Georgia's 2013 Juvenile Justice Reform

New Policies to Reduce Secure Confinement, Costs, and Recidivism

Overview

Following a criminal justice overhaul in 2012, Georgia enacted House Bill 242 in 2013, which included wide-ranging reforms to its juvenile justice system based on recommendations from the Special Council on Criminal Justice Reform for Georgians. The council's provisions of the bill will save an estimated $85 million over five years and reduce recidivism by focusing out-of-home facilities on serious offenders and investing in evidence-based programs. The bill also streamlines and revises the state code relating to juvenile justice and child welfare, including creating new processes for cases involving children in need of services.

Highlights

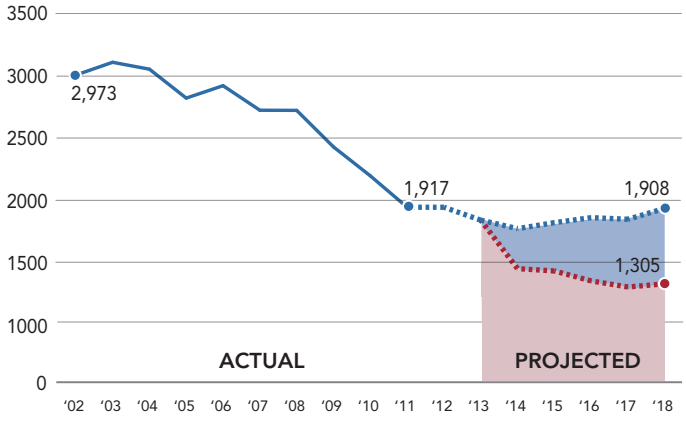
Problem: In fiscal 2013, the Georgia Department of Juvenile Justice, or DJJ, was appropriated $300 million, nearly two-thirds of which paid for out-of-home facilities, which include secure and nonsecure facilities.[1] The state's secure residential institutions—youth development campuses, or YDCs, and regional youth detention centers, or RYDCs,—cost an average of about $90,000 per bed per year. Despite these substantial expenditures, results were poor: More than 50 percent of adjudicated youth were readjudicated delinquent or convicted of a crime within three years of release, a rate that has held steady since 2003. For youth released from YDCs, the recidivism rate was 65 percent.

Findings: The special council conducted an extensive review of the state's data and found that the juvenile justice system was producing poor results despite the high cost. A significant number of youth in expensive out-of-home facilities had been adjudicated for low-level offenses, many were assessed as a low risk to reoffend, and the public safety outcomes were weak. Additionally, the council found that many parts of the state had limited or no community-based programs for juvenile offenders, leaving judges with few options other than commitment to a state facility.

Reforms: The council, with technical assistance from The Pew Charitable Trusts, the Annie E. Casey Foundation, and the Crime & Justice Institute, issued recommendations that focus state facilities on higher-level offenders; reduce recidivism by investing in evidence-based programs and practices; and improve government performance by requiring data collection and performance-based contracting. HB 242, which contained many of the council's policy recommendations, passed both chambers of the General Assembly unanimously and was signed into law by Governor Nathan Deal on May 2, 2013. The state also appropriated $5 million in fiscal 2013 to fund a county-level voluntary incentive grant program.[2]

Georgia Council's Policies to Save $85 Million

Figure 1: Juvenile out-of-home population and projections, 2002-2018



Note: Projection includes only those reforms that were proposed by the council. Source: Georgia Department of Juvenile Justice (historical data); The Pew Charitable Trusts (projections)

Impact: The 2013 initiatives are expected to save Georgia nearly $85 million through 2018 and avoid the need to open two additional juvenile residential facilities. This will allow the state to reinvest a portion of the savings to expand community-based programs and practices proven to reduce recidivism.

Background

The 2011 General Assembly, seeking new ways to protect public safety while controlling the growth of prison costs, created the Special Council on Criminal Justice Reform for Georgians to improve the state's adult sentencing and corrections system. The council produced a set of comprehensive, data-driven recommendations, which were adopted in HB 1176 during the 2012 session. The legislation, which passed both chambers of the General Assembly unanimously and was signed by Gov. Deal in May 2012, is projected to avert all the anticipated growth in prison population and costs through 2018, saving at least $264 million. Through accompanying budget initiatives, the state redirected more than $17 million of the savings into "accountability" courts, such as drug and DUI courts, and other efforts to reduce reoffending.[3]

> "That is huge savings, and we think not only does it improve public safety, it also does the right thing for providing alternatives."
>
> — **Gov. Nathan Deal**, HB 242 bill-signing ceremony, May 2, 2013

Following the 2012 legislative session, Gov. Deal issued an executive order extending the council's term, expanding its membership, and broadening its focus to include the juvenile justice system. Under this mandate, the council conducted a detailed analysis of Georgia's juvenile justice system and solicited input from a wide variety of stakeholders. The council formed two working groups, focused on community supervision and out-of-home placements, to review the analysis and consider policy options. The working groups met frequently throughout the summer and fall, and developed fiscally sound, data-driven policy options that will hold offenders accountable, increase public safety, and reduce corrections costs. These recommendations were reported back to the full council, which reviewed and adopted them. The council released its final report in December 2012.

Key Findings

Mirroring national trends, the number of youth in Georgia's juvenile justice system declined in recent years.[4] Between 2002 and 2011, the out-of-home adjudicated population dropped from 2,973 to 1,917.[5]

Though the number of youth in the system declined, costs remained high for Georgia taxpayers. In fiscal 2013, the appropriation for DJJ exceeded $300 million.[6] Nearly two-thirds of the budget was directed to out-of-home facilities. The state's secure facilities include YDCs, which cost $91,000 per bed per year, and RYDCs,[7] which cost $88,000 per bed per year.[8]

Despite these expenditures, the recidivism rate remained high. More than half of the youth in the juvenile justice system were readjudicated delinquent or convicted of a crime within three years of release. This rate has held steady since 2003.[9] For youth released from YDCs, the rate was 65 percent, 6 percentage points higher than those released in 2003.[10] See Figures 2 and 3.

The council's analysis revealed five other major challenges for the state:

1 High number of lower-level and lower-risk offenders in out-of-home facilities

The council found that a majority of youth in out-of-home facilities were felony offenders, and nearly 1 in 5 were assessed as a high risk to reoffend. Among juveniles in these facilities, however, almost 1 in 4 had been adjudicated for a low-level offense, including a misdemeanor or status offense,[11] and approximately 40 percent were assessed as a low risk to reoffend.[12]

Looking specifically at juveniles in nonsecure residential facilities in 2011, 53 percent had been adjudicated for a misdemeanor (45 percent) or status offense (8 percent), and more than half (56 percent) of those were assessed as low risk. See Figure 4.[13]

2 High number of lower-risk designated felony offenders in facilities

In 1980, Georgia adopted a juvenile sentencing law called the Designated Felony Act. It required that all juveniles convicted of any of 11 serious offenses, or designated felonies, serve at least one year at a YDC.[14] The initial list focused on violent

Despite High Costs, Most Youth Return to System

Figure 2: Annual cost per bed of Georgia juvenile secure placement by facility type, 2011

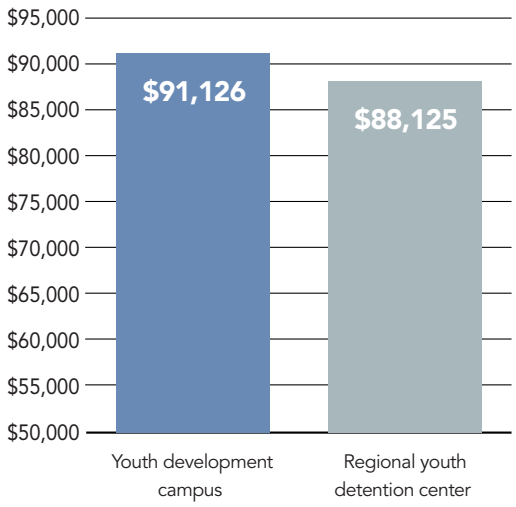
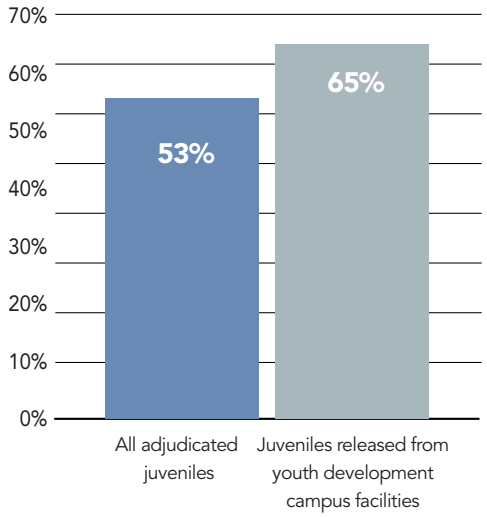


Figure 3: Three-year recidivism rates for Georgia youth released in 2007



Note: Recidivism is defined as an adjudication of delinquency in juvenile court or a finding of guilt in adult court for an offense committed within 3 years of release from an out-of-home facility or placement on community supervision. **Source:** Georgia Department of Juvenile Justice

> “We know one thing for certain: Spending $91,000 a year to lock up a juvenile and getting 65 percent recidivism in return is not working. We can be smarter with taxpayer dollars. More importantly, we can produce a safer Georgia.”
>
> — **Chief Justice Carol Hunstein,**
> State of the Judiciary address, Feb. 7, 2013

offenses such as murder, rape, and kidnapping. But over the past three decades, the number of designated felonies has grown to 29 and incorporated less-severe offenses, such as smash-and-grab burglary.[15]

The data revealed that youth adjudicated as designated felons were the only segment of the out-of-home population that consistently increased between 2002 and 2011. As a result, designated felons constituted 98 percent of the youth in YDCs in 2011. One reason for this was that they were spending more time in out-of-home facilities: Between 2002 and 2011, their average time served grew 13 percent.

Despite the growth in the number of designated felons, the overall risk level of these offenders had not increased. In fact, the percentage of designated felons identified as high risk remained essentially flat, at about 24 percent, while the percentage identified as low risk increased slightly, from 36 percent in 2004 to 39 percent 2011.[16]

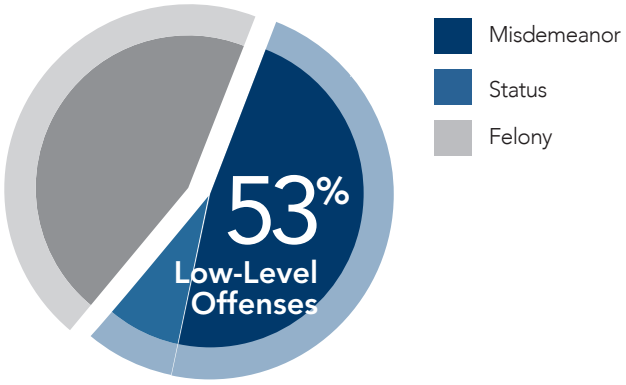
3 Lack of validation and inconsistent use of risk- and needs-assessment tools

Risk- and needs-assessment and detention-assessment instruments are objective tools designed to inform key decisions at various stages in the justice process. Currently, Georgia uses the Detention Assessment Instrument to help determine whether youth should be confined pending court proceedings. The state uses another tool, the Comprehensive Risk and Needs Assessment, to evaluate each juvenile's likelihood to be adjudicated for another crime, inform placement and supervision levels, and identify needs.

The council identified two challenges with these tools. First, in order to be effective, assessment instruments must be validated regularly and "renormed" [17] on the state's population to ensure that they accurately predict and effectively categorize risk. Georgia's detention instrument had never been validated, however, and the risk and needs assessment had not been validated

More Than Half of Juveniles in Nonsecure Facilities in for Low-Level Offenses

Figure 4: Georgia adjudicated nonsecure residential population by offense type, 2011



Source: Georgia Department of Juvenile Justice

since 2006. Second, these two tools were neither readily available to all probation officers nor used consistently when available. Additionally, judicial officers were not provided with the risk results before making decisions regarding placement and supervision levels.

4 Lack of community-based options

Stakeholders provided the council with information indicating that in many areas of the state, particularly less-populated ones, few community-based options were available for youth involved with the juvenile justice system. Where programs did exist, no performance data were available to determine whether they were effective. This lack of access to proven programs was considered by the council to be a contributing factor to the commitment of status offenders, misdemeanants, and low-risk youth to state-run facilities.

5 Lack of uniform data collection

With 159 counties that operate independent, dependent, or shared juvenile courts, Georgia has a complex patchwork of court management and data collection systems.[18] As a result, the council found that the state struggled to collect uniform data necessary to determine the impact of existing policies. Though the state had made progress in data collection and sharing, significant impediments to collecting and tracking outcome measures remained. For example, the council found that the state was not able to identify with precision which cases result from school-related offenses or assess the degree to which school-based incidents and referrals affect the system.

Legislative Package

Based on its review and analysis of Georgia's juvenile justice system, the council issued a comprehensive set of recommendations in December 2012. The report grouped the recommendations into three areas: focusing out-of-home facilities on higher-level offenders, reducing recidivism, and improving government performance. It was submitted for consideration to the governor, lieutenant governor, speaker of the House of Representatives, chief justice of the state Supreme Court, and the chief judge of the Georgia Court of Appeals.

Many of the recommendations in the report were incorporated into HB 242,[19] sponsored by House Judiciary Committee Chairman Wendell Willard and other representatives. The General Assembly unanimously passed the legislation, with votes of 173-0 in the House and 47-0 in the Senate, and Gov. Deal signed it into law May 2, 2013. The bill becomes effective Jan. 1, 2014.

Additionally, the state is investing in evidence-based programs to reduce recidivism, including $5 million through accompanying fiscal 2014 budget initiatives[20] and $1 million through existing federal funding. These efforts are expected to save the state nearly $85 million through 2018 and avert the need to open two additional juvenile residential facilities.

> "The [council's] recommendations are anchored in the belief that we need to do a better job determining which youth offenders really need to enter an expensive YDC and which ones can be effectively supervised in the community."
>
> — **Gwinnett County District Attorney Danny Porter** and **Oconee County Sheriff Scott Berry**, *Gwinnett Daily Post*, Feb. 23, 2013

The council recommendations contained in HB 242 and the fiscal 2014 budget advance three priorities:

1 Focus out-of-home facilities on higher-level offenders

These policies reflect a consensus that the most-expensive resources, most notably, out-of-home facilities, should be targeted where they have the greatest impact on public safety, while more-effective, less-costly alternatives to such placements should be made available for youth who are adjudicated for lower-level offenses or are less likely to reoffend.

- **Create a two-class system within the Designated Felony Act.** Designated felony offenses are divided into two classes, based on severity—Class A and Class B—that continue to allow restrictive custody while also adjusting available sanctions to account for both offense severity and risk level. For Class A and Class B offenses, the mandatory minimum confinement periods are eliminated to allow for judicial discretion. In addition, dispositions for Class A designated felony offenses remain a maximum of 60 months. Class B offenses are reduced to a maximum of 18 months in confinement.
- **Prohibit residential commitment for all status offenders and certain misdemeanants.** Misdemeanor offenders may receive out-of-home placement if their offense history includes four prior adjudications, of which at least one was a felony.
- **Establish a voluntary fiscal incentive grant program.** The state appropriated $5 million in fiscal 2014 to fund the Juvenile Reinvestment Grant Program, which supports communities in developing evidence-based programs for juveniles. An additional $1 million was added from existing federal funds to increase evidence-based programs in local communities. Localities will assess their current mix of juvenile offender programming and submit proposals to expand their capacity to meet their identified needs. Grants will be awarded through a competitive process and recipients must meet performance goals, including a 20 percent reduction in commitments to state facilities.

2 Reduce recidivism

Research over the past 25 years has identified programs and practices that can achieve significant reductions in recidivism among adult and juvenile offenders. Ensuring that resources are invested in evidence-based or promising practices will improve public safety returns on taxpayer investments.

- **Ensure that resources are focused on programs proven to reduce recidivism**. DJJ is required to include evidence-based programs in its continuum of services.

Broad Support

Among the Georgia groups that supported the special council's recommendations contained in HB 242 were:

- Prosecuting Attorneys' Council of Georgia
- State Bar of Georgia
- Georgia Association of Criminal Defense Lawyers
- Council of Juvenile Court Judges of Georgia
- JUSTGeorgia [21]

The Special Council and the Juvenile Code Rewrite

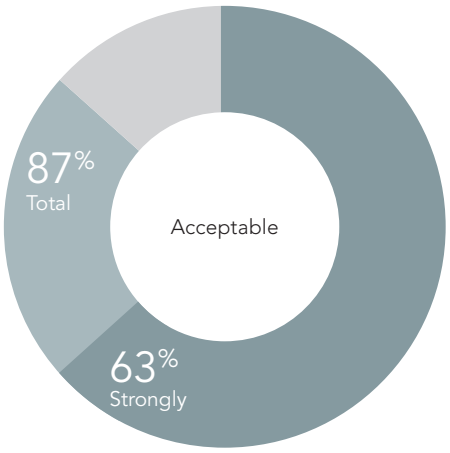
In addition to recommendations from the Special Council on Criminal Justice Reform for Georgians, HB 242 contained extensive revisions to the juvenile justice and child welfare codes.

These changes were the result of years of work by JUSTGeorgia, a coalition of community organizations, and the Young Lawyers Division of the State Bar of Georgia. In 2009, the juvenile code rewrite was introduced as legislation based on work of the Young Lawyers Division and went through more than four years of review by state lawmakers and stakeholders. In 2013, many of the provisions of the rewrite were incorporated into HB 242, including code reorganization, updates to the child welfare system, and new processes for children in need of services and addressing competency in juvenile proceedings.

- **Require the use of assessment instruments to better inform decision-making.** Detention-assessment instruments must be used before detaining a juvenile in a secure facility, and risk assessments must be administered whenever the court is considering confinement as a disposition for a juvenile. Independent of legislation, but based on recommendations of the special council, DJJ is developing a structured decision-

Strong Public Support for Reforms

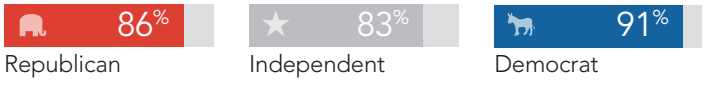
Figure 5: Georgia voters strongly support reducing the size and cost of Georgia's juvenile corrections system and reinvesting in effective alternatives



Poll Question:

"Send fewer lower-risk juvenile offenders to a secure facility and use some of the savings to create a stronger probation system that holds juvenile offenders accountable for their crimes."

Total by Party Affiliation



Source: Public Attitudes on the Juvenile Justice System in Georgia, February 2013, http://bit.ly/12L5v39. On behalf of Pew's public safety performance project, Public Opinion Strategies and The Mellman Group conducted a statewide survey in Georgia of 600 registered voters from Jan. 9 to 13, 2013. The margin of error for a survey of this size is plus/minus 4.0 percent. The margin of error is higher for subgroups.

> "We have become smarter in the way we address the enormous cost and the horrible return on investment that our taxpayers are receiving."
>
> — **Judge Michael Boggs,** Georgia Court of Appeals, cochairman of the Special Council on Criminal Justice Reform for Georgians[22]

making instrument for use by probation officers in making recommendations to the court and in determining placement and services for youth.

- **Focus resources on higher-risk offenders by allowing lower-risk offenders to be placed on administrative caseloads.** Courts or probation officers are authorized to place juveniles on administrative caseloads, an alternative type of supervision with a lower oversight level, allowing probation officers to concentrate their efforts on youth who require more intensive supervision.

> "Doing the right thing for our children is not a partisan issue."
>
> — **Rep. Wendell Willard,** chairman of the House Judiciary Committee, House floor presentation of HB 242, Feb. 28, 2013

3 Improve government performance

Assessing and tracking performance outcomes are the first steps in ensuring that the desired results are achieved and give policymakers the information necessary to make informed decisions.

- **Require performance-based contracting.** Any contracts entered into by DJJ for services for delinquent youth must include incentives, penalties, or both to motivate program providers to achieve desired results.

- **Require uniform data collection and tracking.** To ensure that the policies and practices adopted by the state are achieving the desired results, local jurisdictions must collect and report a wide range of uniform data, including offender demographics, offense information, case outcomes, and placement decisions.

- **Require agencies requesting transportation of a juvenile to a secure facility to pay for that transport.** To promote accountability for decision-making, any agency requesting the transportation of a juvenile to a detention center will be responsible for all costs associated with the transport.

The Special Council on Criminal Justice Reform for Georgians

Honorable Michael P. Boggs (cochair)
Judge, Court of Appeals of Georgia

David Werner (cochair)
Deputy Chief of Staff, Governor's Office

Representative Stacey Abrams
District 84, Atlanta

Scott Berry
Sheriff, Oconee County

Justo Cabral
Solicitor-General, Lowndes County

Senator John Crosby
District 13, Tifton

Honorable Jason Deal
Superior Court Judge, Northeastern Judicial Circuit

Linda Evans
Member, Judicial Qualifications Commission

Honorable Ural Glanville
Superior Court Judge, Atlanta Judicial Circuit

Honorable Carol Hunstein
Chief Justice, Supreme Court of Georgia

Honorable Todd Markle
Superior Court Judge, Atlanta Judicial Circuit

David McDade
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Representative Mary Margaret Oliver
District 82, Decatur

Daniel J. Porter
District Attorney, Gwinnett County

Representative Jay Powell
District 171, Camilla

Senator Ronald Ramsey, Sr.
District 43, Decatur

Ken Shigley
Past President, State Bar of Georgia

Representative Willie Talton
District 145, Warner Robins

Honorable Steven Teske
Juvenile Court Judge, Clayton County

Representative Wendell Willard
District 49, Sandy Springs

Oversight Council for Adult and Juvenile Reforms

In the 2013 legislative session, the Georgia General Assembly also passed HB 349,[23] which included recommendations of the special council related to adult sentencing and corrections. The legislation also created the Georgia Council on Criminal Justice Reform to provide ongoing oversight of the implementation and impact of adult and juvenile corrections reforms. The new council is responsible for establishing performance measures and proposing additional reforms to further reduce recidivism and state expenditures.

Endnotes

[1] DJJ operates two types of secure residential facilities: youth development campuses, or YDCs, and regional youth detention centers, or RYDCs. There are seven secure YDCs for juveniles adjudicated delinquent and committed to the state. There are 22 secure RYDCs, which are intended as short-term placements for youth who have been charged with delinquent offenses. Some juveniles, however, are held at RYDCs after being found delinquent while they await placement at a YDC or other facility. In addition, DJJ contracts with private providers to place juveniles in nonsecure residential facilities, which are community residential programs that include group homes, emergency shelters, wilderness/outdoor therapeutic programs, and other placements that provide 24-hour care in a residential setting.

[2] HB 106: http://opb.georgia.gov/sites/opb.georgia.gov/files/related_files/site_page/HB%20106%20-%20FY%202014%20Appropriations%20Bill.pdf.

[3] HB 1176 and 2012 legislative reforms: http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Georgia_Safety_Reform.pdf.

[4] According to the Office of Juvenile Justice and Delinquency Prevention, the population of committed juveniles declined 25 percent nationally between 2006 and 2010. http://www.ojjdp.gov/ojstatbb/ezacjrp.

[5] Unless otherwise noted, all analyses in this report were conducted by The Pew Charitable Trusts, based on data provided by DJJ, and analyses were reviewed by DJJ and the Council of Juvenile Court Judges. The total out-of-home population includes all adjudicated youth who are in an out-of-home placement, with the exception of superior court youth.

[6] Georgia HB 742, fiscal 2013 Appropriations Bill. Appropriations for DJJ have varied in the past several years, ranging from $265 million in fiscal 2005 to $343 million in fiscal 2009. In fiscal 2012 the appropriation was reduced to $286 million. http://www.djj.state.ga.us/ResourceLibrary/resStatistics.shtml#BUDGET.

[7] See Endnote 1.

[8] DJJ.

[9] DJJ. For all youth who were released in 2007, the recidivism rate was 52.5 percent within three years. Recidivism is defined as an adjudication of delinquency in juvenile court or a finding of guilt in adult court for an offense committed within three years of release from an out-of-home facility or placement on community supervision.

[10] DJJ.

[11] A status offense is one that would not be a crime if it were committed by an adult. It is only an offense because of the perpetrator's status as a child. Such offenses include truancy, running away from home, incorrigibility, and unruly behavior.

[12] DJJ. Risk percentages are for offenders in 2011 based on the state's Comprehensive Risk and Needs Assessment tool. These percentages may change in future years for a variety of reasons, including revalidating and "renorming" the assessment tool.

[13] The adjudicated youth who are in nonsecure residential placement include those placed there as a result of their disposition, as well as youth placed there for reasons not related to their commitment to DJJ, such as a referral from the Georgia Division of Family and Children Services. Youth who are in nonsecure residential placement for reasons not related to their commitment to DJJ would not be affected by the recommendations in this report and were therefore removed before determining impacts.

[14] The original designated felony offenses included murder, rape, voluntary manslaughter, aggravated sodomy, armed robbery, attempted murder, kidnapping, attempted kidnapping, arson in the first degree, arson in the second degree, and aggravated assault.

[15] O.C.G.A §15-11-63.

[16] DJJ. Risk percentages are for offenders in 2011 based on the state's Comprehensive Risk and Needs Assessment tool. These percentages may change in future years for a variety of reasons, including revalidating and "renorming" the assessment tool.

[17] Validation of an assessment tool is any combination of statistical processes used to determine how accurate the representation created by the tool is compared to that which it intends to measure. Norming of an assessment tool is a comparison to a standard, or recognition of patterns that result from the use of the tools, so as to initially calculate or to later reconsider the scoring and the usage of such an instrument.

[18] There are 134 dependent courts in which DJJ handles intake services and case management and oversees probation services. Eight courts share operations between DJJ and the county. There are 17 independent courts in which court employees handle the intake, case management, and probation services. Independent courts also manage their own information systems, many of which are separate from the system used by the dependent counties.

[19] HB 242, http://www.legis.ga.gov/Legislation/20132014/135887.pdf.

[20] See Endnote 2.

[21] JUSTGeorgia is a statewide juvenile justice coalition whose lead partners are Georgia Appleseed Center for Law and Justice, the Barton Child Law and Policy Center of Emory University School of Law, and Voices for Georgia's Children.

[22] Mike Klein, "Juvenile Justice Bill Would Revise Designated Felony Act." Mike Klein Online: Public Policy Journalism, Feb. 11, 2013. Retrieved April 22, 2013, from http://mikekleinonline.com/2013/02/11/juvenile-justice-bill-would-revise-designated-felony-act

[23] HB 349, http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/349.

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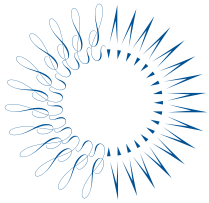

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