

MEMO

To: House Judiciary Committee
From: A. Davenport, Vice-Chair, CFCPP
Date: February 11, 2023
Re: Proposed Amendments to H. 175

I know I speak for the entire Council in thanking the Committee for taking up H. 175, a bill that would modernize the authorizing legislation for the Council and, most importantly, give us a new name – Council for Equitable Youth Justice – which more accurately describes our mission. The Council is in agreement with the minor changes discussed during testimony on February 8 and also with the suggestion that the date for our written report to the Governor and the Legislature coincide with the beginning of the biennium.

There was a suggestion last Wednesday that the Council's responsibilities described in §3303 be broadened. After internal discussions, we have concluded an expansion of our duties would not be workable given the small size of the Council; the fact that most of its members are employed and serve on this body essentially as volunteers; and that we have only one staff person who already has her hands full managing all of our work. As we explained during testimony, our major responsibility is as a conduit for federal funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Based on the needs of Vermont's juvenile justice system, we allocate these federal funds through an RFP process to community organizations. The breadth of the kinds of projects we can fund and still remain within the requirements of the federal law, is extremely broad. Attached to this memo is OJJDP's *FY 2022 Title II Program and Budget Areas* which describes the type of programs that the federal funds can be used for.

Allocation of the federal funds is a complex and time-consuming process which includes multiple steps including a decision on the type of project to be funded, the preparation and dissemination of an RFP, a review of the RFP responses to determine the best proposal and ongoing oversight of the project that is funded. Our goal in all of this is to improve Vermont's juvenile justice system, reduce racial and ethnic inequities, and improve the range of services targeted at delinquency prevention to Vermont's youth. In addition, we monitor both federal and state legislation and offer data-driven recommendations when appropriate.

It is fair to say that we do the work we do out of a strong commitment on the part of our members to building an equitable youth justice system. We do this work with many others in state government and the community. While we were deeply honored by the suggestion that we could have an expanded role, at this time we feel that we can accomplish our priorities; continue to push for reforms; and can do so in a way that aligns with our resources.

OJJDP FY 2022 Title II Program and Budget Areas

Planning and Administration

Pursuant to 34 U.S.C. § 11132(c), the state may allocate up to 10 percent for effective and efficient administration of funds, including the designation of not less than one individual who will coordinate efforts to achieve and sustain compliance with the core requirements. States must match, on an equal basis, any amount of federal funds that they expend or obligate for such purposes. States must identify the source of the match and how they will use match funds in their attached budget. States must satisfy this match requirement with cash. If a state's proposed additional match exceeds the required match amount, the match amount that is incorporated into the OJP-approved budget is also mandatory and subject to audit.

Spending Requirement under 34 U.S.C. § 11133(a)(9):

The 3-year plan must show that **not less than 75 percent** of the Formula Grants Program funds, excluding funds made available to the State Advisory Group under the JJDP Act at 34 U.S.C. § 11132(d), shall be used to support the following areas listed in 34 U.S.C. § 11133(a)(9):

(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization including—

- (i) for status offenders and other youth who need temporary placement: crisis intervention, shelter, and after-care;
- (ii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services; and
- (iii) for youth who need specialized intensive and comprehensive services that address the unique issues encountered by youth when they become involved with gangs;

(B) community-based programs and services to work with—

- (i) status offenders, other youth, and the parents and other family members of such offenders and youth to strengthen families, including parent self-help groups, so that juveniles may remain in their homes;
- (ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and
- (iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited English-speaking ability;

(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, healthcare agencies, and private nonprofit agencies offering youth services;

(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

(E) educational programs or supportive services for at-risk or delinquent youth or other juveniles—

(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including for truancy prevention and reduction;

(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and

(iii) to enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

- (I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and
- (II) information regarding any learning problems identified in such alternative learning situations is communicated to the schools;

(F) programs to expand the use of probation officers—

- (i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and
- (ii) to ensure that juveniles follow the terms of their probation;

(G) programs—

- (i) to ensure youth have access to appropriate legal representation; and
- (ii) to expand access to publicly supported, court-appointed legal counsel who are trained to represent juveniles in adjudication proceedings, except that the state may not use more than 2 percent of the funds received under section 222 for these purposes;

(H) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a federal, state, tribal, or local correctional facility or who is otherwise under the jurisdiction of a federal, state, tribal, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

(I) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other juveniles with disabilities;

(J) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

(K) programs and projects designed to provide for the treatment of youth's dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

- (i) a sense of safety and structure;
- (ii) a sense of belonging and membership;
- (iii) a sense of self-worth and social contribution;
- (iv) a sense of independence and control over one's life; and

(v) a sense of closeness in interpersonal relationships;

(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

- (i) encourage courts to develop and implement a continuum of pre-adjudication and post-adjudication alternatives that bridge the gap between traditional probation and confinement in a correctional setting (including specialized or problem-solving courts, expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and
- (ii) assist in the provision of information and technical assistance, including technology transfer, in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

(N) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families and reduce the risk of recidivism;

(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and other barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

(P) programs designed to prevent and to reduce hate crimes committed by juveniles;

(Q) afterschool programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

(R) community-based programs that provide followup post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

(S) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system;

(T) programs designed to provide mental health or co-occurring disorder services for court-involved or incarcerated juveniles in need of such services, including assessment, development of individualized treatment plans, provision of treatment, and development of discharge plans;

(U) programs and projects designed—

- (i) to inform juveniles of the opportunity and process for sealing and expunging juvenile records; and
- (ii) to assist juveniles in pursuing juvenile record sealing and expungements for both adjudications and arrests not followed by adjudications; except that the state may not use more than 2 percent of the funds received under section 222 for these purposes;

(V) programs that address the needs of girls in or at risk of entering the juvenile justice system, including pregnant girls, young mothers, survivors of commercial sexual exploitation or domestic

child sex trafficking, girls with disabilities, and girls of color, including girls who are members of an Indian tribe; and

(W) monitoring for compliance with the core requirements and providing training and technical assistance on the core requirements to secure facilities.

Other Activities That May Be Included in State's Budget

In addition, the following activities are allowable uses of Title II funds. **They may not, however, be counted toward the requirement that the state must spend 75 percent of the award** (other than SAG funds) on the program areas listed in 34 U.S.C. § 11133 (a)(9) above, unless the state provides in its budget narrative a sufficient description of the activity and identifies the relevant program area under § 11133(a)(9):

Deinstitutionalization of Status Offenders. Programs, research, or other initiatives to eliminate or prevent the placement of youth who are accused or adjudicated for status offenses and youth with no offenses in secure facilities, pursuant to the requirement at 34 U.S.C. § 11133(a)(11).

Diversion. Programs to divert youth from entering the juvenile justice system, including restorative justice programs such as youth or teen courts, victim-inmate mediation, and restorative circles.

Indian Tribe Programs. Programs to address juvenile justice and delinquency prevention issues for Native American and Alaska Native youth.

Jail Removal. Programs, research, or other initiatives to eliminate or prevent the detention or confinement of youth in adult jails and lockups, consistent with the jail removal requirements at 34 U.S.C. § 11133(a)(13).

Juvenile Justice System Improvement. Programs, research, and other initiatives to examine issues or improve practices, policies, or procedures on a systemwide basis (e.g., examining problems affecting decisions from arrest to disposition and detention to corrections).

Racial and Ethnic Disparities (R/ED). Programs, research, or other initiatives primarily to address the disproportionate number of youth members of minority groups who come into contact with the juvenile justice system, pursuant to the requirement at 34 U.S.C. § 11133(a)(15).

Reducing Probation Officer Caseloads. Incentive grants to units of general local government that reduce the caseload of probation officers within such units. Grants may not exceed 5 percent of the award, excluding SAG allocation.

Rural Area Juvenile Programs. Prevention, intervention, and treatment services in an area located outside a metropolitan statistical area, as designated by the U.S. Census Bureau.

Separation of Juveniles From Adult Inmates. Programs that ensure that youth will not be detained or confined in any institutions in which they have sight or sound contact with adult inmates, pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(12).

State Advisory Group Allocation. Activities related to carrying out the state advisory group's responsibilities under the JJDP Act at 34 U.S.C. § 11133(a)(3). Up to 5 percent of the state's award may be used for this purpose.