

Alabama Juvenile Justice Task Force

Final Report



December 2017

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Summary

Building on progress begun with Alabama’s 2008 Juvenile Justice Act, Governor Kay Ivey, Chief Justice Lyn Stuart, Senate President Del Marsh, House Speaker Mac McCutcheon, and other state leaders established the bipartisan, inter-branch Alabama Juvenile Task Force (Task Force). Senate Joint Resolution 78, enacted with unanimous legislative support in 2017, charged the Task Force with reviewing the state’s juvenile justice system and developing recommendations that:

- Promote public safety and hold juvenile offenders accountable;
- Control taxpayer costs; and
- Improve outcomes for youth, families, and communities in Alabama.

Beginning in June 2017, the Task Force conducted a comprehensive assessment of Alabama’s juvenile justice system. The study began with an in-depth review of Alabama’s data provided by the Administrative Office of Courts (AOC) and the Department of Youth Services (DYS). Task Force members also reviewed Alabama law and state and local policies, examined state examples and national research about what works to reduce reoffending, and gathered stakeholder input through a questionnaire provided to more than 180 juvenile probation officers (JPOs) and more than two dozen roundtable discussions with a variety of stakeholder groups. The major findings from the Task Force include:

- **The number of juvenile complaints has shrunk, but use of out-of-home placement has not followed suit:** While juvenile complaints have declined 27 percent since 2012, DHS-funded out-of-home placements increased six percent since 2012, and the number of youth in detention on a given day has remained steady during the same period.
- **Low-level youth frequently receive the most severe system responses, even though over-involvement can make them worse:** Children in Need of Supervision (CHINS) and youth charged with misdemeanors, many of whom have no prior history, make up the majority of the juvenile justice population. Two-thirds of youth in DHS custody are committed for non-felonies.
- **Youth on probation are often supervised for years—regardless of offense—and supervision length has increased dramatically:** The length of probation supervision has more than doubled since 2009, driven in part by extensions of supervision for technical violations of court conditions such as failure to meet financial obligations. Nearly 1/3 of youth on probation spend more than three years on probation.
- **Most judges and JPOs lack access to evidence-based alternatives to out-of-home placement, especially in rural areas:** More than two-thirds of JPO questionnaire respondents reported that there are not enough services to meet the needs of youth on their caseloads.
- **Out-of-home beds consume far more taxpayer resources per youth than probation despite research showing poor public safety returns:** DHS out-of-home placement for committed youth costs the state up to \$161,694 per youth per year—as much as 91 times more than probation—despite research showing out-of-home placements generally fail to reduce reoffending for most youth.

Focusing on its charge from state leaders, the Task Force reached consensus on 48 policy recommendations that:

- Keep lower-level youth from unnecessary involvement in the juvenile justice system through early interventions and swift, consistent responses;
- Protect public safety and more effectively allocate taxpayer dollars by focusing system resources on youth who pose the greatest risk to public safety; and

- Establish and sustain better public safety outcomes through increased system accountability and reinvestment into evidence-based programs in local communities.

If adopted and implemented, the Task Force’s recommendations are projected to reduce the state’s out-of-home population 45 percent from projected levels by 2023, freeing more than \$34 million in funds for reinvestment over five years. The Task Force recommends that these averted costs be reinvested into evidence-based programs in the community that help put youth on the path to law-abiding citizenship.

The Alabama Juvenile Justice Task Force

In order to further align Alabama’s juvenile justice system with data and research, and produce the best outcomes for youth, leaders of all three branches of government established the Alabama Juvenile Justice Task Force. The bipartisan, inter-branch Task Force consists of 20 members representing a wide range of stakeholder groups, including judges, district attorneys, law enforcement, defense attorneys, DYS, AOC, Department of Mental Health (DMH), and the Alabama State Department of Education (ALSDE), as well as legislators from both parties and chambers (see page 19 for a full list of members). The Task Force received technical assistance from The Pew Charitable Trusts’ Public Safety Performance Project as well as the Crime and Justice Institute at Community Resources for Justice, organizations that have previously provided juvenile justice data and research assistance to seven states, beginning with Georgia in 2012.

The Task Force met monthly from June through November 2017, beginning with a comprehensive, data-driven assessment of Alabama’s juvenile justice system.¹ Over the course of six meetings, the Task Force members reviewed Alabama data from AOC, DYS, and the Alabama Law Enforcement Agency, as well as data from the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Task Force reviewed state statutes, administrative policies, and court rules, while collecting additional system information from stakeholder interviews and a questionnaire distributed by AOC to every JPO in the state. The questionnaire received 182 responses, covering 82 percent of Alabama counties.

In addition, Task Force members facilitated 28 stakeholder roundtables across the state with more than 400 participants from a variety of stakeholder groups, including:

- Juvenile judges;
- Chief probation officers;
- JPOs;
- Juvenile detention center directors;
- Facility staff;
- Families;
- Sheriffs;
- Crime victims, survivors and advocates;
- Diversion program providers;
- County commissioners;
- Youth on probation, in detention, and in DYS custody;
- Defense attorneys;
- DYS contracted providers;
- Mental health providers; and
- Educators.

¹ Unless otherwise cited, all analyses in this report were conducted by The Pew Charitable Trusts and the Crime and Justice Institute at Community Resources for Justice using data provided by AOC and DYS.

In September, the Task Force heard from Dr. Edward Mulvey, a nationally recognized juvenile justice researcher at the University of Pittsburgh School of Medicine. Dr. Mulvey presented research on best practices in juvenile justice, including information about adolescent brain development and what works to reduce recidivism. The Task Force also reviewed examples of successful, evidence-based policies in other states.

After reviewing research and collecting insights from the data and a wide range of stakeholders, the Task Force split into three subgroups where members reviewed additional research and information to develop and reach consensus on policy recommendations. The three subgroups were:

- *Pre-Adjudication Subgroup*, focused on aligning pre-adjudication decision-making and court processes with research about improving outcomes;
- *Dispositions and Service Expansion Subgroup*, focused on disposition options and supervision length as well as investment in evidence-based practices and programming to focus resources on youth who pose the greatest risk to public safety; and
- *Oversight and Reinvestment Subgroup*, focused on investment in evidence-based practices and programming, as well as data collection, training, and system accountability.

Each subgroup held at least four meetings lasting several hours each and developed recommendations based on Alabama's data, national research, and state examples of best practices. Subgroup members presented these policy recommendations to the full Task Force for consideration in October, and the recommendations were further discussed and refined by the Task Force in November. By consensus, the Task Force submitted this report and recommendations contained herein.

Key Findings

The Task Force's analysis of the juvenile population in DYS custody and under court supervision led to the following set of key findings that were used to develop policy recommendations.

The number of juvenile complaints has shrunk, but use of out-of-home placement has not followed suit

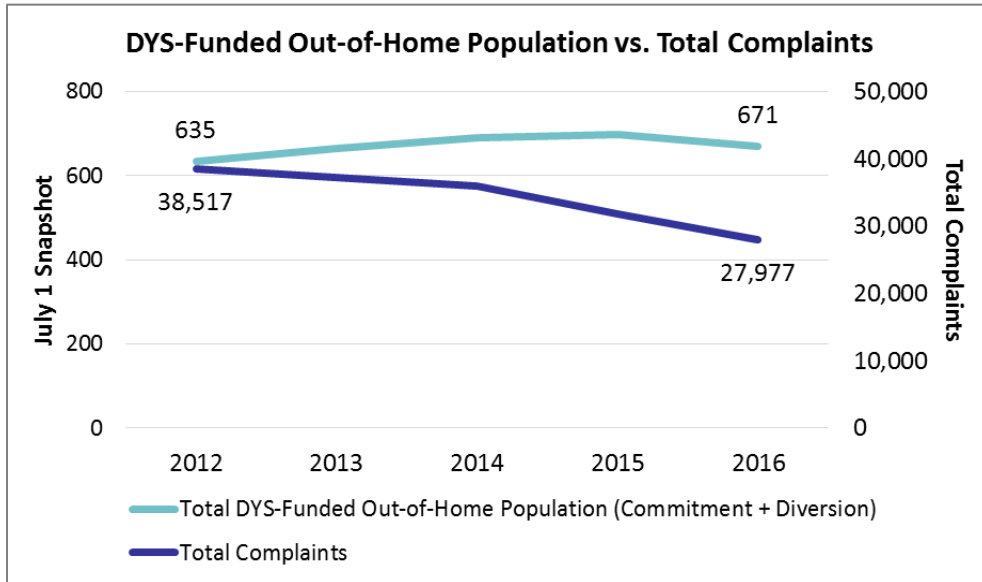
The Task Force reviewed a broad body of juvenile justice research demonstrating that out-of-home placements do not improve outcomes for most youth and can increase the likelihood of reoffending for some.²

The Task Force found that although juvenile crime has declined dramatically, the number of youth removed from their homes has not. While juvenile complaints have decreased 27 percent since 2012, the overall number of youth removed from home and placed in DYS-funded facilities has increased 6 percent during the same period, even though the offenses youth are committing have not grown more serious (see

² Edward P. Mulvey, et al., "Longitudinal offending trajectories among serious adolescent offenders," *Development & Psychopathology* 22 (2010): 453–475; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and reoffending," in *Crime and Justice: A review of research*, ed. Michael Tonry. (Chicago: University of Chicago Press, 2009), 115–200; Patrice Villettaz, Martin Killias, and Isabel Zoder, "The effects of custodial vs. noncustodial sentences on re-offending: A systematic review of the state of knowledge," (Oslo, Norway: The Campbell Collaboration, 2006); Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005); Paula Smith, Claire Goggin, and Paul Gendreau, "The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences," (Ottawa, Ontario, Canada: Solicitor General of Canada, 2002).

Chart 1).³ The overall increase was driven primarily by a 52 percent increase in admissions to out-of-home diversion programs, counteracting a nine percent decline in DYS commitments during the same period.

Chart 1: Out-of-home placement increase vs. complaint decline

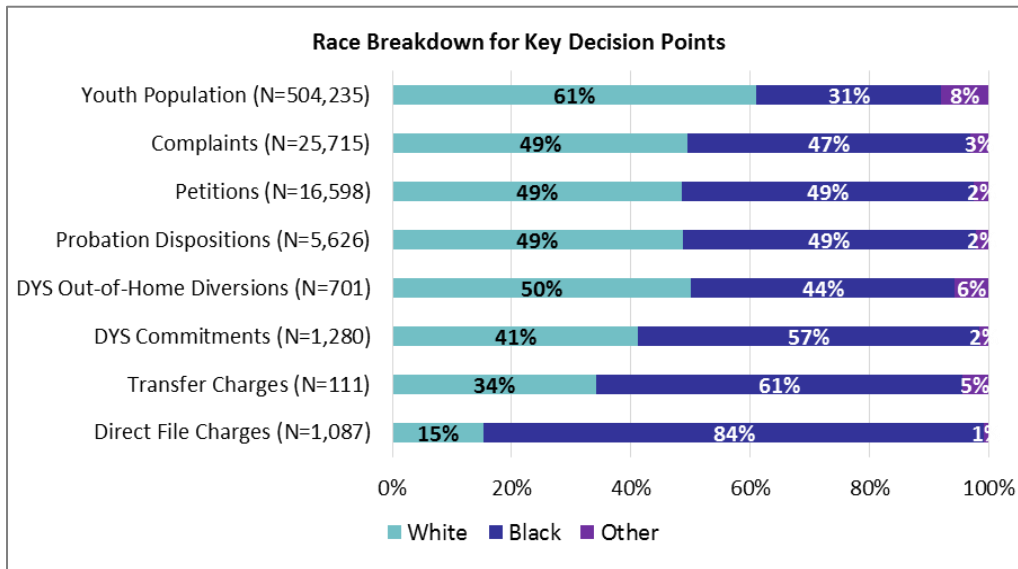


In addition, the decline in admissions to juvenile detention centers (JDCs) failed to keep pace with reductions in the number of youth entering the court system, with detention admissions down only 21 percent since 2012 compared to the 27 percent decline in complaints. In fact, some JDCs have experienced an increase since 2012 in the number of youth detained, despite a marked drop in the number of youth entering the juvenile justice system from the counties served by those facilities. Alabama data indicate that length of stay in JDCs has likely increased during this period.

Racial disparities exist throughout the juvenile justice system, including all types of out-of-home placement, and are largest for DYS commitment and transfer to the adult system (see Chart 2). A larger share of black youth are placed in detention, out-of-home diversion, and DYS custody than their share of the overall youth population. Black youth also receive a disproportionately high share of dispositions to DYS custody when compared to their share of initial complaints. This disparity holds true when comparing complaints and out-of-home placements for youth who commit misdemeanors or felonies.

³ The number of youth in DYS-funded out-of-home placement includes DYS committed youth and youth placed in out-of-home diversion programs—programs funded by DYS and intended to keep youth from being committed to state custody.

Chart 2: Racial disparities across key decision points



Low-level youth frequently receive the most severe system responses, even though over-involvement can make them worse

The Task Force reviewed research demonstrating that most youth are not on a path to future adult crime, and over-involvement with the juvenile justice system—from inappropriately intensive supervision to placement in facilities alongside youth who have committed more serious offenses—can increase the likelihood of reoffending for lower-risk youth.⁴ However, in Alabama, the offense profile of youth in the juvenile justice system is primarily composed of misdemeanors, CHINS offenses, and technical violations.

Low-level offenses account for the majority of cases entering the system—and truancy is now the largest driver of juvenile complaints:

- The Task Force found that the offense profile of youth entering the juvenile justice system on complaints has grown less serious, with misdemeanor and CHINS offenses accounting for 71 percent of all complaints in 2016. Nearly one-third of complaints come from schools, up from one-fifth in 2006. In some counties, up to three-quarters of complaints come from schools.
- Truancy is the largest driver of complaints entering the system, and its proportion of all complaints has nearly doubled over the last ten years to more than 30 percent, despite ALSDE data showing that the truancy rate has not increased.
- In stakeholder roundtables, judges, JPOs, and prosecutors reported that minor misbehaviors in schools, such as fighting, are sent to juvenile court more readily than in the past. Education stakeholders indicate that if they had early intervention programs to work with youth and families in school or in the home, they could address children’s needs without involving the court.

Use of alternatives to formal court processing for low-level youth varies based on where a youth lives:

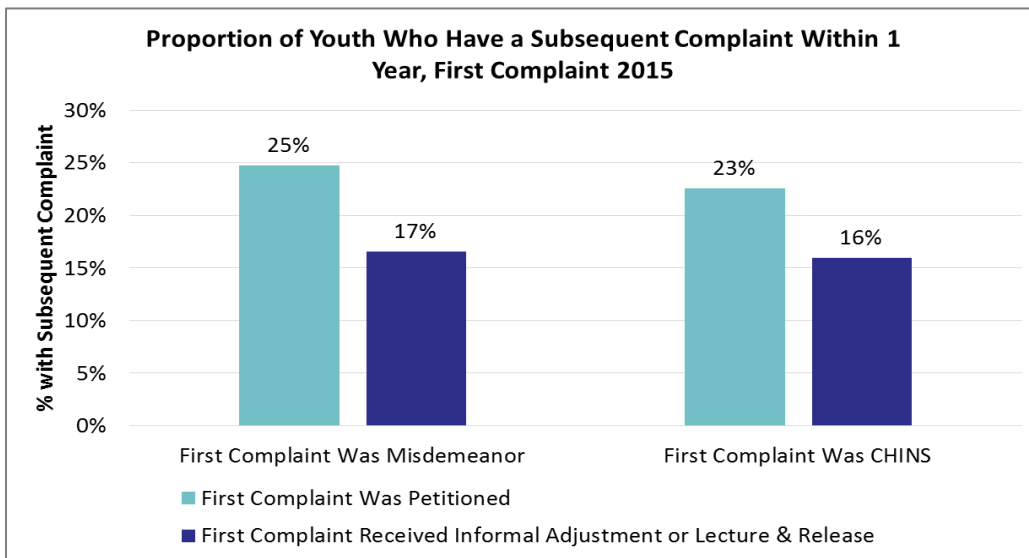
- A large body of juvenile justice research shows—and Alabama data reflect—that responses to low-level behaviors like truancy that take place outside of traditional court processing are more

⁴ Dr. Ed Mulvey, Presentation to the Alabama Juvenile Justice Task Force, September 6, 2017.

effective, and that low-level youth may actually be harmed by deeper juvenile justice system involvement.⁵ When a complaint is referred to court in Alabama, a short, diversionary agreement intended to hold youth accountable (informal adjustment) may be offered in lieu of formal court involvement. Rates of reoffending for youth who receive these informal adjustments are lower than youth who do not; Alabama data show that a higher proportion of youth whose cases are petitioned in court on their first complaint are charged with a subsequent complaint within one year than youth who receive an informal adjustment. This is true even among youth charged with the same level of offense (see Chart 3).

- Despite the apparent success of informal adjustment, it is not mandated for any type of juvenile case, and low-level youth cases in many jurisdictions frequently do not receive an offer of informal adjustment and are instead petitioned in court. 44 percent of youth entering the juvenile justice system for the first time have their cases petitioned, including 60 percent of first timers charged with misdemeanors and 27 percent of first timers charged with CHINS offenses.
- Whether a youth receives an informal adjustment offer for a given offense varies widely based on where he or she resides. For example:
 - In Shelby County, 82 percent of youth charged with a misdemeanor for the first time are petitioned before the court compared to just 32 percent in Jefferson County.
 - One-third of JPO questionnaire respondents reported that informal adjustment is not offered for Class B misdemeanors in their county, while two-thirds report that it is.

Chart 3: Reoffending among informally adjusted first-time CHINS and misdemeanor youth compared to those who were petitioned



CHINS and misdemeanants make up the largest share of detention population in three JDCs even though JDC directors and staff across the state report detention is likely to make low-level youth worse:

- The Task Force collected data directly from three JDCs and found that most detention admissions are for low-level CHINS or misdemeanor offenses.

⁵ Wilson, Holly, and Robert Hoge. 2013. "The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review." *Criminal Justice and Behavior* 40: 497-518; Petrosino, Carolyn, Sarah Guckenburg. 2010. "Formal System Processing of Juveniles: Effects on Delinquency." *Campbell Systematic Reviews*; Gatti et al., 2009.

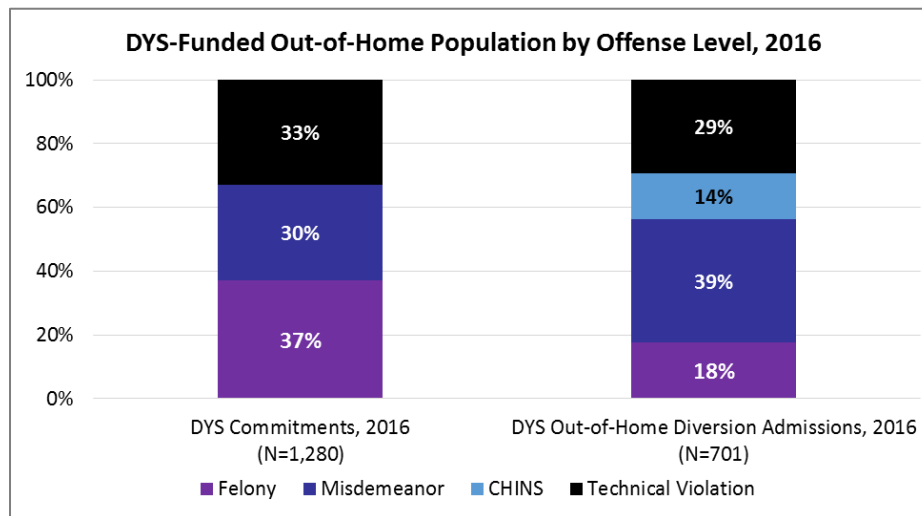
- While not necessarily representative of detention practices statewide, facility-level data from the Mobile, Coosa Valley, and Shelby JDCs show that CHINS and misdemeanors are the most serious charges for the vast majority of admitted youth.
- In roundtables, detention center directors and their staff reported that detention stays can make low-level youth more likely to reoffend when they are released. “We call it gumbo,” one JDC staff member said. “They’re learning, and then they go back out there and they come right back in.” As one youth in detention stated, “basically, when you get locked up you learn to be a better criminal.”
- Statute lays out few criteria to guide detention decision-making, and, while several jurisdictions use a detention risk assessment tool, no statewide tool exists. As a result, use of detention varies widely, even after accounting for county size. The Task Force found many JDCs detain more youth than their counties’ proportion of the youth population. For example, in 2016, the Montgomery and Mobile JDCs each served nine percent of the state’s youth population, but the Montgomery JDC accounted for only five percent of detention admissions while the Mobile JDC accounted for 19 percent.

Many youth are placed out of home for low-level behaviors:

- Juvenile courts have the authority to place any youth out of home for nearly any offense—including both DYS commitment and DYS-funded out-of-home diversion programs. Despite extensive research showing that out-of-home placement fails to reduce the likelihood of reoffending for most youth, the Task Force found that a high proportion of youth removed from home are youth who have committed low-level offenses.⁶
 - More than half of admissions to DYS-funded out-of-home diversion programs are for CHINS and misdemeanor offenses, and only two out the top 10 offenses are felonies.
 - Of the youth who end up committed to DYS custody, nearly two-thirds are for non-felonies, driven by an increasing proportion of youth placed in custody for technical violations (see Chart 4).
 - The Task Force reviewed successful policies from states such as Georgia, which enacted legislation in 2013 to limit out-of-home placement for misdemeanors and technical violations while reinvesting state funds into evidence-based alternatives at the county level.

⁶ Edward P. Mulvey, et al., “Longitudinal offending trajectories among serious adolescent offenders,” *Development & Psychopathology* 22 (2010): 453–475; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, “Imprisonment and reoffending,” in *Crime and justice: A review of research*, ed. Michael Tonry. (Chicago: University of Chicago Press, 2009), 115–200; Patrice Villettaz, Martin Killias, and Isabel Zoder, “The effects of custodial vs. noncustodial sentences on re-offending: A systematic review of the state of knowledge,” (Oslo, Norway: The Campbell Collaboration, 2006); Christopher T. Lowenkamp and Edward J. Latessa, “Evaluation of Ohio’s RECLAIM funded programs, community corrections facilities, and DYS facilities,” (Cincinnati, OH: University of Cincinnati, 2005); Paula Smith, Claire Goggin, and Paul Gendreau, “The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences,” (Ottawa, Ontario, Canada: Solicitor General of Canada, 2002).

Chart 4: Low-level offenses among out-of-home population



- The Task Force reviewed data and collected input from a broad array of stakeholders—including JDC staff, JPOs, and youth in detention and secure placements—indicating that youth are frequently removed from their homes for minor violations of probation and aftercare conditions. Roughly half of JPO questionnaire respondents indicated they use out-of-home placement as a response to technical violations even though research shows that community-based graduated responses to technical violations—including both sanctions and incentives—are more effective at reducing reoffending.⁷ In contrast, the Task Force found that states like Georgia and Kansas have prohibited removing youth from the home for technical violations while reinvesting in more cost-effective community-based tools for responding to noncompliance.

Low-level offenses may lead to transfer to the adult criminal justice system:

- The Task Force found most cases tried in adult court are directly filed without judicial review—more than 1,000 charges in 2016. Among cases that originate in juvenile court, under Alabama law, any juvenile can be transferred to adult court for any offense if 14 years old or older.
- The Task Force found that 29 percent of charges transferred in 2016 were misdemeanors, almost all of which were not accompanied by a felony. In addition, once a youth is convicted of a crime, the juvenile court loses jurisdiction over that youth, meaning that any future offenses, however minor, will be handled in criminal court rather than juvenile court. In roundtables, chief probation officers and other stakeholders stated that juvenile justice professionals frequently do not have the opportunity to assess whether they could work with, and potentially rehabilitate, youth under consideration for transfer to the adult system.

Low-level juvenile sex offenses lead to long-term collateral consequences:

- While many states such as Georgia do not allow juvenile sex offense registration at all, stakeholders such as JPOs and judges reported to the Task Force that Alabama youth who have committed juvenile sex offenses for low-level behavior are in many cases statutorily mandated to register as sex offenders long into adulthood and sometimes for the remainder of their lives.⁸ In

⁷ NeMoyer, A., Goldstein, N. E. S., McKitten, R. L., Prelic, A., Ebbecke, J., Foster, E., & Burkard, C. (2014). Predictors of juveniles' noncompliance with probation requirements. *Law and Human Behavior*, 38(6), 580-591.

⁸ O.C.G.A. § 42-1-12 (a)(9)(C)

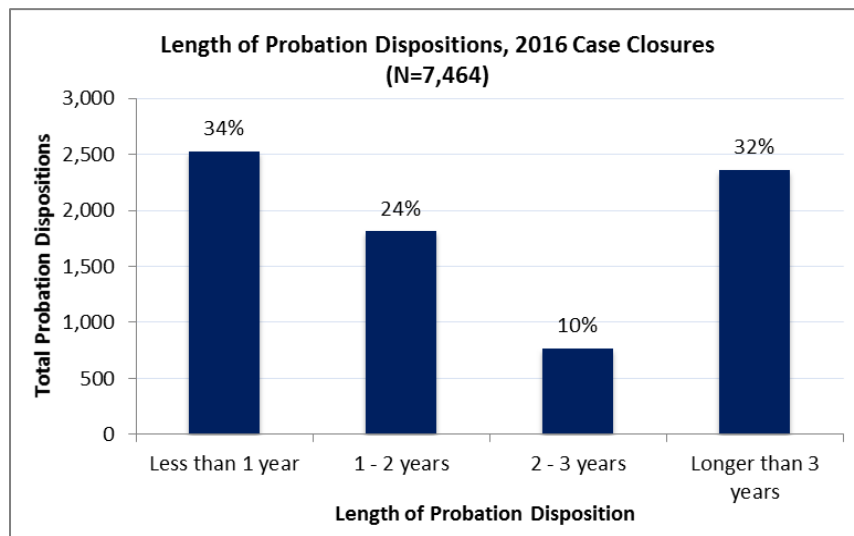
roundtables, JPOs reported juvenile sex offense registration hinders a youth’s future prospects for gainful employment and military service, among other collateral consequences.

Youth on probation are often supervised for years—regardless of offense—and supervision length has increased dramatically

The Task Force reviewed research indicating that longer supervision terms can increase the odds of revocation and further system involvement.⁹ In addition, most evidence-based program models shown to reduce recidivism among the youth who have committed the most serious offenses are designed to last only three-to-six months. For example, Functional Family Therapy—a model that states like Georgia and Louisiana have recently expanded—is just 30 hours long, typically delivered over approximately three months.¹⁰

In Alabama, however, the Task Force found that the median length of probation dispositions was over 18 months in 2016, more than double the median length in 2009, even though the offense profile of youth on probation has not become more serious. Nearly one-third of youth on probation spend more than three years on probation (see Chart 5). Since 2009, the median length of probation dispositions rose for all offense types, including an increase of 111 percent for misdemeanants.

Chart 5: Length of time youth spend on probation



Alabama lacks statewide standards for both the conditions and length of probation supervision, and in roundtables, stakeholders reported that youth remain under probation supervision for long periods of time due to minor violations of stringent probation conditions, including financial obligations like fines and fees. In a discussion about technical violations, one youth in an out-of-home diversion program explained, “I could have gone off probation [earlier], but I had got sent home for wearing [inappropriate clothing], and [my JPO] was like, ‘oh, you know you weren’t supposed to wear [that].’ And I got three more months.”

⁹ Roundtree, G. A., Edwards, D. W., & Parker, J. B. 1984. A study of the personal characteristics of probationers as related to recidivism. *Journal of Offender Counseling Services Rehabilitation*, 8(3), 53-61; Loughran, T. A., Mulvey, E. P., Schubert, C. A., Fagan, J., Piquero, A. R., & Losoya, S. H. (2009). Estimating a dose-response relationship between length of stay and future recidivism in serious juvenile offenders. *Criminology*, 47, 669-740.

¹⁰ <http://www.blueprintsprograms.com/factsheet/functional-family-therapy-fft>

Despite research showing that the most effective interventions must match a youth's risk to the intensity of the response, Alabama does not use a statewide validated risk and needs assessment to inform case-planning and decision-making.¹¹ While a risk and needs assessment is used in determining placement for youth once they are committed to DYS, it is not validated on the Alabama youth population, meaning that it has not been statistically shown to predict a youth's likelihood of reoffending and a youth's specific needs related to reoffending.

The Task Force also found that court costs such as fines and fees are increasingly common in Alabama, despite research suggesting that financial obligations can increase the likelihood of reoffending, exacerbate racial disparities, and extend involvement with the court system—particularly for low-income youth.¹² While most cases still do not have court costs ordered, the percentage of petitions with court costs has more than doubled over the past decade, increasing from seven percent of petitions in 2007 to 18 percent in 2016.

There is no statutory limit or statewide guidance on the amount of financial obligations ordered by the court except for a limit of \$250 for fines as part of a disposition. As a result, there is wide county variation in both the prevalence of court costs and the average amount ordered. About half of JPO respondents reported that supervision fees could be assessed in their jurisdiction, and half reported they could not. Average court costs per petition within individual counties range from \$46 in the lowest county to \$283 in the highest. Just five percent of court costs and 15 percent of restitution are eventually collected by the court. Despite low collection rates, more than three-quarters of JPO questionnaire respondents say financial conditions must be satisfied before youth can be discharged from probation.

Evidence-based services in the community are largely unavailable to judges and JPOs

The Task Force reviewed research demonstrating that community-based programs adhering to models shown to reduce reoffending produce better public safety outcomes than out-of-home placements for most youth.¹³ However, just 15 percent of committed youth were in a non-residential DYS diversion program prior to their first DYS commitment, even though DYS diversion programs are intended to prevent placement in state custody.

Stakeholders from across the system told the Task Force that such high-quality, community-based services are largely unavailable, especially to judges, JPOs, and district attorneys in rural areas of the state. More than two-thirds of JPO questionnaire respondents reported that there are not enough services to meet the needs of youth on their caseloads. In one roundtable, a judge stated, "Every time I have to send a kid to some kind of diversionary program, it's outside of my county. Every single time." Youth also reiterated the need for effective in-home interventions like family therapy that address core issues. One youth in a secure facility stated, "Where I came from, I feel like if there were more family counseling and more things that you could do in the community with families... then it would help a lot." Community-based services that do exist for youth on probation are not required to be evidence-based for reducing reoffending and are not uniformly monitored for quality. In roundtables and questionnaire responses, JPOs reported that transportation barriers, long wait lists, and high costs to families for community-based services often keep youth from receiving them. Where DYS diversion programs are available, they vary in program length, eligibility, services provided, and whether youth remain in their homes.

¹¹ Vieira, T.A., Skilling, T.A., & Peterson-Badali, M. (2009). *Matching court-ordered services with treatment needs*. *Criminal Justice and Behavior*, 36, 385–401.

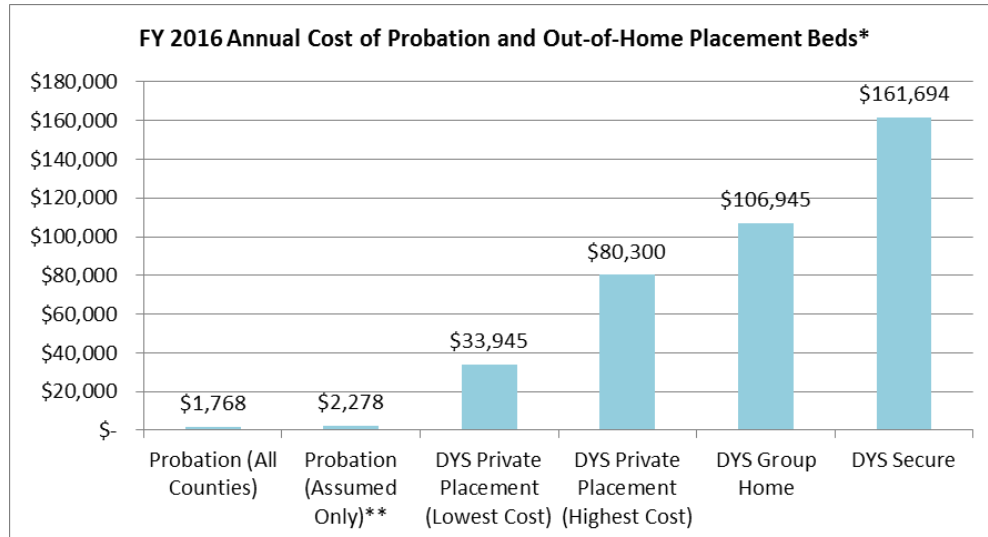
¹² Alex Piquero and Wesley Jennings, "[Justice System Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders](#)" DRAFT, *Juvenile Law Center*.

¹³ Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005).

Out-of-home beds consume far more taxpayer resources per youth than probation despite research showing poor public safety returns

Despite the Task Force’s finding that research shows out-of-home placements generally fail to reduce reoffending for most youth compared with evidence-based interventions in the community, state and county spending on residential placements per youth per year dwarfs allocations for community supervision and programming. DYS out-of-home placement for committed youth costs the state up to \$161,694 per youth per year—as much as 91 times more than probation (see Chart 6).

Chart 6: Out-of-home placement and probation costs



* Per diem figures for probation were calculated from data provided by AOC. DYS per diem figures were provided by DYS.

** The “Probation (Assumed Only)” figure reflects the cost of probation distributed across only those counties with juvenile courts supervised and funded by AOC.

To divert youth from state custody, DYS provides funds for diversion programs, an increasing number of which remove youth from the home. The Task Force found out-of-home diversion programs cost DYS an average of \$31,755 per youth per year, 58 percent more than non-residential diversion programs, which average \$20,075, and can cost as little as \$8,127 per youth for evidence-based programs such as Multisystemic Therapy.¹⁴ However, the total cost of out-of-home diversion is likely even higher because these figures include only DYS’ costs and exclude additional allocations from other state and local entities such as counties and the ALSDE.

In one roundtable, county commissioners reported to Task Force members that JDCs can be costly to counties, especially those in rural areas. Unlike funding for state facilities, the state funds a portion of detention at a set level statewide (as opposed to paying based on the number of youth in detention), and the remaining costs are borne by counties.

The system lacks oversight and accountability despite significant taxpayer spending:

Despite heavy taxpayer spending for out-of-home placements at both the state and county levels, the Task Force found, Alabama does not track recidivism, either within the juvenile system or longer term into the adult system. As a result, without the collection or reporting of statewide recidivism data, there is little

¹⁴ Rates reflect dollars paid by DYS and do not include additional funds that come from other sources such as counties, Medicaid, and the Alabama State Department of Education.

accountability for the results of state and county resources that continue to flow into costly out-of-home placements. In addition, there is no collaborative oversight entity to ensure system accountability and improved outcomes at the state level.

Recommendations

Keep lower-level youth from unnecessary involvement in the juvenile justice system through early interventions and swift, consistent responses

Recommendation: Expand early interventions prior to court referral to strengthen families and address the needs of lower-level youth outside the juvenile justice system

1. Funds from reductions in out-of-home placement shall be reinvested into the statewide expansion of community-based services and programs to address youth and family issues prior to a court referral, including school-based interventions, in-home family interventions, truancy reduction programs, restorative justice programs, and other evidence-based preventative services shown to reduce the likelihood of juvenile justice system involvement.
2. The state shall create a collaborative funding structure similar to the Our Kids Initiative for providing pre-court early interventions for youth at imminent risk of juvenile justice system involvement.
3. Alabama shall reinvest in the expansion of early truancy prevention efforts that take place in schools and/or the home prior to a court referral; engage families, and are shown to reduce referrals to the juvenile court. Early intervention resources should be focused on youth who pose the greatest risk; less intensive resources should be used for less serious cases. Early interventions should also ensure that responses to behaviors by youth with documented developmental disabilities are handled in accordance with their Individualized Education Plans.

Recommendation: Reduce court referrals from schools by establishing clear protocols through local collaboration

4. Early Warning truancy prevention initiatives shall take place in school or in the home prior to the filing of a court complaint.
5. In collaboration with local community stakeholders including but not limited to juvenile judges, law enforcement, prosecutors, juvenile defense attorneys, chief probation officers, and mental health agency heads, every school district shall develop and submit to the Alabama State Department of Education (ALSDE) an agreement establishing a clear protocol of multi-tiered responses to low-level youth behavior with the goal of holding youth accountable in the school setting and reducing school referrals to court and to law enforcement.
6. ALSDE shall develop minimum standards and best practices to inform the development of local protocols.

Recommendation: Expand and increase consistency in informal adjustments for low-level youth

7. Youth with one or fewer prior adjudications referred to court for a CHINS or misdemeanor offense not involving a deadly instrument shall receive an offer of informal adjustment.
8. Financial obligations (other than restitution) may not be assessed or collected as part of a consent decree. Financial obligations may not be assessed or collected as part of an informal adjustment.

Recommendation: Expand pre-adjudication detention alternatives while targeting the use of pre-adjudication detention on youth who pose a public safety threat or risk of failure to appear

9. AOC shall develop a statewide detention risk assessment tool to inform pre-adjudication detention decisions.
 - The detention risk assessment tool shall be validated on the Alabama youth population and shall only be used for the youth alleged to have committed the most serious offenses being considered for placement in detention or referral to detention alternatives.
10. Detention shall be limited to youth who:
 - a) pose a risk to the safety of another person or property or
 - b) are at risk of not appearing at a future court hearing based upon a recent record of failure to appear
11. Detention should be used only to protect public safety rather than for the rehabilitation of a child, and length of stay should be short. Detention shall not be used solely due to a parent or guardian avoiding legal responsibility. In addition to other statutory criteria considered in determining whether a youth should be placed or held in secure detention, the court should consider and make findings of fact as to whether each of the following options is inappropriate:
 - Release to parents or guardians on the juvenile's promise to appear
 - Release to parents, guardian or custodian upon written assurance to secure the youth's presence at the next hearing
 - Release to the care of a custodian or public agency able to assist the juvenile to appear at the next hearing
 - Release the youth with imposition of restrictions on activities, associations, movements, and residence related to securing the youth's appearance at the next court hearing
 - Release with required participation in a home detention program or other non-custodial alternative to detention
 - Imposition of any other restrictions other than detention reasonably related to securing the appearance of a youth at the next court hearing
12. State and county funds made available through reductions in detention facility populations shall be reinvested into non-punitive, community-based alternative-to-detention programs designed to ensure a youth's appearance at future court hearings and to prevent rearrest prior to adjudication. Such programs shall be available for youth who pose the greatest immediate risk to public safety or likelihood of failure to appear and shall not be used for low-risk youth who would otherwise have been returned home. A program of fiscal incentives shall be developed to encourage the use of non-custodial alternatives to detention, with a higher reimbursement rate to be paid for alternatives to detention than for detention. Home detention should be available in every county.
13. AOC shall develop and implement a statewide protocol to remind youth about pending court dates that may include phone calls to the home in advance of a hearing.
14. The use of video conferencing for 72 hour hearings should be made available as an alternative to transport, but may not be used if one or more party objects with good cause.

Recommendation: Alleviate burdensome, unnecessary costs for county sheriffs by removing fewer youth from home and redirecting resources toward transportation cost reimbursement

15. Reinvestment of state funds should be prioritized for reimbursement of a portion of transportation costs for county sheriffs.

Protect public safety and more effectively allocate taxpayer dollars by focusing system resources on youth who pose the greatest risk to public safety

Recommendation: Strengthen probation by expanding evidence-based practices shown to improve outcomes

16. A risk and needs assessment shall be used following adjudication to inform supervision levels, service provision, and case planning statewide. The risk and needs assessment shall be validated on the Alabama youth population to ensure accuracy in assessing a youth's risks and needs related to the likelihood the youth will reoffend.
17. Conditions of supervision shall be individualized according to the results of a validated risk and needs assessment.
18. A statewide system of graduated community-based responses to youth behavior shall be developed to both incentivize positive behavior and sanction noncompliance. It shall contain a continuum of community-based options and responses that target youth's risks and needs related to reoffending.
19. JPOs shall be trained on the use of incentives along with effective responses to noncompliance, including the appropriate use of incentives and sanctions in accordance with a graduated response system.

Recommendation: Establish proportionate supervision lengths that align with research and incentivize compliance

20. Probation and consent decree length shall be capped by offense level:
 - As follows:
 - CHINS: Three months
 - Misdemeanor: Six months
 - Class D and C Felonies: Nine months
 - Class B and A Felonies: not to exceed 12 months
 - Probation may only be extended beyond the cap for the purposes of completing an evidence-based treatment program that the youth has already begun. Extensions may be granted incrementally up to the supervision length cap (as outlined in recommendation 21).
 - Evidence-based treatment program shall be clearly defined
 - Probation length may not be extended for technical violations, including non-payment of fines, fees, court costs or restitution.
 - Although probation may not be extended for non-payment of restitution, court jurisdiction may continue.
21. Length of court supervision (including probation, custody and aftercare) from disposition to discharge shall be capped by offense level:
 - CHINS: not to exceed nine months
 - Misdemeanor: not to exceed 12 months
 - Class C and D felonies: not to exceed 15 months
 - Class A and B felonies (except youth charged with the most serious persons felonies): not to exceed 18 months
22. Aftercare supervision shall be capped at six months for all but the most serious persons felonies
23. An earned discharge credit system shall be established for youth who are on probation and aftercare to incentivize compliance. Each youth shall be awarded earned discharge credits for each full calendar month of compliance with terms of supervision pursuant to policies developed by AOC.

Recommendation: Tailor eligibility for removal from the home and focus out-of-home resources on youth who pose the greatest threat to public safety

24. A youth shall only be eligible for placement in DYS custody if the youth has:
 - A present Felony A, or B, or Felony C that is not for drug possession, or
 - A Felony C that is for drug possession, a Felony D, or a present misdemeanor with at least 4 prior misdemeanor or felony adjudications arising from separate incidents.
25. If a youth is sent to court for a probation or aftercare violation and is found to be in violation, the court may modify conditions consistent with the results of a validated risk and needs assessment, but may not place the youth out of home for technical violations. The same is true on a contempt citation, except:
 - The court may place a youth in detention upon a finding that probation has been violated for up to 24 hours on a first violation, and up to 48 hours on a subsequent violation.
 - Juvenile probation officers shall not have the authority to place a youth in detention in response to noncompliance. The order must come from the judge.
26. For youth who qualify for DYS commitment, the court may suspend a state custody order following the initial disposition. The court may lift that suspension only upon adjudication of a new delinquency offense or a substantive probation violation.
27. Non-payment of financial obligations shall not serve as grounds for removal from the home.
28. If a youth is sent to DYS who is not eligible for custody, DYS shall not accept the youth.
 - The sentencing commission shall monitor custody orders committing ineligible youth and report back to the oversight entity.
29. Courts shall not order determinate sentences for DYS commitments or conditions for release. When a youth is committed to DYS, the court may make recommendations regarding conditions for youth to complete, but those conditions shall not be binding.
30. DYS-funded diversion programs shall be non-residential and adhere to evidence-based models shown to reduce the likelihood of reoffending. The current use of out-of-home diversion shall be phased out incrementally over time and not to exceed two years after the reform implementation date. Custody limitations (delineated in this section above) shall apply to DYS out-of-home diversion as it winds down.

Recommendation: Prioritize restitution by minimizing excessive fines and fees against youth

31. When ordered, restitution may only be assessed for “material loss,” defined as uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.
32. Juveniles adjudicated delinquent or CHINS shall not be assessed fines, fees, or court costs. Court costs for truancy shall only be imposed if the charges are against a parent and not the youth.

Recommendation: Mitigate long-term collateral consequences by ensuring proportionate responses to voluntary sexual behavior between minors

33. Sex offenses that constitute voluntary sexual behavior between minors shall not be charged as a delinquency offense but rather as a CHINS offense.

Recommendation: Increase judicial review in transferring youth to the adult system while focusing adult transfer on the most serious cases

34. Any youth who has attained the age of sixteen and is charged with capital murder, murder, rape in the first degree with a deadly weapon, or robbery in the first degree with a deadly weapon shall be charged, arrested, and tried as an adult.
35. Every other youth charged with a delinquent act shall be subject to the jurisdiction of the juvenile court.

- Youth shall only be eligible for transfer of jurisdiction to adult court if the youth is 14 or older and is charged with:
 - An offense qualifying the youth as a Serious Juvenile Offender (SJO)
 - A juvenile court judge must approve a transfer of jurisdiction to adult court in order for the case to be transferred, including for those youth who have been previously convicted of an adult crime.
36. The juvenile court shall order and consider a diagnostic study, social evaluation, and investigation into the youth, and his or her circumstances.
37. The inter-branch oversight body established at the recommendation of the Task Force shall collect and analyze discretionary transfer data in order to report to the legislature if any disparate impacts exist based on race, sex, national origin, and economic status.

Recommendation: Improve juvenile justice system procedural fairness

38. The burden of proof for juvenile proceedings shall be the same as the burden of proof in adult proceedings.

Establish and sustain better public safety outcomes through increased system accountability and reinvestment into evidence-based programs in local communities

Recommendation: Expand evidence-based options in local communities for judges and juvenile probation officers in every area of the state

39. Costs averted from reductions in the population of youth in state-funded out-of-home placement (DYS custody and DHS out-of-home diversion) starting from a Fiscal Year 2018 baseline shall be reinvested into both the expansion of evidence-based programs or programs rated by a standardized tool as effective interventions for reducing recidivism.
- Tools used to evaluate programs should be agreed upon and selected by the AOC and DHS for youth statewide who are involved in the juvenile justice system.
 - Services shall be appropriately matched to each youth's risks and needs, with a focus on serving youth and their families in their own homes (or while living in their own homes) with the appropriate level of intensity.
 - Reinvested funds should target: in-home family-focused therapy, individual and group therapy, mentoring programs, substance abuse treatment, and outpatient juvenile sex offender treatment.
 - In addition, funds should be made available to partner with other state and local agencies for the expansion or enhancement of programs that avert juvenile justice system involvement.
40. Every county in the state shall have access to at least one evidence-based program, including rural counties. Reinvestment funds shall be dispersed through both state contracts and local grants in order to allow for services with wide catchment areas for low-population counties that would not otherwise be able to support a program on their own or that do not have the resources to apply for and effectively implement a grant for evidence-based programming.
41. Juvenile justice programs receiving DHS funding and/or reinvestment funding shall adhere to evidence-based models or other interventions rated by a standardized tool as effective for reducing recidivism. This requirement will be gradually implemented. These services should be available for youth involved in all stages of the juvenile justice system, including aftercare

42. Programs receiving reinvestment funds shall adhere to performance-based standards (via contract provisions, grant provisions, shared funding provisions, etc.) in order to incentivize reductions in reoffending, reductions in subsequent DYS commitments.
43. DYS will manage disbursement of grants, execution of contracts, adherence to evidence-based models, and evaluation of programs, with assistance from a juvenile justice oversight entity.
44. Funds from reductions in out-of-home placements for sexual offenses shall be used to expand capacity for outpatient sexual offender treatment in partnership with DHR.

Recommendation: Support juvenile justice professionals on the front lines by expanding training

45. Some funds from reductions in out-of-home placement shall be reinvested into training. The oversight committee shall oversee training, and training shall be required for school administrators, educators, juvenile prosecutors, and juvenile defense attorneys, juvenile probation officers, juvenile court judges, and other staff who work directly with youth in the juvenile justice system. Training topics shall include evidence-based practices, youth development, implicit bias, and restorative justice principles.
46. The oversight committee should prioritize expanded training for juvenile defense attorneys, including considering a recommendation to increase the requirement for juvenile appointment from three to six juvenile Continuing Legal Education hours per year.

Recommendation: Increase system accountability, collaboration, and data collection

47. There should be an oversight committee, made up of members representing substantially similar groups to the Alabama Juvenile Justice Task Force, to oversee implementation of changes to the juvenile justice system and coordinate communication and information sharing. The oversight committee will be responsible for:
 - Overseeing the effective implementation of juvenile justice reforms recommended by the Alabama Juvenile Justice Task Force, including:
 - Reviewing calculations of averted costs and ensuring reinvestment into evidence-based services for youth living at home across the state
 - Developing performance measures to gauge the progress of implementation
 - Collecting, analyzing and reporting on data for each of the performance measures
 - Coordinating the collection and review of juvenile justice system data from all relevant agencies, including review of recidivism information into the juvenile or adult system
 - Making recommendations to strengthen Alabama's juvenile justice data systems to allow for linking individual cases across agency data systems
 - Improving data collection and information sharing to allow for tracking of a youth's trajectory through the juvenile justice system and all prior case history across counties, including tracking the outcomes of youth after they leave the juvenile justice system
 - Issuing public reports annually to the leadership of the legislative, executive, and judicial branches on progress and areas for further review
 - Examining and making recommendations to the legislature on whether youth should be represented by defense counsel throughout their case, beginning at initial intake
 - Examining and making recommendations to the legislature on whether defense counsel representing youth in transfer hearings, delinquency cases that would constitute Felony A and B cases if committed by adults, and sex offense cases should be required to have tried a minimum number of cases to completion

48. The sentencing commission shall serve as a partner to any juvenile justice oversight entity recommended by the Task Force, collecting juvenile data and reporting it back to the oversight entity.

Conclusion

The Alabama Juvenile Justice Task Force fulfilled its charge from state leadership in conducting an exhaustive assessment of Alabama's juvenile justice system based on data, research, and input from hundreds of Alabama stakeholders. This report reflects the cumulative product of these efforts. The Task Force strongly encourages the legislature to introduce comprehensive legislation based on the consensus recommendations contained in this report. In addition, to ensure success, the Task Force respectfully asks the legislature to consider the provision of up-front seed funding to begin expanding community-based options for judges, JPOs, and other front-line professionals as full implementation of the recommendations takes place. With the adoption of the recommendations contained in this report, Alabama will keep communities safer, increase accountability, and achieve better outcomes for youth and families across the state.