

Diversion First Bill

The Diversion First bill seeks to establish a diversionary and preventive alternative to the Juvenile Court system for juvenile offenders. Diversion First envisions a collaborative effort between police, courts, community agencies, schools and families to provide juvenile offenders with preventive services and supports and improve the efficiency of the State juvenile justice system.

Background

Each year, over two million children in the United States are arrested and become involved in the juvenile justice system. In Connecticut, 16,459 juvenile cases were referred from July 2003 through June 2004 for delinquency cases. Yet, juvenile justice professionals throughout the country recognize that not all cases are best handled through a formal delinquency complaint and court process. Indeed, the goals of the Connecticut juvenile justice system set out in the Connecticut General Statutes § 46b-121h include not only accountability, but also individualized supervision, preventive efforts and community-based treatment and services wherever possible and appropriate.

Juvenile diversion programs provide an opportunity to divert children away from formal participation in the juvenile justice system and toward services to address their problems, strengthen their family relationships and connect them to their communities. These programs reflect well-documented evidence that mental health issues, learning disabilities, substance abuse problems and family dysfunction are contributing factors to disruptive behavior and court involvement. Juvenile diversion services include therapeutic intervention, substance abuse treatment, education and vocational training, community service and victim mediation and restitution. At the same time, addressing the causes of juvenile delinquent activity can enhance community safety and confidence in law enforcement. For the juvenile justice system, diversion programs can reduce caseloads, increase efficiency and offer cost-saving, community-based alternatives to arrest and detention.

Juvenile diversion programs are created and run by local entities and reflect the needs and resources available in the community. Elements of successful initiatives include a commitment to diversion and use of court sanctions as a last resort, collaboration between the police, community, schools and families, a single point for program referral, decision-making and service coordination and ongoing program evaluation.

Juvenile diversion projects exist currently in several Connecticut communities. Approximately thirty communities have assorted juvenile diversion programs comprised of representatives of local youth service agencies, schools, police departments, and the juvenile court to help local police departments deal with juvenile offenders. Additionally, some police departments have developed protocols for handling juvenile offenders that include referral to a juvenile diversion program as an alternative to court involvement.

Critical Components

The proposed Diversion First bill establishes objectives and standards for juvenile diversion pilot programs in those Connecticut communities most affected by high rates of juvenile delinquent activity and most affected by high rates of juvenile delinquent activity and most reliant on court sanctions and detention protocols.

Development of juvenile diversion programs requires a two-step process: (1) review of town and city resources available and identify gaps in services to support children and their families in addressing the causes of delinquent behavior (2) based on the review and survey, create and fund pilot diversion programs and necessary services in those communities.

Additionally, all diversion programs shall be guided by the following principles and operational guidelines:

- preventive and rehabilitative services should be the initial intervention in addressing juvenile delinquency.
- court involvement and court-based sanctions such as arrest and detention for juvenile offenders should be the intervention of last resort.
- police will be responsible for the initial decision to divert or refer to juvenile court. Police will also be responsible for maintaining data on the number of cases referred to diversion as compared to those sent to juvenile court. These data should include juvenile characteristics, including age, gender, race and ethnicity and shall be collected on a quarterly basis and reported to the Commission on Racial and Ethnic Disparity in the Criminal Justice System.
- access to diversion programs through a single point of entry and centralized decision-making regarding eligibility, referrals to services and service coordination and tracking.
- ability to build and access a network of community-based resources for juveniles at-risk for delinquent behavior and their families.
- collaborative efforts and formal mechanisms for information-sharing between law enforcement, Judicial Branch, Department of Children and Family Services, Department of Criminal Justice, community-based agencies, educational and vocational resources and families in accordance with existing confidentiality laws for juvenile matters.
- in any cases, where there is failure to comply with the Diversion Program the program shall document reasons for failure and the case should be referred to Juvenile Court for initial judicial handling.
- the Diversion Program shall have clear, measurable outcomes that will be reported on a quarterly basis. They shall include the number of youth referred to the diversion program, the number of successful completions, the number of and reasons for program failures. These data shall be reported by age, gender, race

and ethnicity and reported to the Commission on Racial and Ethnic Disparity in the Criminal Justice System.

- the process for ongoing quarterly evaluation of both aggregate numbers and individual cases to determine program effectiveness and need for additional protocols and interventions will be reviewed by both the police and the Diversion Program and reported to the Commission on Racial and Ethnic Disparity in the Criminal Justice System.
- the Commission will be responsible for developing a uniform record keeping tool for the pilot programs and will conduct a quarterly review of the data submitted from the programs.
- the Commission will prepare a semi-annual update of the status of the pilot Diversion Programs for the General Assembly.

Protocols for Eligibility and Referral

Options for handling juvenile offenders can include verbal warning and release, conference with the child, parents, teachers and others, referral to a juvenile diversion program or referral to juvenile court. The following factors shall be considered in the disposition of every juvenile case and assist in determining eligibility for referral to a juvenile diversion program:

- nature of the alleged offense;
- age of the juvenile;
- past police involvement;
- possibility of gang affiliation;
- amenability of the juvenile and parents toward the offense and toward referral for treatment or rehabilitation;
- family, school and community adjustment of the juvenile;
- availability of community-based programs for the juvenile;
- likelihood that an alternative referral will prevent further delinquent behavior;
- impact on the victim;
- recommendations, if any, of other agencies or professionals involved with the juvenile; and
- public safety.

Prior to referring a juvenile to a juvenile diversion program, the referring agent (e.g. police, parents) shall verify that:

- the juvenile has committed a crime or has acknowledged responsibility for his/her behavior and that behavior is likely to require involvement with juvenile court;

- the juvenile and parent(s) or responsible person complete a written contract of expected actions and consequences for noncompliance;
- the juvenile and parent(s) or responsible person understand the consequences of failing to complete the diversion program, including the possible referral of the case to juvenile court.

The Diversion First bill also shall include protocols for handling non-resident juveniles who commit minor and criminal offenses. In minor cases where diversion may be appropriate, the officer, after completing the investigation, may refer the matter to the police juvenile unit for possible diversion. In cases involving serious crimes, or where the established requirements for diversion are not present, the officer should refer the case directly to the court by means of a Juvenile Summons or placement in a juvenile detention facility.

The bill shall include standards for ensuring the confidentiality of juvenile records while permitting the necessary sharing of information among the various entities involved in the diversion program. Specific guidelines include:

- records and identification materials on juveniles should be clearly marked “juvenile” or “youth”
- juvenile records should be kept separate from adult records.
- if a juvenile is apprehended in connection with the arrest of an adult, a separate report should be filed as a juvenile record and identifying information on the juvenile should be removed from the adult record.
- records personnel shall expunge all records concerning juveniles or child offenders.
- exceptions to general confidentiality include disclosure to justice and service delivery professionals. Records may be disclosed to and between individuals and agencies, and the employees of such agencies, involved in delinquency proceedings or providing services directly to the juvenile in accordance with existing confidentiality laws for juvenile matters.