



April, 2009

The Honorable Patrick J. Leahy
Chairman
Senate Committee on the Judiciary
United States Senate
224 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Arlen Specter
Ranking Member
Senate Committee on the Judiciary
United States Senate
152 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Herbert H. Kohl
United States Senate
330 Senate Hart Office Building
Washington, DC 20510

The Honorable Richard Durbin
United States Senate
309 Senate Hart Office Building
Washington, DC 20510

Dear Senators Leahy, Specter, Kohl, and Durbin

On behalf of the Council for Children with Behavioral Disorders, I am writing to express our strong support for S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009, which was introduced on March 24, 2009.

S. 678 strengthens and updates critical components of the Juvenile Justice Delinquency and Prevention Act (JJDP), which has been protecting youth across the nation for over 30 years. S. 678 makes meaningful improvements that expand several of the core protections and other areas contained in the bill.

The bill responds to the following needs, identified by hundreds of state and local constituents and stakeholder organizations nationwide, with whom the Senators and their staff members have engaged and given voice in the process of crafting this legislation:

Core Protections:

- Strengthening the Disproportionate Minority Contact (DMC) core protection: Research has documented that youth of color are disproportionately over-represented and subject to more punitive sanctions than similarly-charged/situated white youth at all levels of the juvenile justice system. S. 678 gives guidance to States on complying with the DMC core protection by listing specific steps toward reducing DMC, including identifying and analyzing key decision points to determine where disparities exist, collecting data, developing a work plan, and publicly reporting such efforts.
- Strengthening the Jail Removal and Sight and Sound core protection: Research shows youth confined in adult jails and lock-ups are more likely to re-offend upon release and while confined are at pronounced high risk of suffering assault and committing suicide. S. 678 extends the jail removal and sight and sound core requirements to keep youth awaiting trial in criminal court out of adult lock-ups and

to ensure sight and sound separation in the limited circumstances where they are held in adult facilities. While our recommendation is to remove all youth under age 18 from adult facilities and ensure sight and sound separation, S. 678 takes a good step in this direction.

- Allows States to continue to serve youth tried in adult court in juvenile facilities without jeopardizing federal funding: S. 678 would permit States to continue to house and rehabilitate youth convicted in adult court in juvenile facilities until they reach a State's extended juvenile jurisdiction age. Previous interpretation and application of the law penalized States for utilizing these more appropriate and humane placements for youth.
- Strengthening the deinstitutionalization of status offenders (DSO) core protection: Under current law, non-delinquent status offenders, such as children who are truant, runaway or violate curfew, alcohol and tobacco laws, may be held in juvenile lock-ups under the Valid Court Order (VCO) exception, which allows judges to issue detention orders. The practice persists despite evidence that securely detaining status offenders is harmful to pro-social development and is costly, especially when compared to more effective responses including shelter care, crisis counseling, family support, and/or community and school based interventions. S. 678 requires States that still permit the use of the exception to phase-out use of the VCO within three years, and allows States in need to apply for one-year hardship extensions through the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Until VCO elimination, S. 678 provides extra safeguards for status offenders in locked facilities, including limits on how long status offenders may be detained. We would like to see the status offender provisions become stronger in terms of limiting length of stay in detention, ensuring that the status offenders are not subject to repeat detention orders and that hardship exception to the phase-out period are limited.

Overall juvenile justice system improvements:

- Improves conditions of confinement in juvenile facilities: S. 678 calls for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator to report annually on State data regarding the uses of isolation and restraints in juvenile detention and corrections facilities, and encourages training of facility staff to eliminate dangerous practices. S. 678 also calls for States to develop policies and procedures to eliminate the use of dangerous practices and unreasonable use of restraints and isolation, through the use of alternative behavior management techniques.
- Provides comprehensive services and supports for youth: S. 678 promotes alternatives to detention, improves screening, diversion, assessment, and treatment for mental health and substance abuse needs, enhances child welfare and juvenile justice system integration, supports effective assistance of juvenile counsel, and improves case management and transitional services for youth upon re-entry. We would like to see further emphasis placed on provision of services to girls.

Youth with disabilities, and those with serious mental health problems, are disproportionately represented in the Juvenile Justice System. Over one-third of incarcerated youth have an identified educational disability, compared with less than 12% of students in America's public schools. Of the population of incarcerated youth with disabilities, over 48% have been found to have emotional and behavioral disorders. Excluding conduct disorders, over two-thirds of males and three-fourths of incarcerated females meet diagnostic criteria for one or more psychiatric disorders. Based on the prevalence of such disorders among the incarcerated juvenile population, the juvenile delinquency system has been characterized as a "default system" for youth with emotional and behavioral disorders. These youth desperately need the range of comprehensive services promoted by S. 678 to improve their life outcomes.

Support for states:

- Increases States' ability to comply with the core requirements: S. 678 offers additional technical assistance to States and authorizes Improvement Grants to infuse funds and technical assistance to States seeks to regain compliance with one or more of the core requirements.
- Creates incentive grants: S. 678 creates a new incentive grant program for States that wish to employ empirically-sound prevention and intervention approaches and improve their work in the areas of workforce development, and diversion for youth with mental health and substance abuse needs. We would like to see even greater emphasis on use of evidence-based or promising approaches.
- Restores and strengthens the role of OJJDP: S. 678 provides guidance about specific research, technical assistance, and training efforts to be conducted in a manner that benefits States and communities, nationwide. The bill also includes important provisions to improve program and financial oversight and accountability at OJJDP, and restores the statutory authority given to a national association of State Advisory Groups.

Funding levels:

- Sets more appropriate authorization levels for Title II and Title V: S. 678 provides States with the resources needed to achieve and sustain compliance with the core requirements of the JJDPA and take meaningful steps to improve juvenile justice systems and prevent delinquency and violence. We are very pleased to see that the Senate has cited authorization levels in the legislation.

Preserves and guards the community-connected prevention, youth development and rehabilitation emphases of the JJDPA:

- Keeps the focus on prevention and intervention: S. 678 does not introduce unnecessary and punitive approaches to delinquency prevention and intervention. As the bill moves through the Judiciary Committee and to the floor of the Senate, we trust that the Senate will do everything within their power to preserve the prevention

focus of the JJDPa by guarding against any amendments that would link the JJDPa to provisions and/or other forms of federal legislation that introduce new federal categories of juvenile crime, new or enhanced federal penalties affecting juveniles, or incentives for States to advance new or enhanced penalties for juveniles.

In light of the list above, the Council for Children with Behavioral Disorders supports this bill as a significant step towards improving the JJDPa and offer ourselves as a resource as the bill moves through the legislative process. Thank you for your efforts on behalf of youth across the country.

Sincerely,

Richard White, Ed. D.
President, Council for Children with Behavioral Disorders