts to further study raising the age of juvenile jurisdiction to consider youth and young adults up to the age of 21.

Regardless of the age, studying the impact of raising the age of family court jurisdiction would require additional resources.

CREATE A SPECIFIC DEFERRED STATUS FOR YOUNG ADULTS IN CRIMINAL COURT…

Response:

The Stakeholder Group recommends adding statutory language that would allow for immediate expungement for cases involving 18-21 year olds for low level offenses upon successful completion of probation or supervision.

REQUIRE THAT YOUTH/YOUNG ADULTS RECEIVE A RISK & MENTAL HEALTH SCREENING AT INTAKE

Response:

Unlike other states, Vermont does not have "intake" for juvenile or young adult cases.

Under current law, youth alleged to have committed delinquent acts, "shall be afforded an opportunity to undergo a risk and needs screening..." 33 VSA § 5225(b)

DCF will administer and share the results of the YASI risk and needs screening as part of its report to the court (33 VSA §5282) regarding the youthful offender hearing.

The stakeholder group is very interested in ways that we can work with Pre-trial services – which does afford services pre-conviction.

CONSIDER ENCOURAGING OR REQUIRING DIVERSION FOR YOUTH/YOUNG ADULTS SCREENED AS LOW RISK AND/OR WHO COMMIT SPECIFIED OFFENSES.

Response:

DCF, DOC, ODG, and the Judiciary strongly support the option for a judge to be able to order consideration of court diversion for youth or young adults who are low-risk.

Consider:

DCF, DOC, ODG, and the Judiciary also support a default option: diversion for low risk youth or young adults, but States Attorneys have authority to override with specified circumstances. Language in Act 61 provides a helpful model.

REQUIRE THAT YOUTH/YOUNG ADULTS RECEIVE A RISK ASSESSMENT PRIOR TO DISPOSITION.

Response:

S.23 affords the option for DOC/DCF to make a recommendation based on screening.

DCF regularly administers the YASI risk/needs screening as part of its development of the disposition case plan.

We recommend that the stakeholder group analyze the use of screening/assessment tools both to understand current application of the YASI and if appropriate, make recommendations to the legislature before the 2019 legislative session regarding any changes.

FURTHER EVALUATE THE NEED FOR ADDITIONAL FAMILY COURT JUDGES AND STAFF TO ACCOMMODATE GROWTH IN DELINQUENCY AND YO CASES.

Response:

We need to further evaluate court resources including court time, space, and staffing.

Our hope is that we will siphon off enough cases using pre-filing/pre-charge approaches that the impact will be less than the Justice Center estimated. However, if the impact is greater than expected, we will have an issue.

Please note: we acknowledge that Family Court is impacted by the pressure of the CHINS docket.

ENSURE RESOURCES ARE USED EFFICIENTLY TO PROVIDE APPROPRIATE SUPERVISION

Recommendations and Responses to Justice Center's 10.26 Report

ELIMINATE THE CURRENT DUAL SUPERVISION STATUS FOR YOS.

Response:

We are comfortable that we will be able to resolve this with DOC without making statutory changes.

We agree that efficiencies can be gained however, both departments see great value in our collaborative approach to supervising young adults.

ESTABLISH MINIMUM AND MAXIMUM LENGTHS OF TIME YOUTH/YOUNG ADULTS CAN BE PLACED ON SUPERVISION

Response:

Creating maximum length of supervision may not serve this population well. It is not based on a youth model and does not make sense in light of the Vermont system. However, we are interested in exploring how other states have addressed this.

The Stakeholder Group is interested in expanding the use of term probation based on risk and need assessment. The probation certificate is being modified to support this effort.

REQUIRE THAT CASE-LEVEL DATA BE COLLECTED ELECTRONICALLY ON ALL YOUTH/YOUNG ADULTS UNDER SUPERVISION

Response:

While we agree in concept, we cannot implement with our current resources. Our IT system still presents significant challenges.

REQUIRE DCF/DOC TO REPORT ON TRENDS FOR YO STATUS YOUTH AND YOUNG ADULTS INCLUDING RISK LEVELS, LENGTH OF STAY, SERVICES PROVIDED, AND OUTCOMES AT LEAST ANNUALLY TO STATE POLICYMAKERS.

Response:

We support this in concept but do not presently have IT capacity to implement this recommendation.

We plan to have more in-depth conversations about how to accomplish this.

FURTHER EVALUATE THE NEED FOR ADDITIONAL RESOURCES FOR DCF LEADERSHIP AND STAFF TO ABSORB ADDITIONAL DELINQUENCY AND YO CASES.

Response:

Yes, this is worthwhile.

FURTHER EVALUATE THE NEED FOR ADDITIONAL RESOURCES TO COLLECT, ANALYZE, AND REPORT ON DCF AND DOC DATA.

Response:

Similar to previous responses, we do not disagree. This would present IT challenges and requires further discussion.

PROVIDE DEVELOPMENTALLY APPROPRIATE SERVICES:

Recommendations and Responses to Justice Center's 10.26 Report

REQUIRE A CROSS-SYSTEM WORKING GROUP

Response:

We do not believe that we should create a new cross-system working group.

We agree we should take advantage of existing cross-system working groups to examine available services for young adults across the state, related funding streams, cut-off points for care, and collateral consequences, and make recommendations to the legislature for improvement.

ESTABLISH PERFORMANCE-BASED CONTRACTING PROVISIONS THAT HOLD SERVICE PROVIDERS ACCOUNTABLE

Response:

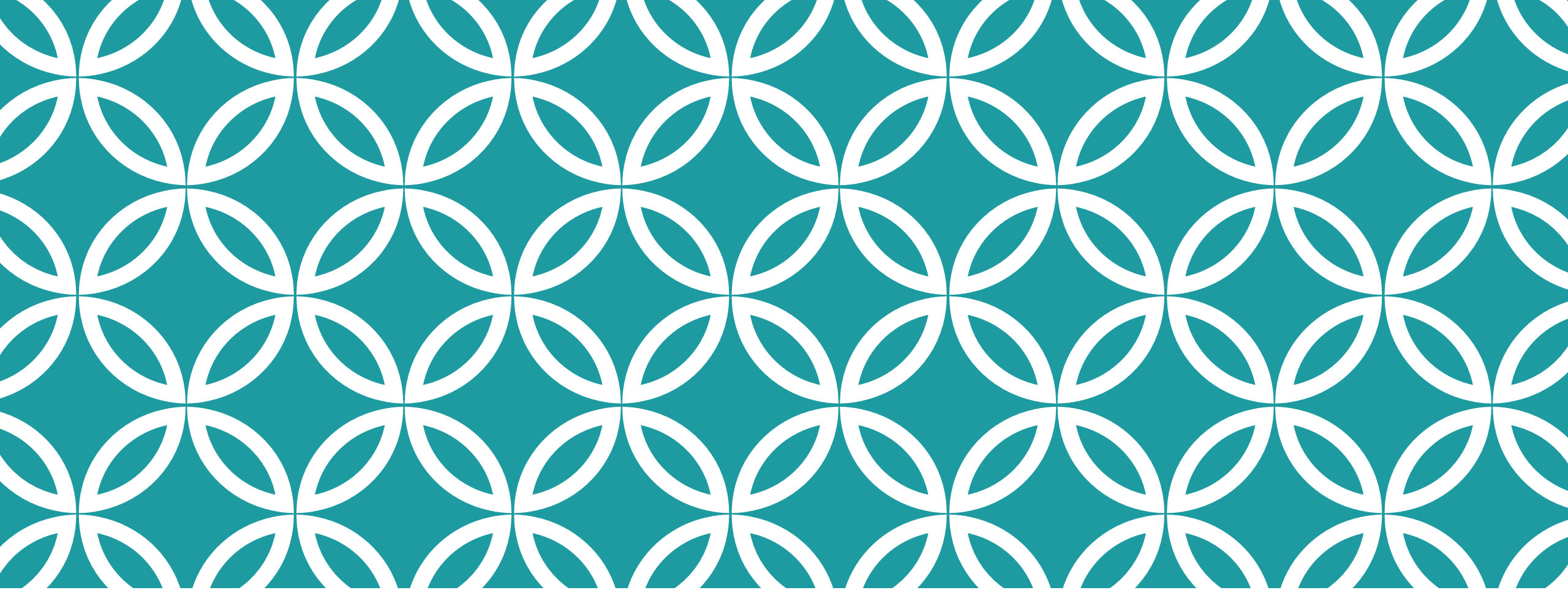
This is currently underway.

FURTHER EVALUATE THE NEED FOR ADDITIONAL RESOURCES…

…to ensure that appropriate services are available for youth and young adults in both the juvenile and adult criminal justice systems, potentially through the creation of a funding stream specifically for this purpose and shared by DCF/DOC.

Response:

This is an intriguing idea. Our current budget framework and process presents concerns.



ADDITIONAL IDEAS

TRAINING FOR STAKEHOLDERS

Provide trainings on:

- the changes of Acts 153 and 72,
- screening tools and how to use the results
- outreach to victims
- brain science

OTHER PATHWAYS FOR YOUNG ADULTS

Re-consider the option for restorative justice community based program in lieu of probation → Could be included in 'light touch' approach.


Questions

CONTACTS

If you have other questions or feedback you would like to share with us, please contact:

Karen Vastine at karen.Vastine@Vermont.gov