

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
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As Engrossed: S2/5/19

A Bill

SENATE BILL 152

By: Senators Irvin, Bledsoe, B. Davis, J. English

By: Representatives C. Fite, Barker, Bentley, Brown, Capp, Cavanaugh, Crawford, Dalby, Della Rosa, M. Gray, Lundstrum, J. Mayberry, Petty, Rushing, Speaks, Vaught

For An Act To Be Entitled

AN ACT TO IMPROVE OUTCOMES FOR YOUTH AND FAMILIES THROUGH THE TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM; AND TO REFORM THE JUVENILE JUSTICE SYSTEM TO UTILIZE VALIDATED RISK ASSESSMENT TOOLS, CREATE A PLAN FOR DIVERSION OPTIONS TO MAXIMIZE THE BENEFITS FOR JUVENILE OFFENDERS, AND DEVELOP A PLAN FOR THE REINVESTMENT OF FUNDS INTO COMMUNITY-BASED SERVICES.

Subtitle

AN ACT RESTORING ARKANSAS FAMILIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. This act shall be known and may be cited as the "Restoring Arkansas Families Act".

SECTION 2. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds:

(1) The Youth Justice Reform Board was established by Acts 2015, No. 1010, bringing together stakeholders from across the state to develop a series of recommendations for youth justice reform in Arkansas;

(2) Stakeholder groups represented on the board include:

(A) Families and youth involved in the juvenile system;

(B) The Department of Education;

(C) The Department of Workforce Services;



- (D) The Department of Human Services;
- (E) Youth services providers;
- (F) Juvenile judges;
- (G) The Administrative Office of the Courts;
- (H) Prosecuting attorneys;
- (I) Public defenders;
- (J) Youth advocates; and
- (K) Experts in adolescent development; and

(3) In 2017, the board worked with the Arkansas Supreme Court Commission on Children, Youth, and Families to identify concerns and priorities for legislative action.

(b) The purpose of this act is to:

(1) Maintain public safety and improve outcomes for Arkansas youth and families involved in the juvenile justice system through validated risk assessments;

(2) Reduce the number of secure out-of-home placements;

(3) Redirect funding from secure residential facilities to evidence-based community services;

(4) Equitably allocate services in and across each judicial district;

(5) Enhance treatment for youth committed to the Division of Youth Services; and

(6) Serve youth and families through evidence-based programs selected through a collaboration between the Department of Human Services, the judiciary, and community-based providers.

SECTION 3. Arkansas Code § 9-27-323(e), concerning diversion agreements in juvenile delinquency cases, is amended to read as follows:

(e) Diversion agreements shall be:

(1) Implemented by all juvenile courts based on validated assessment tools; and

(2) ~~limited~~ Used to ~~providing~~ provide for:

~~(1)~~(A) Nonjudicial probation under the supervision of the intake officer or probation officer for a period during which the juvenile may be required to comply with specified conditions concerning his or her conduct and activities;

~~(2)(B)~~ Participation in a court-approved program of education, counseling, or treatment;

~~(3)(C)~~ Participation in a court-approved teen court;

~~(4)(D)~~ Participation in a juvenile drug court program; ~~and~~

~~(5)(E)~~ Enrollment in the Regional Educational Career Alternative School System for Adjudicated Youth; and

(F)(i) Payment of restitution to the victim.

(ii) Payments of restitution under subdivision (e)(2)(F)(i) of this section shall be paid under § 16-13-326.

SECTION 4. Arkansas Code § 9-27-330(a)(1)(B), concerning dispositions in juvenile delinquency cases, is amended to read as follows:

(B)(i) Commit the juvenile to the Division of Youth Services ~~of the Department of Human Services~~ using the validated risk assessment system for Arkansas juvenile offenders selected by the Juvenile Judges Committee of the Arkansas Judicial Council with the division and distributed and administered by the Administrative Office of the Courts.

(ii)(a) The validated risk assessment system selected by the Juvenile Judges Committee of the Arkansas Judicial Council with the division shall be:

(1) The only validated risk assessment used by courts for commitment;

(2) Used throughout the state; and

(3) Applied to all commitment decisions for all juvenile offenders.

(b) The validated risk assessment may be ~~modified~~ changed to another validated risk assessment system by the Juvenile Judges Committee of the Arkansas Judicial Council with the division.

(iii)(a) In an order of commitment, the court may recommend that a juvenile be placed in a treatment program or community-based program instead of a youth services center and shall make specific findings in support of such a placement in the order.

(b) The court shall also specify in its recommendation whether it is requesting a division aftercare plan upon the juvenile's release from the division.

(c) A court may not commit a juvenile to the

division if the juvenile is adjudicated delinquent of only a misdemeanor offense unless the:

(1) Juvenile is determined to be moderate risk or high risk by the validated risk assessment; and

(2) Court makes specific findings as to the factors considered for the disposition to be in the juvenile's best interest.

(d) A court may not commit a juvenile to the division if the juvenile is adjudicated delinquent of only a misdemeanor offense and the juvenile is determined to be low risk by the validated risk assessment.

(iv) A circuit court committing a juvenile to the division under subdivision (a)(1)(B)(iii) of this section shall make written findings and consider the following factors in making its determination to commit the juvenile to the division:

(a) The previous history of the juvenile, including without limitation whether:

(1) The juvenile has been adjudicated delinquent and, if so, whether the offense was against a person or property; and

(2) Any other previous history of antisocial behavior or patterns of physical violence exist;

(b) Whether the circuit court has previously offered less restrictive programs or services to the juvenile and whether there are less restrictive programs or services available to the court that are likely to rehabilitate the juvenile before the expiration of the court's jurisdiction;

(c) Written reports and other materials relating to the juvenile's mental, physical, educational, and social history; and

(d) Any other factors deemed relevant by the circuit court.

~~(iv)~~(v) Upon receipt of an order of commitment with recommendations for placement, the division shall consider the recommendations of the committing court in placing a juvenile in a youth services facility or a community-based program.

~~(v)~~(vi) Upon receipt of an order of commitment, the division or its contracted provider or designee shall prepare a written treatment plan that:

(a) States the treatment plan for the juvenile, including the types of programs and services that will be provided to the juvenile;

(b) States the anticipated length of the juvenile's commitment;

(c)(1) States recommendations as to the most appropriate post-commitment placement for the juvenile.

(2) If the juvenile cannot return to the custody of his or her parent, guardian, or custodian because of child maltreatment, which includes the parent, guardian, or custodian refusing to take responsibility for the juvenile, the division shall immediately contact the Office of Chief Counsel of the Department of Human Services.

(3) The Office of Chief Counsel of the Department of Human Services shall petition the committing court to determine the issue of custody of the juvenile;

(d) States any postcommitment community-based services that will be offered to the juvenile and to his or her family by the division or the community-based provider;

(e)(1) Outlines an aftercare plan, if recommended, including specific terms and conditions required of the juvenile and the community-based provider.

(2) If the juvenile progresses in treatment and an aftercare plan is no longer recommended or the terms of the aftercare plan need to be amended as a result of treatment changes, any change in the terms of the aftercare plan and conditions shall be provided in writing and shall be explained to the juvenile.

(3) The terms and conditions shall be provided also to the prosecuting attorney, the juvenile's attorney, and to the juvenile's legal parent, guardian, or custodian by the division or its designee before the juvenile's release from the division.

(4) All aftercare terms shall be provided to the committing court; and

(f)(1) The treatment plan shall be filed with

the committing court no later than thirty (30) days from the date of the commitment order or before the juvenile's release, whichever is sooner.

(2) A copy of the written treatment plan shall be provided and shall be explained to the juvenile.

(3) A copy shall be provided to the prosecutor, the juvenile's attorney, and to the juvenile's legal parent, guardian, or custodian and shall be filed in the court files of any circuit court where a dependency-neglect or family in need of services case concerning that juvenile is pending.

SECTION 5. Arkansas Code § 9-28-201 is amended to read as follows:
9-28-201. Legislative intent and purpose.

(a) The General Assembly recognizes that the state has a responsibility to provide its youth with appropriate services and programs to help decrease the number of juvenile offenders in the state and to create a better future for the state's youth and that reforms in the juvenile justice system require oversight by an organization with special expertise in the problems of juvenile offenders. Therefore, the General Assembly declares that this subchapter is necessary to create a single entity within the Department of Human Services with primary responsibility for coordinating, sponsoring, and providing services to Arkansas's youth and to create a structure within state government that will be responsive to the needs of the state's youth.

(b) The purposes of this subchapter include without limitation to:

(1) Maintain public safety and improve outcomes for Arkansas youth and families involved in the juvenile justice system through validated risk assessments;

(2) Reduce the number of secure out-of-home placements;

(3) Redirect funding from secure residential facilities to evidence-based community services; and

(4) Enhance treatment for youth committed to the Division of Youth Services.

SECTION 6. Arkansas Code § 9-28-203(a), concerning the powers and duties of the Division of Youth Services, is amended to read as follows:

(a) The Division of Youth Services ~~of the Department of Human Services~~ shall perform the following functions and have the authority and

responsibility to:

(1) Coordinate communication among the various components of the juvenile justice system;

(2) Oversee reform of the state's juvenile justice system, review the quality and consistency of reforms and reform proposals, and monitor youth and family outcomes related to reforms;

(3) Provide services to delinquent and families-in-need-of-services youths;

(4) Conduct research into the causes, nature, and treatment of juvenile delinquency and related problems;

(5) Develop programs for early intervention and prevention of juvenile delinquency;

(6) Maintain information files on juvenile delinquents in the state;

(7) Develop effective community-based alternatives to confinement, incarceration, and commitment of youths;

(8) Actively pursue the maximization of federal funding for juvenile delinquency and related programs;

(9) Evaluate the effectiveness and efficiency of the programs and services offered by the division and recommend changes to the Governor;

(10) Provide a system of education in residential facilities operated by the division that conform to the guidelines established by the Department of Education and as set forth in § 9-28-205; ~~and~~

(11) Develop a reinvestment plan to redirect savings realized from reductions in the number of secure out-of-home placements under § 9-28-1203;

(12) Develop a collaborative information-sharing system among the Department of Human Services, the Administrative Office of the Courts, and other stakeholders; and

~~(11)~~(13) Do and perform all other actions and exercise all other authority not inconsistent with the provisions of this subchapter as necessary to carry out the purposes and intent of this subchapter.

SECTION 7. Arkansas Code § 9-28-203(b)(7), concerning the observation and assessment services provided by the Division of Youth Services, is amended to read as follows:

(7)(A) Observation and assessment services shall consist of, but not be limited to, those activities necessary to ensure appropriate recommendations for intervention, services, and placement of low-risk and medium-risk juveniles.

(B) Observation and assessment services may be acquired by agreements with community providers or other agencies or individuals deemed to have the appropriate level of expertise to perform observation and assessment or diagnosis and evaluation.

(C)(i) The division shall use validated risk assessments for all juveniles committed to the division.

(ii) The division shall provide individualized treatment and placement decisions, with measureable goals and regular reassessments, based on the results of an initial assessment and the risk level assigned to the juvenile by the validated risk assessment used in the court's commitment decision under § 9-27-330(a)(1)(B);

SECTION 8. Arkansas Code § 9-28-203(b)(8), concerning the observation and assessment services provided by the Division of Youth Services, is amended to read as follows:

(8)(A) Residential observation and assessment services shall consist of, but not be limited to, those activities necessary to ensure appropriate recommendations for intervention, services, and placement of high-risk juveniles.

(B) Residential observation and assessment services may be performed by or at appropriate state-operated facilities or by agreement with appropriate agencies or individuals deemed to have the appropriate level of expertise to perform residential observation and assessment or diagnosis and evaluation.

(C)(i) The division shall use validated risk assessments for all juveniles committed to the division.

(ii) The division shall provide individualized treatment and placement decisions, with measurable goals and regular reassessments, based on the results of an initial assessment and the risk level assigned to the juvenile by the validated risk assessment used in the court's commitment decision under § 9-27-330(a)(1)(B);

SECTION 9. Arkansas Code § 9-28-203(b)(9), concerning the observation and assessment services provided by the Division of Youth Services, is amended to read as follows:

(9)(A)(i) Community-based alternative basic services shall consist of, but not be limited to, prevention, intervention, casework, treatment, counseling, observation and assessment, case management, and residential services.

(ii) Community-based alternative basic services shall be provided through a treatment model that is evidence-based, developmentally appropriate, family-centered, strength-based, and trauma-informed.

~~(ii)~~(iii) Primary goals for community-based alternative basic services shall be the prevention of youths from entering the juvenile justice system and the provision of professional, community-based, least-cost services to youths.

(B) These services may be acquired by agreements with comprehensive community-based providers capable of delivering the required continuum of services; and

SECTION 10. Arkansas Code § 9-28-203(b), concerning the powers and duties of the Division of Youth Services, is amended to add an additional subdivision to read as follows:

(11) The division shall provide monitoring and technical assistance to review the quality and consistency of reforms to the juvenile justice system.

SECTION 11. Arkansas Code § 9-28-208(b)(1)(B), concerning orders of detention and commitment, is amended to read as follows:

(B) A copy of the validated risk assessment instrument;
and

SECTION 12. Arkansas Code § 9-28-302(g)(1), concerning security inspections, is amended to read as follows:

(g)(1)(A) The Department of Human Services or the division shall develop an internal audit and review to evaluate and monitor all facilities of the division.

(B) The internal audit and review shall include without limitation monitoring of all facilities for security concerns.

SECTION 13. Arkansas Code § 9-28-1202 is amended to read as follows:
9-28-1202. Powers and duties – Definitions.

(a) As used in this section and § 9-28-1203:

(1) “Proven effective community- based alternatives” means interventions, supports, programs, and practices that are recognized as best practices based on rigorous evaluation and research, or are based on a clear and well-articulated theory or conceptual framework for delinquency prevention. These include, without limitation, community-based services that are currently provided or have been provided and have been demonstrated to be effective in reducing the number of secure confinement out-of-home placements and institutional placement of youthful offenders; and

(2) “Secure ~~confinement~~ out-of-home placement” means ~~confinement placement~~ in a public or private residential facility that includes construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody and is used for the placement and disposition of a juvenile adjudicated to be delinquent; ~~and~~

~~(3) “Serious risk to public safety” means a high risk that a youth will reoffend without intervention as measured by a validated risk assessment.~~

(b) The Youth Justice Reform Board shall:

(1) Assist the Division of Youth Services ~~of the Department of Human Services~~ in determining the method for calculating savings realized from reduced state commitments and in educating the public about the plan developed to reduce reliance on secure ~~confinement~~ out-of-home placements; and

~~(2)(A)~~ Make annual reports to the division, the Governor, and the General Assembly regarding system reform and improvements needed to implement the goals and purposes of this subchapter.

~~(B) By no later than June 30, 2016, the board shall submit to the division, the Governor, and the General Assembly a plan to reduce over a two-year period the use of secure confinement for youths who do not present a serious risk to public safety.~~

~~(C) The plan to reduce secure confinement shall include~~

~~measurable objectives for developing and maintaining proven effective alternatives to secure confinement in communities statewide, as well as strategies to achieve those objectives throughout all parts of the juvenile justice system.~~

(c) To provide needed expertise, the board may seek outside technical assistance to aid its work.

SECTION 14. Arkansas Code § 9-28-1203 is amended to read as follows:

9-28-1203. ~~Summary of savings~~ Savings in state costs realized from reduction in number of secure out-of-home placements.

(a)(1) ~~The Division of Youth Services of the Department of Human Services, through the Youth Justice Reform Board, no later than July 1, 2016,~~ shall establish a method to calculate state costs saved ~~from the avoidance of and reductions in youthful offender commitments by each judicial district~~ that are realized from a reduction in the number of secure out-of-home placements.

(2)(A) The division shall develop a reinvestment plan to redirect savings realized from a reduction in the number of secure out-of-home placements.

(B) The division shall complete the development of the reinvestment plan under subdivision (a)(2)(A) of this section by July 1, 2020.

(C) The reinvestment plan developed by the division shall:

(i) Support the legislative intent and purposes of this subchapter by redirecting savings in state costs that are realized from a reduction in the number of secure out-of-home placements;

(ii) Describe the methods and procedures to redirect savings in state costs from a reduction in the number of secure out-of-home placements through the reallocation of resources under § 19-4-522;

(iii) Describe the method to calculate savings in state costs from a reduction in the number of secure out-of-home placements;

(iv) Describe criteria to redirect savings in state costs to implement juvenile justice reform initiatives through evidence-based programs provided by community-based providers, including without limitation requirements for:

(a) Applications;

(b) Awards;

(c) Performance measures; and

(d) Monitoring processes; and

(v) Describe the methods and procedures to be used to monitor the use of redirected savings in state costs.

(b) The division shall include in its annual report:

(1) a summary of the data and method used to calculate savings generated from a reduction in commitments, in state costs that are realized from the reduction in the number of secure out-of-home placements;

(2) the total amount of savings generated from the reduction in the number of secure out-of-home placements; , and

(3) the impact of such reduction reductions in secure out-of-home placements and the redirection of savings in state costs from the reduction in the number of secure out-of-home placements on public safety and youth outcomes for youths and families; and

(4) The overall residential budget and present and future facility needs.

(c) The General Assembly shall consider the summary of savings in making appropriations to the division to allow for the support and expansion of proven effective community-based alternatives to secure ~~confinement~~ out-of-home placements for youths who otherwise would have been committed to the division.

SECTION 15. EFFECTIVE DATE. This act shall be effective on and after July 1, 2020.

/s/ Irvin