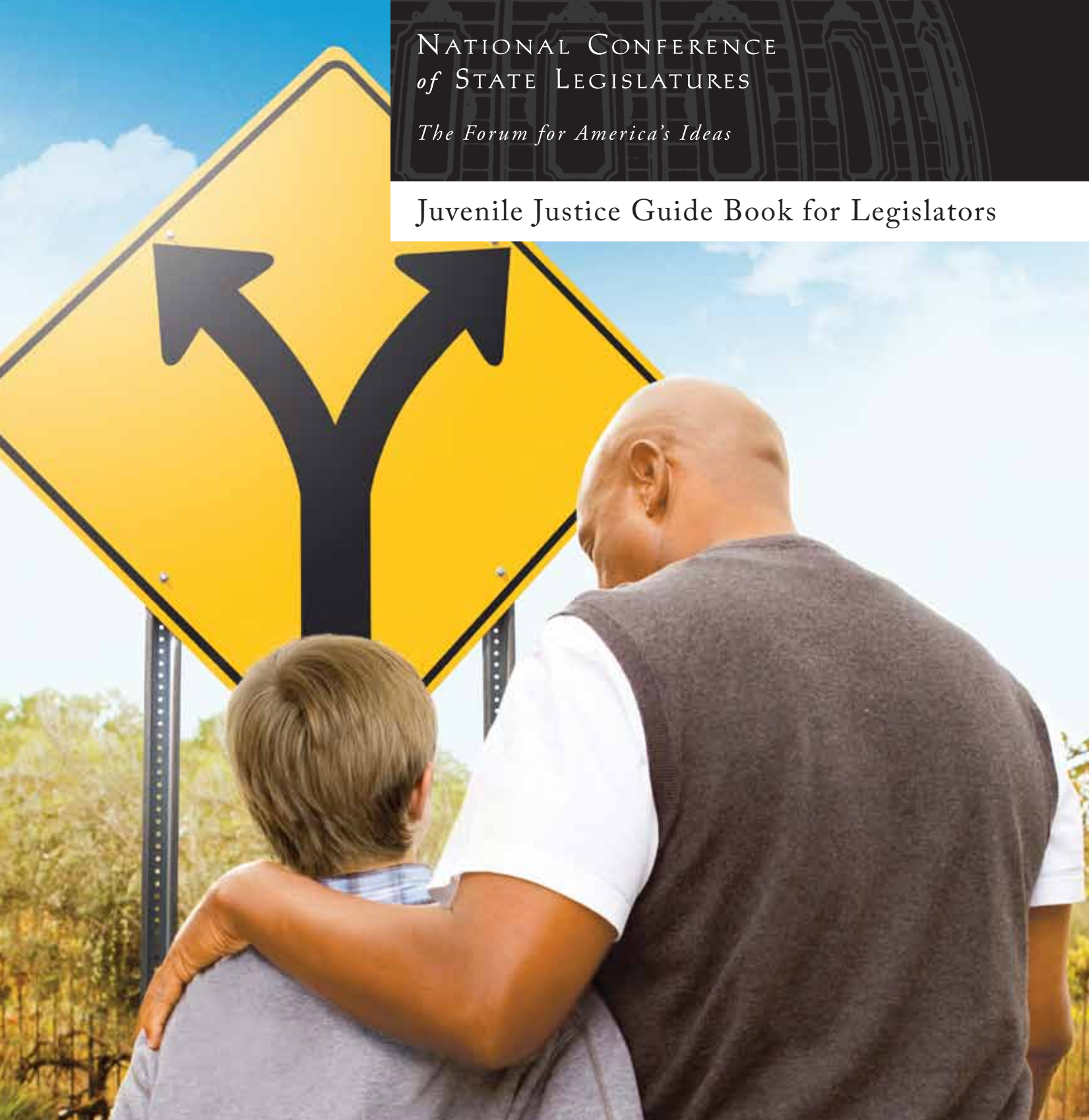




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Juvenile Justice Guide Book for Legislators



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# Introduction & Overview



Juvenile Justice Guide Book for Legislators





## Introduction



Preventing and addressing juvenile crime and delinquency remain perennial issues in state legislatures today. Juvenile justice policies require balancing the interests of rehabilitation, accountability and public safety, while also preserving the rights of juveniles. State lawmakers now more than ever are challenged with making informed choices on ways to cut costs and reduce crime and still meet the needs of youth who commit delinquent acts.

Juvenile justice reaches into courts, corrections, child protection, education, mental health and children's services. States have recognized in recent years that policies must facilitate collaboration with the justice system and other youth-serving agencies. The goal is to provide an integrated approach that can better interrupt the pathways youth follow into the delinquency system.

A significant amount of juvenile justice legislation in recent years looks to rebalance approaches to juvenile crime and delinquency. After punitive laws were enacted in response to the rise of juvenile crime in the early 1990s, the past decade has seen a steady decline in juvenile crime rates and a reexamination

of juvenile justice policies. States are looking for more ways to address youth crime in ways that are cost-effective and that safeguard the public by treating and rehabilitating young offenders more effectively.

## The Goal:

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*To provide an integrated approach that can better interrupt the pathways youth follow into the delinquency system.*



### Examining the State of Juvenile Justice

Currently, states are not complacent about juvenile crime and remain interested in improving public safety, juvenile justice systems and outcomes for youth. As the pendulum slowly swings toward more treatment-based options for youth, lawmakers across the country are faced with tough decisions about state services, with a strict reexamination of all programming, including those for youth.

Recent research by the Office of Juvenile Justice and Delinquency Prevention has shown that maintaining incarceration has proven not only to be costly, but

also ineffective at keeping delinquent juveniles out of the criminal justice system. It points to the value of cost-benefit analysis of existing evidence-based programs, such as investing in community-based alternatives to incarceration and prevention programs. Today and in the coming years, states will consider such strategies as they allocate scarce resources.



## Federal Level

Significant rulings at the federal level have reshaped juvenile policies. In 2005, the U.S. Supreme Court abolished the death penalty for juveniles in *Roper v. Simmons*, then in 2010, the Court determined that the Eighth Amendment ban against cruel and unusual punishment also prohibits juveniles from being sentenced to life in prison without parole for non-homicide crimes. The ruling built on the reasoning the Court applied in 2005, citing adolescent brain development studies that demonstrate juvenile and adult differences. In recent years, several state legislatures have also repealed statutes imposing juveniles to life sentences without parole.

Findings by the MacArthur Foundation's Research Network on adolescent brain development opened new pathways to understanding the developmental differences between adolescents and mature adults. The Network's research was cited in the Supreme Court death penalty and juvenile life without parole cases. The studies specifically reveal that, during adolescence, the brain begins its final stages of maturation and continues to develop well into a person's early 20s, concluding around age 25. Such research also is reflected in current legislative deliberations and policymaking within the juvenile and criminal justice systems.

## Trends in State Law

State legislative responsibility for juvenile justice includes integrating policies that affect those agencies and their handling of children in contact with, or at risk of being in, the child welfare, mental health, juvenile justice or adult systems. In most states, different legislative committees have jurisdiction over various cross-cutting issues and agencies in juvenile justice.

With more and better information on adolescent development, juvenile policies have become increasingly research-based during the past decade. Overarching administrative laws have created commissions or legislative committees to evaluate

and make recommendations for states' juvenile justice systems. State legislatures have enacted prevention and intervention statutes that address truancy, provide early intervention services for at-risk youth, reform detention and distinguish juvenile from adult offenders. Recent laws also provide due process protections for juveniles in the court room, examine the effects of race in juvenile justice, and provide for successful juvenile reentry into the community after incarceration.

States have continued to consider adjusting the age of juvenile court jurisdiction. At the forefront of this movement was a law that took effect on January 1, 2010, in Connecticut to return 16- and 17-year-olds to juvenile court jurisdiction. In another related action, Illinois recently raised the age of juvenile court jurisdiction from 17 to 18 for youth charged with misdemeanor offenses, and Colorado expanded eligibility for sentencing for select youth ages 18 to 21 to the youthful offender system instead of to the adult system.

States also have focused efforts on providing early intervention services for at-risk youth. A comprehensive 2010 Nebraska law seeks to reduce over-reliance on juvenile detention for kids who do not pose a significant public safety risk. It provides for early intervention with at-risk children and families by facilitating parental involvement, school attendance and alternatives to detention. In recent years, other states such as Louisiana and Illinois have focused on school attendance through truancy enactments to deter future delinquent behavior.

Recent state actions have addressed the continued need for collaboration among the many systems that touch youths' lives. A 2010 Minnesota law provides for coordination of youth programs with local schools, law enforcement agencies, faith communities, and community groups to provide intervention services to keep children out of the system. Significant recent enactments also have

focused on due process protections for juveniles, with measures that address access to and the right to quality defense counsel. Between 2008 and 2010, at least 10 states passed laws requiring that counsel be provided to youth during all critical stages of juvenile proceedings.

Addressing racial disparities in the juvenile justice system remains a priority. In 2008, Iowa became the first state to require “minority impact statements” for proposed legislation related to crimes, sentencing, parole and probation for grants awarded by state agencies; Connecticut soon followed. Similar to fiscal impact statements, the new requirements seek to provide greater understanding of the implications of a proposed law for minorities.

## Current Models of Reform

### ***The MacArthur Foundation’s Models for Change Initiative***

Models for Change is a national initiative funded by the John D. and Catherine T. MacArthur Foundation to accelerate reform of juvenile justice systems across the country. Focused on efforts in select states, the initiative aims to create replicable models for reform that effectively hold young people accountable for their actions, provide for their rehabilitation, protect them from harm, increase their life chances, and manage the risk they pose to themselves and to public safety.

The initiative, rooted in an evidence-based approach to juvenile justice reform, promotes a variety of systems reform models that are grounded in the core principles of fundamental fairness, developmental differences between youth and adults, individual strengths and needs, youth potential, responsibility and safety.

Models for Change is now a 16-state national initiative to advance juvenile justice system reforms around key principles of accountability and opportunity. The Models for Change Initiative

continues to influence a rethinking of juvenile justice and can guide legislatures as they make important policy decisions about youth.

Another successful model is the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) focuses on the juvenile detention component of the juvenile justice system because youth are often unnecessarily or inappropriately detained at great expense, with long-lasting negative consequences for both public safety and youth development. Since its inception in 1992, JDAI has repeatedly demonstrated that jurisdictions can safely reduce reliance on secure detention. There are now approximately 100 JDAI sites in 24 states and the District of Columbia.

### ***Missouri Model***

The Missouri Division of Youth Services’ (DYS) juvenile corrections system is a successful model for states considering juvenile justice reforms that favor residential treatment over prison for children who commit crime. Missouri’s approach to youth corrections relies on personal treatment; rehabilitation; and making internal changes within juveniles in positive, small-scale settings rather than using isolation, punishment and behavioral compliance. The program emphasizes positive peer relationships and intense, consistent therapy in a small, intimate group atmosphere. Key components of the program are fostering a positive relationship between each juvenile and a member of the staff and providing stringent aftercare services.

Missouri’s recidivism rate is dramatically lower than the rest of the nation and its overall costs are lower compared to other states corrections’ spending. The program costs approximately \$94 per day for every juvenile between the ages of 10 and 17, while costs per juvenile in surrounding states is approximately \$140, according to a study by the American Youth Policy Forum.



Missouri's success has attracted criminal justice officials, policymakers, parents and juveniles from across the country to visit and leave surprised with the atmosphere and results that the youth program has achieved. Other states are also considering similar programs.

## Roadmap for Guidebook

The following sections of the guidebook explore juvenile justice reform in the states.

### ***Adolescent Development & Competency***

This chapter discusses recent research that addresses adolescent culpability as compared to adults. The section gives a brief history of the juvenile justice system and highlights data that illustrate the idea that, because adolescents are biologically, psychologically and socially underdeveloped, their age and corresponding limitations of age may be considered as mitigating factors to delinquency. It discusses adolescents who are sent to adult court, federal standards and state legislation that responds to recent research on adolescent development.

### ***Delinquency Prevention & Intervention***

This section explains how early intervention in children's lives can divert juveniles from the adverse consequences attributable to delinquency. It discusses risk and protective factors and how they help increase or decrease the likelihood that a juvenile will engage in delinquent behavior. This section also provides examples of strategies and state activity related to truancy and drop-out prevention reforms, examines gang prevention, and considers the cost-benefit of prevention and intervention in youths' lives.

### ***Indigent Defense, Counsel & Procedural Issues***

This topic highlights the challenges states face in providing adequate legal defense to juvenile offenders, especially those who are indigent. It explores promising state options to address juvenile defense, which include making it more difficult for juveniles to waive counsel, changing processes

for determining indigence, and increasing juvenile defender resources to better ensure quality counsel. It also includes a discussion of juvenile competency to stand trial and offers recommendations of expanded definitions of "competence" for juveniles that take into account social and cognitive development. Throughout, state legislative examples are noted.

### ***Mental Health Needs of Juvenile Offenders***

This section explores the approximately 70 percent of youth in the juvenile system who are affected by a mental disorder. Effective assessment and comprehensive responses to court-involved juveniles with mental health needs are discussed, to help break the cycle and produce healthier young people who are less likely to commit crimes. It describes the various disorders prevalent among youth and approaches to screening and assessing such disorders. Finally, the section highlights state policies that treat the mental health needs of juvenile offenders, including recent legislation to specifically address collaboration strategies in states.

### ***Disproportionate Minority Contact***

This topic examines the overrepresentation of youth of color in the juvenile justice system and discusses state actions to study and address disproportionality. The section provides examples and progress of specific localities under the Models for Change initiative that have implemented strategic innovations to help reduce disparities. Also included is a discussion of Annie E. Casey's Juvenile Detention Alternative Initiative, which gives priority to reducing racial disparities as an integral detention reform strategy.

### ***Use of Medicaid for Juvenile Justice-Involved Children***

This chapter explains how Medicaid can meet the unique needs of juvenile justice-involved youth. It offers a detailed overview of Medicaid, children's health insurance programs, and covered services. Included is a discussion of state compliance with federal reimbursement regulations and how to

streamline and improve data collection in order to determine Medicaid eligibility. It also highlights training of state juvenile justice staff on eligibility matters, and gives state legislative examples.

**Reentry & Aftercare**

This section discusses post-release supervision and services, and supports young people to make safe, successful transitions from residential placement facilities to their home communities. It describes the juvenile reentry population, gives suggested approaches to aftercare, and discusses reentry from a developmental perspective. Throughout, examples of state actions are given that support services to juvenile offenders who are reentering society.

**Cost-Benefit Analysis of Juvenile Justice Programs**

This chapter includes a timely discussion of the cost-benefit analysis of youth and juvenile justice programs. Cost-benefit analysis has seen a heightened national interest in recent years due to the state fiscal climate and suggests how lawmakers can allocate funds most efficiently. It highlights successful programs where cost-benefit analysis has helped save money and produce better results for system-involved youth.

**References, Glossary & Resources**

This final section provides source documentation of research discussed in the text and citations to legislation. The glossary section provides common meanings for many juvenile justice terms and information about key groups as sources for additional research and information is provided. This section also describes how NCSL's partnership project with MacArthur Foundation's Models for Change initiative is an ongoing resource that is available to help state legislatures with information, training and technical assistance on juvenile justice reform.



**Balanced & Restorative Justice**

Balanced and restorative justice (BARJ) is a philosophy that guides the juvenile justice systems in many states. According to the Pennsylvania Center for Juvenile Justice Training and Research, the goals of balanced and restorative justice can be divided into three parts—community protection, offender accountability and competency development—with an overall agenda aimed at producing law-abiding, productive and connected citizens through rehabilitation.

The successful use of each goal is important to the success of balanced and restorative justice. The Juvenile Justice and Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency provides instructions for what is entailed to meet each goal.

**(1) Community protection** is described as the process of contributing to safe communities, with particular emphasis on known juvenile offenders, through prevention, supervision and control. The role of the juvenile justice system is to investigate complaints in a timely manner and to handle the intake and processing stages to ensure community safety.

**(2) Offender accountability** means that, through their harmful conduct, juveniles incur an obligation to repair the damage they have done to the victim and the community. Most of the time, this responsibility is met through community service or restitution.

**(3) Competency development** refers to the learning process juvenile offenders must go through to acquire the skills necessary to become law-abiding members of society. They must become proficient in pro-social, moral reasoning, academic, workforce and independent living skills. These abilities are best developed through training programs that enable juveniles to demonstrate their new talents in real-world settings.





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