

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

FINAL REPORT
January 31, 1997

MEMBERS

Representative Tom Smith, Co-chairman
Representative Marilyn Jarrett
Representative Wes Marsh
Representative Paul Newman
Representative John Verkamp, (ex-officio)

Senator John Kaites, Co-chairman
Senator John Huppenthal
Senator Ruth Solomon
Senator Tom Patterson

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I. AUTHORITY AND SCOPE OF DUTIES

The Joint Committee on Juvenile Justice Reform was created by the cooperative efforts of both the Speaker of the Arizona House of Representatives Mark Killian, and the Arizona Senate President John Greene. The committee was charged with studying the following areas:

- 1.) To examine ways to implement Proposition 102: An initiative measure relating to juvenile justice reform which passed in the November 1996 General Election.
- 2.) To examine other juvenile justice reform measures as needed.

II. COMMITTEE ACTIVITY

The Joint Juvenile Justice Reform Committee met on:

Monday, December 9, 1996

Tuesday, December 10, 1996

Thursday, December 12, 1996

Monday, December 20, 1996

Friday, January 17, 1997

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

FINAL REPORT

INTRODUCTION

ESTABLISHMENT

The Joint Committee on Juvenile Justice Reform was formed via a mutual agreement between the Senate President and the Speaker of the House. The committee's charge was to examine ways of implementing Proposition 102, as well as other juvenile justice reform measures.

Staff

Jim Drake, Legislative Research Analyst
House of Representatives Judiciary Committee

Page Patterson, Assistant Research Analyst
House of Representatives Judiciary Committee

Rick Pyper, Legislative Research Analyst
Senate Judiciary Committee

Victor Riches, Assistant Research Analyst
Senate Judiciary Committee

REPORT

The committee heard and discussed a vast amount of testimony from various parties interested in the juvenile justice reform debate. The testimony can be broken down into five general headings: Office of the Governor, County Attorneys and City Prosecutors, Courts, Public Defenders, and Victims.

Office of the Governor

Dr. Michael Block, Senior Policy Advisor to the Governor, testified that the foremost objective of the criminal justice system should be to produce public safety. He believes that "bad acts" should result in "bad consequences." Therefore, the certainty and severity of punishment should be increased substantially. Dr. Block further stated that juveniles should be transferred to adult court upon their third felony offense.

County Attorneys and City Prosecutors

Jerry Landau, Special Assistant to the Maricopa County Attorney, stated that both early intervention and dual sentencing are important components of juvenile justice reform. He indicated that an expansion of detention and funding at the local level would have a positive effect on the juvenile correction system. Mr. Landau expressed concern that discretion in determining the proper venue in which to charge a juvenile would be taken from county attorneys' control.

Paul Badalucco, Phoenix Deputy City Prosecutor, explained the problems city prosecutors must confront when dealing with juveniles. He emphasized city court judges have no authority to enforce court orders. Consequently, juveniles can ignore court orders with little fear of retribution. Therefore, Mr. Badalucco felt that city judges should have the authority to suspend the drivers licenses of juveniles who disregard court orders. He also indicated city prosecutors would be greatly assisted by allowing juveniles to automatically be charged as adults if they turn 18 in the middle of the court process.

Courts

John Foreman, Presiding Judge of the Maricopa County Juvenile Court, testified before the committee. He stressed that he was representing only himself. Judge Foreman generally agreed with Mr. Landau's assessment, but added that judges should possess the option of transferring a juvenile back to the juvenile system. He surmised that this would protect the juvenile against overcharging. Judge Foreman voiced concern, however, over the idea of dual sentencing, believing it to be nonsensical with regard to lengthy sentences.

Public Defenders

Helene Abrams, Juvenile Division Chief in the Maricopa County Public Defender's office, expressed many concerns over the fashioning of Proposition 102. Ms. Abrams stated a juvenile's prior conduct should not be considered when deciding whether or not to transfer to adult court. She expressed further consternation over the idea of a broad definition being applied when determining automatic filing to adult court. She remarked that, in the interest of fairness, both county attorneys and public defenders should possess the ability to move that a case be returned to juvenile court. Ms. Abrams was adamantly opposed to the notion of dual sentencing; she maintained that it was not a component of Proposition 102.

Victims

The families of several victims communicated their sentiments regarding Proposition 102. Elizabeth Rice believed that the parents of a minor should be held responsible for the minor's delinquent behavior. Mrs. Rice pronounced that, regardless of age, specific sentences should be imposed for specific criminal acts. She also felt it would be advantageous to have crime victims speak in schools and to convicted and potential offenders, and for schools to implement parenting classes.

Connie Richardson also voiced her support of juvenile justice reform. She strongly emphasized the importance of increasing the beds available to the Department of Corrections. She opined that a juvenile's second felony conviction should result in incarceration, and that this type of certainty of consequences would serve as notice to juveniles that there will be severe repercussions for their dubious acts.

A bill draft of the determinations of the Joint Committee on Juvenile Justice Reform was prepared by staff and presented to the committee. A proposed bill was not ready, in final form, for the committee to vote on. A bill is being drafted for introduction.

ARIZONA STATE LEGISLATURE
Forty-second Legislature - Second Regular Session

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

Minutes of Meeting
Monday, December 9, 1996
House Hearing Room 2 - 2:00 p.m.

(Tape 1, Side A)

The meeting was convened by Cochair Smith at 2:10 p.m. and attendance was noted by the secretary.

Members Present

Senator Patterson
Representative Jarrett
Representative Marsh
Representative Newman
Representative Smith, Cochair
Senator Kaites, Cochair
Representative Verkamp (ex-officio member)

Members Absent

Senator Huppenthal
Senator Solomon (excused)

Speakers Present

Joni Hoffman, Research Analyst, Arizona State Senate
Jim Drake, Research Analyst, House of Representatives
Jerry Landau, Special Assistant, Maricopa County Attorney
John Foreman, Presiding Judge, Juvenile Court, Maricopa County, representing himself
Michael K. Block, Senior Policy Advisor, Office of the Governor; Professor of law and economics
Kaja-Anne Jezycki, In-house Counsel, Arizona Boys Ranch

Guest List (Attachment 1)

* * *

Cochair Kaites mentioned that Mr. Verkamp, in his capacity as new House Judiciary Committee Chairman, will serve as an ex-officio member of the Committee.

Cochair Kaites stated that passage of Proposition 102 has left the legislature in the position of making certain reforms to the juvenile justice system. He said the Committee will receive input from all parties interested in proposing changes to the juvenile justice reform bill.

Cochair Kaites admitted to being a proponent of Proposition 102 but recognized that opponents of the measure voiced concern that abused and neglected children would be negatively affected by a more automated juvenile justice system. He asserted that the Committee will not alter the courts' jurisdiction over abused and neglected children.

Cochair Smith admitted his opposition to Proposition 102 but acknowledged that the legislature must implement the measure. He expressed a keen interest in early intervention programs and said some research indicates that intervention at younger ages increases a juvenile's chances of avoiding criminal behavior. Further, he suggested that because nearly 60 percent of juveniles in detention centers are drop outs, the Committee should work with the Arizona Department of Education (ADE) in an effort to help children feel more successful in school.

Cochair Smith remarked that if the Committee is interested, a report of a study is available which provides statistical data on the transfer of juveniles to adult court.

Joni Hoffman, Research Analyst, Arizona State Senate, referred to a fact sheet (Attachment 2) on S.B. 1356 which was signed into law in 1994 (Chapter 201, Laws 1994). She summarized information pertaining to parental responsibility, kids and guns, secure care, treatment past eighteen years, and other provisions.

Cochair Smith remarked that judges unanimously indicated that requiring parents to attend court with their children was a very positive step in improving the juvenile justice system.

Jim Drake, Research Analyst, House of Representatives, mentioned that S.B. 1363 introduced in 1996 was adopted only by the Senate. He reviewed the provisions of the bill as contained in the Fact Sheet (Attachment 3). Additionally, he referred to three documents (Attachments 4, 5 and 6) and mentioned that Document #2 (Attachment 5) represents sections of S.B. 1363 which were affected by Proposition 102.

Cochair Smith explained that S.B. 1363 was reviewed and categorized into Document #1 (Attachment 4) which contains noncontroversial items, Document #2 (Attachment 5) which requires further discussion, and Document #3 (Attachment 6) which pertains to appropriations.

Mr. Newman mentioned the newspapers have reported that another committee is addressing juvenile justice reform. Cochair Kaites explained that the other committee is designed to make recommendations to the governor, and is not in competition with the joint legislative Committee.

Mr. Drake addressed the mandatory tasks of implementing Proposition 102 and mentioned certain terms which need to be defined.

Mr. Newman questioned whether the Committee's interpretation will reflect the intent of Proposition 102. Cochair Kaites replied that Proposition 102 clearly authorizes the legislature to formulate definitions and set policy on "other matters."

Cochair Smith asked interested parties to submit written definitions to the house or senate research analyst.

Jerry Landau, Special Assistant, Maricopa County Attorney, said that S.B. 1356 adopted in 1994 made definite improvements to the juvenile justice system. He suggested the Committee act on issues pertaining to early intervention and dual sentencing, as proposed by S.B. 1363 (adopted by the Senate in 1996).

Mr. Landau proclaimed it is time to move into the 21st century, expand detention on the local level, and review the role of the Department of Juvenile Corrections (DJC). He mentioned that he, County Attorney Rick Romley and Judge Foreman worked on a proposal to shape the juvenile justice system. With regard to Document #1¹ (Attachment 4), he suggested the Committee go beyond the implementation specifics of Proposition 102 and make necessary changes to definitions, etc. Mr. Landau stated that Document #2 (Attachment 5) must be updated with a focus on making proposals simple and understandable. He said Document #3 (Attachment 6) also requires further review due to the importance of funding.

Mr. Landau said his office worked from the premise that there should be discretion where available to the County Attorney in determining which forum a juvenile should be charged in. He emphasized the need for sentencing options to the adult and juvenile courts, as well as dual sentencing. Further, he asserted that the nature of an offense, rather than age, should become a primary determining factor.

Mr. Landau referred to a 14-page proposal (Attachment 7) prepared by himself, County Attorney Rick Romley, and Judge Foreman, and reviewed the information contained therein.

Cochair Kaites said the problem of where to take a delinquent must be addressed (e.g., juvenile hall, county jail). Mr. Landau proposed using the definitions currently in statute.

Cochair Kaites questioned whether a crime which includes use of a deadly weapon should be automatically transferred to the adult system. Mr. Landau answered affirmatively.

Referring to his handout, Mr. Landau related the definition of "chronic offender" as a person who has previously been adjudicated on three separate occasions for acts, not committed on the same occasion, that if committed by an adult would constitute three or more felony offenses.

¹ Mr. Landau, at the completion of his presentation, realized he had accidentally switched references to Document #1 and Document #2 throughout his remarks. At his request, the minutes have been modified to correct the references.

In response to Cochair Kaites, Mr. Landau explained that upon a fourth felony conviction, a juvenile would automatically be transferred to adult court.

Mr. Newman requested figures reflecting the impact of automatically transferring juveniles to adult court. Mr. Landau suggested the Administrative Office of the Courts may have such information.

Mr. Landau pointed out that his handout contains a typographical error and said that page 1, section (A)(8) should read "1-7" instead of "1-6." He explained that because of the current lack of joinder, a juvenile who commits armed robbery and burglary can be tried in adult court for armed robbery and in the juvenile system for burglary.

Cochair Kaites said the Committee could propose that if at least one crime is transferred to adult court, any lesser crimes committed at the same time would be automatically transferred as well. Mr. Landau concurred.

(Tape 1, Side B)

Mr. Landau resumed his review of the proposal (Attachment 7).

In response to Mr. Newman, Mr. Landau said the proposal is based on discussions which County Attorney Rick Romley held with members of the court community, Judge Foreman and members of the Administrative Office of the Courts (AOC), in addition to input from legislative hearings and other county attorneys.

Mr. Landau resumed his review of the proposal (Attachment 7).

In response to Mr. Newman, Mr. Landau explained there was much discussion about a court's ability to remand in certain situations. He said there is no support in the prosecutorial community for allowing an individual convicted by jury in the adult system to be sent back to the juvenile system by a judge. He resumed his review of the proposal (Attachment 7).

Mr. Newman pointed out that even though a juvenile's record can be expunged, the fingerprints will remain on file. Mr. Landau indicated uncertainty.

In answer to Mr. Newman, Cochair Kaites said the state constitution has been changed to grant the legislature the authority to set procedure in the juvenile justice arena. Mr. Landau concurred that the legislature can write and adopt judicial rules.

In conclusion, Mr. Landau urged the Committee to move forward with regard to the provisions of Document #1 (Attachment 4).

At 3:42 p.m., Cochair Smith recessed the meeting.

* * *

At 3:51 p.m., the recessed meeting was reconvened by Cochair Smith. All members were present except for Senators Huppenthal and Solomon.

Mr. Landau realized he had erroneously referred to Document #1 as Document #2, and vice versa, throughout his presentation. He requested this error be corrected throughout the minutes.

John Foreman, Presiding Judge, Juvenile Court, Maricopa County, representing himself, concurred with the presentation given by Mr. Landau (Attachment 7) and submitted for review a draft of A.R.S. 13-608 (F) (Attachment 8). He explained that the framework of legislation which failed during the previous session granted more discretion to the prosecution at the charging end, and more discretion to the courts at the dispositional end.

Representing only himself, Judge Foreman said that if the prosecution is to be granted more discretion in filing charges, in instances when there is a lesser conviction than the original charge(s), judges should be given the option of transferring a juvenile back to the juvenile system. He suggested that such flexibility will offset the subtle incentive for prosecution to overcharge so that kids are transferred into the adult system.

Judge Foreman stressed the importance of non-controversial support proposals, such as the safe schools program.

Cochair Kaites proposed that funding be distributed directly to the juvenile court, as opposed to the AOC. Judge Foreman stated no opposition to the idea and expressed his desire to see more funding allocated for programming and the courts.

Cochair Kaites opined that directly funding the juvenile courts will ensure that more dollars are made available to kids, and promote competition among the counties to develop programs to improve the juvenile system. Cochair Smith envisioned numerous county representatives approaching the Appropriations Committee to present ideas on facilitating juvenile justice programs.

Referring to a dictionary, Mr. Newman related the definition of "chronic" as "marked by a long duration." He questioned the logic behind automatically transferring a juvenile to the adult court after three offenses because some kids commit trivial crimes knowing they will be released. He stated his preference for a more precise definition of "chronic offender."

Judge Foreman stated that the number of juveniles with more than three prior convictions who have not already been transferred to the adult system is relatively small.

(Tape 2, Side A)

With regard to dual sentencing, Judge Foreman stated that it would not make sense for a 17-year old with a 20-year sentence to serve the first year in DJC. He advocated for a limitation with regard to long sentences.

In closing, Judge Foreman pledged his willingness to help implement Proposition 102.

Michael K. Block, Senior Policy Advisor, Office of the Governor; Professor of law and economics, mentioned his role as Chairman of the Governor's advisory committee on the implementation of Proposition 102.

Professor Block said government should recognize that, with passage of Proposition 102, the public made a profound statement that the criminal justice system should be oriented toward producing public safety. He opined that bad acts should carry bad consequences and that the justice system should be comprehensible to both the ordinary voter and potential criminal.

Professor Block beseeched the Committee not to undermine Proposition 102 by allowing juveniles who commit adult crimes to go unpunished.

Mr. Newman inquired as to the definition of "chronic." Professor Block stated his personal preference that a juvenile should be transferred to adult court upon the *third* felony offense. He added that the term "chronic" should be operationally defined to make sense within the criminal justice system.

Cochair Smith requested that a copy of the final report from the Governor's advisory committee be distributed to each Committee member. Professor Block agreed.

Kaja-Anne Jezycki, In-house Counsel, Arizona Boys Ranch, focused attention on the treatment kids will receive at the tail end of the juvenile justice system, such as treatment and warehousing. She said that although voters clearly indicated that youth are out of control, the question must be asked whether all children over the age of 15 should be abandoned. She stated her belief that voters probably just want to send a wake-up call to youth because if delinquent behavior is not corrected between the ages of 15 and 18, a child will likely end up in prison at a high cost to taxpayers.

Ms. Jezycki mentioned an incident which occurred over the weekend in which two mentally retarded 15-year old male residents escaped from a facility along with a female resident. She said that because the female was allegedly raped, the two boys will automatically be remanded to adult court. She contemplated whether the boys will receive prison time, adult probation, warehousing, etc., and mentioned that adult court judges are not thrilled to issue to a juvenile anything more severe than adult probation.

Cochair Kaites requested recommendations for improving the juvenile justice system. Ms. Jezycki suggested the following:

- ▶ Conduct research and produce a comprehensive idea of the amount of funding available through the agencies, and the amount which is actually allocated for juvenile services.
- ▶ Form a centralized licensing agency which will license juveniles, contract for services, and assist individuals who are trying to locate services for children.
- ▶ Allow each county to tailor its needs for juveniles (e.g., paramilitary programs).

Ms. Jezycki voiced her suspicion that a great deal of money is lost to administrative overhead costs, and she urged the Committee to act quickly.

Cochair Smith said that with the Committee's approval, arrangements can be made to have Betsy McNulty give a 30-minute presentation on a study which provides statistical data on the transfer of juveniles to adult court. Committee members agreed with the suggestion.

Mrs. Jarrett mentioned that some Committee members will be out of state attending the National Conference of State Legislatures. Cochair Kaites remarked that if members are unable to attend every meeting, they will still have the opportunity to amend the juvenile justice reform bill in the Judiciary Committee.

Without objection, the meeting was adjourned at 4:51 p.m.



Teresa Alvarez, Committee Secretary

(Original minutes with attachments and tapes on file in the Office of the Chief Clerk. Copy of the minutes with attachments are on file with Cochair Kaites and Cochair Smith.)

ARIZONA STATE LEGISLATURE

**JOINT COMMITTEE
ON JUVENILE JUSTICE REFORM**

Minutes of the Meeting
Tuesday, December 10, 1996
2:00 p.m., House Hearing Room 2

Members Present

Senator Kaites, Co-chair
Representative Smith, Co-chair
Representative Marsh
Representative Verkamp (ex-officio)

Members Absent

Senator Huppenthal
Senator Patterson
Senator Solomon
Representative Jarrett
Representative Newman

Staff

Joni Hoffman, Senate Research Analyst
Jim Drake, House Research Analyst

Co-chairman Smith called the meeting to order at 2:05 p.m. and the attendance was noted.

PRESENTATIONS AND TESTIMONY BY INTERESTED PARTIES

Carol Kamin, Executive Director, Children's Action Alliance, discussed the following four points she recommended the Legislature consider in reforming the juvenile justice system: 1) to win the war on juvenile crime, it is necessary to cut the enemy supply line, which is its ability to turn kids into criminals, 2) we know what works, 3) to the maximum extent possible in dealing with kids, discretion is important and 4) it is important to maintain judicial oversight for abused and neglected children.

Ms. Kamin acknowledged it is important to incarcerate violent criminals, but asserted there is a need to invest in proven programs which keep kids from becoming criminals in the first place and not build more prisons to keep up with growing numbers. She emphasized this concept is supported not only by children's advocates, but an impressive national coalition of prosecutors, victims of crimes and police chiefs called "Stop Crime-Invest in Kids." Ms. Kamin indicated a survey implemented by this group found police chiefs nationwide chose increasing investments in kids as the most effective method of decreasing juvenile crime. Ms. Kamin noted that in Arizona funding for intervention programs has declined, in inflation adjusted dollars, 13 percent since 1990.

Ms. Kamin acknowledged that Arizona's crime-fighting arsenal does include programs which work, such as Big Brothers, Big Sisters, Tumbleweeds and the Center for Juvenile Alternatives in Tucson, but emphasized they are serving only a small percentage of the youth who would benefit from them. She encouraged matching the support for these

successful programs with amounts spent on expensive incarceration. Ms. Kamin indicated studies have found that children without early childhood education programs were five times as likely to become multiple offenders. She questioned why 10,700 needy three and four-year olds in Arizona are not able to access such programs. Ms. Kamin noted that studies show the peak hours for juvenile crime are between school dismissal and 6:00 p.m., yet only a fraction of youth have the opportunity to participate in after school activities, mentoring programs and summer programs. She noted a 1993 study of juveniles committed to the Arizona Department of Corrections (ADOC) showed that 36 percent had substantiated reports of abuse or neglect for themselves or their siblings on file in the Child Protective Services (CPS) central registry. Ms. Kamin noted that funding for abused and neglected children in foster care has declined by 26 percent since FY 1990.

In response to Senator Kaites' request to know if Ms. Kamin recommended specific appropriations for programs as part of the implementation of Proposition 102, she emphasized she did, and that it would be impossible to reform juvenile justice without allocating money for treatment programs. Ms. Kamin emphasized the need to look at juvenile justice in a holistic way. She stressed that adjudicated children do not have stable families to lean on and most come from very troubled families.

Ms. Kamin explained the Department of Economic Security (DES), with the support of the Governor, is developing a piece of legislation to establish a program, already used by several states, called "Family Builders," which calls for an alternative community response by private agencies for lower-risk CPS cases. She recommended including such legislation in deliberations on juvenile justice reform.

Ms. Kamin emphasized that discretion is an important element to include in implementing reform and asserted each child's chances for rehabilitation must be considered individually to avoid unintended consequences.

In response to Senator Kaites' request to know who Ms. Kamin feels should have that discretion, she indicated the current system of giving this to the prosecutors and juvenile courts together is the one she prefers.

Ms. Kamin expressed her pleasure that Senator Kaites has agreed to revise language in Title VIII to maintain jurisdiction of abused and neglected children with the courts. She emphasized that legislative leadership to guarantee such protection is critical.

Senator Kaites emphasized the Legislature is not going to do anything to affect the court's jurisdiction over abused and neglected children, noting this was never an intent of Proposition 102. He acknowledged that a word or two in current statute may need to be changed to accomplish this.

Ms. Kamin indicated a recent Arizona Town Hall on crime concluded that, in response to pressure from the public and the media to be tough on crime, elected public officials have focused on retribution and incapacitation instead of early intervention and rehabilitation and that they must create a balance between the two.

In response to Senator Kaites' request to know the price of the Family Builders proposal, Ms. Kamin indicated two proposed pilot projects would cost \$1.5 million in the first year and \$2 million in the second year.

Representative Smith strongly agreed with the need for successful early intervention programs.

Judge William O'Neil, Presiding Juvenile Court Judge, Pinal County and Chairman, Committee on Juvenile Court, expressed his willingness to lend his and his Committee's assistance in drafting legislation to implement Proposition 102 and hopefully reduce juvenile crime rather than moving it around. He emphasized he supports the legislative process, and noted it is not his, nor his Committee's, intention to intervene but to offer "front line" insights gleaned from working with children day-to-day.

Senator Kaites asked Judge O'Neil if he would prefer to see courts funded directly rather than through the Administrative Office of the Courts (AOC). Judge O'Neil expressed his preference that funding go through AOC, emphasizing its management expertise, ability to provide oversight and accountability for funding is very important.

In response to Senator Kaites' request to know if Judge O'Neil had any recommendations for diversion programs which Proposition 102 allows the State to set up for the county prosecutors, Judge O'Neil indicated he would enter into intergovernmental agreements with the county attorney as he does now.

In response to Senator Kaites' further inquiry, Judge O'Neil indicated his restorative justice program is remarkably different than Judge Warner's. Judge O'Neil explained that in his program every single child, with the exception of sex offenders and seriously violent gang members, go before a neighborhood committee which makes recommendations, rather than metes out sanctions. As a result, he noted, there has been no difficulty getting people to volunteer for these five-person panels, explaining there are currently 45 people who meet weekly in Casa Grande to make recommendations.

Senator Kaites asked if such programs could be implemented across the State through juvenile court without enabling legislation and Judge O'Neil responded they absolutely could.

Representative Smith indicated he has attended community hearings in Maricopa County and has observed that these committees make recommendations for first-time offenders and a probation officer is always present to offer legal background and technical advice.

Judge O'Neil explained Pinal County utilizes the teen court concept, asserting it is very educational for students who have committed misdemeanors, as they are strongly affected by peer pressure.

Representative Smith indicated school administrators have also related their support for this very effective program.

Representative Smith asked who Judge O'Neil feels should have discretion in the juvenile justice system. Judge O'Neil emphasized his hope that discretion begins at the front line with the interceding policeman or sheriff and continues throughout the system. He expressed his preference to use discretion in making decisions individually rather than in meting out a set of predetermined sanctions. Judge O'Neil expressed his belief that justice is dealing with one person at a time and indicated that is what he tries to do. He acknowledged that advancing age and growth are the best predictors of success in turning children around.

Representative Verkamp expressed his wish to see an analysis made on the effect and impact of definitions adopted on the cost of transferring juveniles to counties and asked for Judge O'Neil's help in this.

Judge O'Neil indicated he handles both juveniles and some adults in his county, noting that in juvenile court the average processing time from advising to disposition is 40 days, whereas the adult court takes five to nine months. He emphasized the importance of providing restitution to victims, noted it is a part of Proposition 102 and recommended funding a staff position to collect this restitution.

Senator Kaites acknowledged that Proposition 102 indicates the decision about funding rests with the Legislature and stressed that it is up to this body to come to the table with the funding necessary to accomplish juvenile justice reform goals.

Terry Stewart, Director, ADOC, indicated that of the current 103 juveniles committed to ADOC, 100 are male and three female. He noted that 97 beds in Tucson are dedicated for juvenile males, 20 beds in Florence Special Management Two Unit for hard to manage inmates and three beds for juvenile females in Perryville. Mr. Stewart indicated there are currently 39 juveniles in adult court and, depending upon sentencing and what rate they come to ADOC, the number will increase by an average of two per month into the future.

Mr. Stewart indicated ADOC will take possession of a brand new minor's unit at Tucson with 200 beds built on the Rincon model and noted there are 350 adult male beds scheduled for completion in March, 1999 in the Arizona State Prison Complex at Lewis. He noted that the intent has been to shift the Tucson juveniles to the Lewis Complex, but even without doing so, the State will have the capacity for 550 male juveniles and the typically small number of female juveniles.

Mr. Stewart indicated it has been estimated that 400 more juveniles will be sentenced as adults if parallel definitions of the adult criminal code are developed for juveniles. He estimated that by January 1, 2000, if parallel definitions are developed, Arizona will have the capacity to incarcerate 500 to 600 juvenile offenders in 550 total juvenile beds, if the 200 juvenile beds are maintained in Tucson.

Mr. Stewart indicated that the best estimate by the Office of Strategic Planning and Budgeting for housing juveniles in juvenile corrections is \$167 per day compared to the cost of \$44.70 to house a juvenile in ADOC. In response to Senator Kaites' inquiry, about how the juvenile cost in ADOC compares to secure care in juvenile corrections, Mr. Stewart could not say.

Mr. Stewart confirmed Representative Smith's understanding it costs about the same to keep a juvenile in ADOC as it does an adult. Mr. Stewart acknowledged it may cost a bit more to house a juvenile in ADOC than it does to house a juvenile in juvenile corrections, but not a significant amount.

Mr. Stewart indicated the difference in cost is related to the emphasis placed on treatment in juvenile corrections versus education, work and system-approved programs such as anger management, parenting and substance abuse programs in adult corrections. He explained that the General Equivalency Diploma program will become mandatory. Mr. Stewart explained that typically one-half of the day in ADOC is devoted to programs and the other to hard labor, i.e. breaking rocks and institutional labor.

Mr. Stewart noted there will be greater opportunity for minor inmates to perform additional institutional jobs in the new facility after they have earned the position performing hard labor. He clarified the program will move from somewhat of a punishment orientation to more meaningful institutional jobs.

Mr. Stewart confirmed Senator Kaites' understanding that the juveniles in ADOC are much harder to manage and have committed worse crimes than those in juvenile corrections. Mr. Stewart explained that some of the males are so difficult to manage they are single-celled in Special Management Unit Two.

Representative Smith also suggested that housing juveniles in cottages with a higher ratio of supervisors and counselors to juveniles accounts for higher costs. Mr. Stewart acknowledged the ADOC juvenile program is oriented toward least cost, punishment and rehabilitation with available resources.

Mr. Stewart encouraged the Legislature to adopt a parallel definition for "chronic offender," i.e., a person with three felony convictions, and a good definition for "violent offender." He suggested that in doing so, Arizona will have an opportunity to move the most dangerous and violent juvenile offenders to ADOC where they may be maintained in appropriate settings at a reduced comparative cost. Mr. Stewart opined that one of the failures of the juvenile justice system is that treatment is supposed to work for all offenders. He emphasized transferring the appropriate juveniles to ADOC will allow the opportunity to provide community-based resources and juvenile corrections to those offenders most able to be redirected by treatment.

Mr. Stewart confirmed Representative Marsh's understanding that the same five security level classifications according to public risk and institutional risk are used for juveniles as well as for adults.

Representative Smith suggested that if 97 percent of those incarcerated eventually get out of jail, there needs to be a system developed for juveniles that will enable them to have a chance to live as good citizens within the community when they are released.

Mr. Stewart agreed and also acknowledged that age greatly impacts recidivism rates. He noted that the older offenders get, the lower the recidivism rate becomes. Mr. Stewart suggested the State could tailor sentencing in this regard, insuring that sentences incapacitate offenders beyond the critical years and focus on education. He acknowledged there are programming opportunities that juveniles can benefit from and clarified that for the small percentage of juvenile offenders coming to ADOC, redirection may not be possible and maturity may be the only hope.

In response to Representative Verkamp's inquiry about what types of institutional jobs inmates are required to perform, Mr. Stewart listed cleaning the yard, kitchen duty, facility maintenance, plumbing, mechanical maintenance and anything else it takes to run the facility. He acknowledged that since juveniles must be separated by sight and sound, job opportunities are limited.

Representative Verkamp also emphasized the importance of educating juvenile inmates and enhancing vocational training so they have a way to make a living when they are released.

Mr. Stewart asked the Committee to remember that when juveniles turn 18 years of age they are able to benefit from vocational education and able to work for Arizona Correctional Industries if their classifications permit.

Representative Verkamp noted that if juveniles are placed in ADOC at 15 to 17 years of age, they may waste two years' time that could be better used. Mr. Stewart acknowledged there may exist some limitations if a juvenile does not progress to the adult system and is released before turning 18 years old.

Representative Smith expressed his intent to check on programs and work with Mr. Stewart.

In response to Representative Marsh's inquiry about comparing gang activity between incarcerated juveniles and adults, Mr. Stewart indicated it is difficult to say whether there is more gang activity among ages 15 through 18 or 18 through 24, explaining it appears to be the same, is a significant problem and has increased astronomically in recent years. He indicated that formerly inmates would join an established prison gang once incarcerated, but now inmates enter with a loyal street gang affiliation already established and are unwilling to join the older established prison gangs. Mr. Stewart noted there is a dual problem and fractionalization.

Senator Kaites asked for an example of the offenses of one of the 103 juveniles in adult corrections in order to demonstrate the seriousness of these crimes as compared to the offenses handled in juvenile corrections. Mr. Stewart listed offenses of three armed robberies, aggravated assault, facilitation of first degree murder, second degree murder, escape, manslaughter and burglary with sentences totaling over 20 years for one individual.

Elizabeth McNulty, Ph.D., Senior Research Associate, National Council on Crime and Delinquency, explained she was formerly with AOC where her study entitled "Arizona Juvenile Transfer Study: Juveniles Transferred To Adult Court 1994" (filed with original minutes) was conducted. She presented an overview of the report and projected slides illustrating who these juveniles are, their sentences and evidence which shows that treatment of transferred juveniles can be quite effective, particularly for those on intensive projections. Dr. McNulty showed slides indicating 70 percent of transferred juveniles in 1994 were 17 years of age and older, were minorities, had five or more prior referrals and that females represented 5 percent of the group and do not look like males in offense, background prior referrals or use of prior services. She strongly suggested that the Legislature pay attention to the different sentencing patterns of females.

Dr. McNulty continued to show slides illustrating that crimes against persons were committed by younger age groups and that 60 percent of the African-Americans

transferred were convicted on crimes against persons compared to 38 percent of the Anglo group. Slides showed that minority youth had a much higher prior referral history before transfer than Anglo youth and Dr. McNulty suggested the new system being implemented will more likely impact minority youth than it will Anglo. She presented slides which showed that most transferred juveniles had received at least one court-related service, such as a diversion program or use of probation, that 13 percent of the full group had received none and that 30 percent of females had received none. Dr. McNulty noted that in terms of prior services females come in with a very different history and pattern than males.

Dr. McNulty indicated that approximately 50 percent of the transferred juveniles received probation; 33 percent received standard and 16 percent received intensive probation; 32 percent were sent directly to ADOC and the remainder were sent to a variety of other services such as the shock incarceration which was in place at the time but is now obsolete.

In terms of the likelihood that a juvenile would be sent to ADOC, Dr. McNulty listed severity of offense, previous transfer, ethnicity (African-American males, holding everything else constant, were three times more likely to receive a prison sentence than Anglo males and Hispanic males more than twice as likely as Anglo males), number of prior referrals and young age. She noted that two-thirds of the juveniles received something other than ADOC sentencing, so a large percentage of this group as is the case with juveniles nationwide, was sent into the adult system without the idea of receiving an adult court sentence to ADOC.

Dr. McNulty noted that for juveniles placed on intensive adult probation, a comparatively high 60 percent were still under supervision eight months later. She emphasized a large number had some type of treatment ordered at sentencing, with only one-half actually receiving the treatment for a range of reasons, but noted that the most successful in probation received treatment along with this sentence. Dr. McNulty showed data indicating that structured, intensive probation along with treatment produced a dramatic positive relationship for transferred juveniles.

In response to Representative Smith's request, Dr. McNulty indicated she would make a copy of the report available to all committee members.

Dave Byers, Director, AOC, noted that the various programs, funds and disposition alternatives are all statutory and Proposition 102 does not change this, though it provides impetus to review the entire system.

Mr. Byers explained the system of funding courts in Arizona requires that 117 different political subdivisions make decisions to assemble the full amount of funding. He

emphasized the need for the Legislature to gain input from the local boards and avoid leaving AOC in the position of the go-between trying to figure out who is going to pay costs.

Mr. Byers explained the largest amount of money the Legislature allocates to the juvenile court probation operation is the Juvenile Treatment Services Fund, initially housed in DES and later taken over by the courts at the request of DES after two or three years of resistance. He emphasized it has been a good system and has worked efficiently, has worked without scandal and has not succumbed to political pressures. Mr. Byers noted that when the courts took the \$25 million fund over, fraud was discovered and was taken care of with the help of DES special investigators. He emphasized the Fund needs diligent management and safeguards or this problem will continue to exist.

Mr. Byers noted that though the Fund pays for treatment such as family and individual counseling, the largest portion is paid out for consequences, such as drug testing, electronic monitoring, placement in community service programs and other sanctions which are meted out by community restorative centers or which judges impose.

Mr. Byers indicated once consensus is reached by the Governor's committee working to implement Proposition 102, he would be happy to deliver specific projections for allocations to the Legislature. He noted this is being accomplished with the aid of a good statewide database. Mr. Byers projected that if laws necessary to implement juvenile transfer were changed last year and based upon last year's arrest statistics, there would be 1,331 juveniles being transferred to the adult system.

Mr. Byers confirmed Senator Kaites' understanding the figure is based on the offenses of rape, murder and armed robbery for juveniles ages 15 and above. In addition, Mr. Byers noted there would be a group of 689 juveniles under the Pima plan ages 14 and 15 who would also be transferred, making a total of approximately 2,000 juveniles. He also noted approximately 1,000 would be under juvenile corrections for second felony adjudications and that other juveniles may be transferred due to a judge's discretion and parole revocations.

Mr. Byers suggested law enforcement changes may need to be monitored as reforms are made. He explained that if it is determined that three drug buys results in a mandatory prison sentence, law enforcement will move to make three buys, as this is the way the system works. He explained that if the system dictates that two arrests warrants a juvenile going to juvenile corrections, this may skew current arrest and charging patterns and should be monitored.

Representative Smith asked if there is a national system of evaluating which treatment programs are effective and which are not. Mr. Byers suggested before money is spent on

evaluations the State must first define "success," suggesting that a juvenile with a record of taking drugs, stealing cars and burglarizing may be defined as "successful" because six months later he is going to school and reads better, although he gets arrested for smoking marijuana while on probation. He reiterated that the recidivism rate for young males is over 70 percent and tapers off after they reach 30 years of age. Mr. Byers noted that this group of juveniles generally do not have traditional families to lean upon for support.

Representative Smith asserted that if a contract is to be let with a treatment organization, it should be able to tell the State what it considers "success" and show how it can produce it.

Mr. Byers acknowledged the courts have performance criteria, the police officers on the street know what works and there is national information available on what generally works for specific cases.

Representative Smith agreed the people on the front lines know what works and recommended supporting programs which are proven successful and getting rid of the ones that are not.

Mr. Byers explained the contracting is very decentralized, that AOC does the contracting for all the juvenile courts with Boys Ranch, for example, in a cost-efficient way, however it is the individual court's choice to use the contract or not. He noted that word spreads quickly among probation officers about which agencies are effective for which types of juveniles.

Mr. Byers suggested that good residential treatment, which is the most expensive, may be well-run, but as the juveniles are returned to dysfunctional families, the success rate does not hold up. He also noted that the military no longer will accept youth with behavior problems or criminal records. Representative Smith acknowledged the military requires high school graduation.

Senator Kaites asserted AOC currently has the authority to evaluate programs and not renew contracts for programs which are not successful. Mr. Byers agreed this is true and that he would like to perform more evaluations, but asked that the Committee consider there are hundreds of contracts in the system and there is pressure to keep administrative expenses low compared to direct services to juveniles. He also noted there is a great deal of politics surrounding many of the centers, many of which are nonprofit and may have influential boards which may affect the objectivity of an evaluation. Mr. Byers emphasized that the courts are determined to protect the children and only to pay for services that are rendered. He indicated that juveniles have been removed from less than adequate programs, sometimes resulting in their shutting down.

Representative Verkamp expressed concern about the need to better understand the funding which flows through the Supreme Court and asked if there was a concise diagram or flow chart available that would make it clear. He noted there are some funding issues involved in Proposition 102 and suggested there is concern in the juvenile courts that the county attorneys may set up a competing program to obtain funding.

Mr. Byers indicated there needs to be a distinction drawn between the Supreme Court, consisting of five justices who adjudicate cases versus the administrative responsibilities also vested in the Supreme Court. He related his experience at a national conference for court administrators and noted there are different mechanisms in different states. Mr. Byers explained AOC is the only state office which overviews the Legislature out to the state courts and explained it takes direction from the Legislature, pending statutory authority and funding, related to the mission of the court system. He emphasized the court system exists to resolve disputes not to conduct trials, as only four percent of cases ever go to trial; yet caseload has changed from primarily civil and criminal cases to family matters and domestic relations. Mr. Byers related that Arizona's position is similar in this regard to most states in the country.

In response to Senator Kaites' request, Mr. Byers indicated AOC produces many reports for the Legislature and that he would supply a short summary showing the flow of county, city and state monies to juvenile courts. He noted approximately one-third of court funding comes from each source and because of this complexity, AOC tracks and monitors how it flows. Mr. Byers acknowledged the State has a fairly complicated system, but there has been no will demonstrated to go to a state-funded system.

Mr. Byers indicated AOC will process 90,000 referrals for juveniles this year, emphasized that the system works well and asserted that the system should not be changed. He also indicated, however, that if the Legislature chooses to change the system, his office would be happy to cooperate in determining the best way to accomplish this.

Representative Verkamp emphasized the importance of being able to understand what the juvenile courts are going to do with regard to the provision for restorative justice under Proposition 102 versus what county attorneys plan to do and how the money will flow. Mr. Byers acknowledged this importance and asserted AOC has more experience with citizen review boards than any agency in the State, noting it has operated foster care review boards of 600 citizen-members in every county since 1979. He cautioned there is no way 90,000 juvenile referrals could be processed by citizen review boards.

Representative Marsh asked how much the AOC receives in discretionary funds. Mr. Byers indicated the AOC receives no discretionary funding; that all funding and surcharges are appropriated to specific funds with specific purposes for use.

Cheryl Townsend, Director Juvenile Court Services, Maricopa County, discussed restorative justice centers and a manager's perspective of the AOC. She explained that restorative justice centers have been operating for the past year and now with the implementation of Proposition 102 there is some question as to whether the county attorneys should operate them, whether the juvenile court should operate them or whether they should be jointly operated by both. Ms. Townsend explained the Maricopa Juvenile Court Center developed "community justice committees" built upon a partnership between the juvenile courts, the county attorney and the community. She explained the concept is based upon the premise that juveniles who commit misdemeanors in a community must be held accountable to the people who live in that community.

Ms. Townsend explained there are currently 17 community probation officers in Maricopa County with four permanent decentralized offices within the county and a fifth projected to open in January. She noted there are currently 18 community facilities where citizen panels meet to conduct hearings and that Maricopa County's panels consist of three people, while Pinal County's consist of five. Ms. Townsend explained the panels are composed of victims of crimes, elected public officials, teachers, community activists and concerned parents and many have said their involvement with community justice has given them hope, a sense of taking back the community from juvenile crime and a sense of making a difference with youth.

Ms. Townsend indicated over 1,500 youth, who have completed thousands of hours of community service, have been seen in the past year and this is projected to more than double in the next year. She noted that an initial evaluation shows juvenile offenders in the community justice system are committing fewer offenses than those juvenile offenders who go through the standard process and that restorative justice is working well in seven out of 10 cases. Ms. Townsend commented it is encouraging to note that the community justice system is even more successful with minority youth.

Senator Kaites asked if the committees have minority members who review cases for minority youth. Ms. Townsend explained this is the case, but members are not specifically assigned based on ethnicity; that the volunteers reflect the ethnicity of their communities.

Ms. Townsend indicated a more thorough evaluation is projected for the coming year, looking not only at recidivism but also educational progress, school attendance, behavior within the home, compliance with consequences and completion of community service. She expressed strong support for community justice and the concept of restorative justice, noting the method of delivery is a matter of public policy the Legislature will need to design. Ms. Townsend urged the Legislature to grant flexibility, asserting that by allowing different methods of delivery there will be an opportunity to respond to unique challenges, resources and relationships in each county.

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With regard to her view of AOC, Ms. Townsend indicated she has benefitted by the administrative and technical services provided by AOC and emphasized her support for continuing to have funding administered by it. She expressed opposition to directly funding courts to avoid duplicating efforts and increasing costs.

There being no further business before the Committee, the meeting was adjourned at 4:10 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alice Kloppel".

Alice Kloppel,
Committee Secretary

(Tapes and attachments on file in the Office of the Senate Secretary)

ARIZONA STATE LEGISLATURE
Forty-second Legislature - Second Regular Session

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

Minutes of Meeting
Thursday, December 12, 1996
House Hearing Room 3 - 1:00 p.m.

(Tape 1, Side A)

Cochair Smith called the meeting to order at 1:13 p.m., and attendance was noted by the secretary.

Members Present

Representative Marsh
Representative Smith, Cochair

Senator Kaites, Cochair

Members Absent

Senator Huppenthal
Senator Tom Patterson
Senator Ruth Solomon

Representative Jarrett
Representative Newman

Speakers Present

Dr. Michael Block, Senior Policy Advisor to the Governor and Professor of Law and Economics at the University of Arizona
Elizabeth Rice, Representing Herself
Patricia Pompa, Representing Herself
Helene Abrams, Lobbyist, Juvenile Division Chief, Maricopa County Public Defender
Paul Badalucco, Deputy City Prosecutor, City of Phoenix
Jerry G. Landau, Lobbyist, Special Assistant Deputy County Attorney

Guest List (*Attachment 1*)

Opening Remarks

Cochair Smith explained that the purpose of meeting on this and previous days has been to provide opportunity for input from all interested parties regarding juvenile justice reform. The Committee will meet again on December 20, 1996 at 2:00 p.m. The Governor's Advisory Committee will also prepare a report on the juvenile justice system and a

In response to query, Ms. Abrams said that the definition has to come from the County Attorney's Office at the time the juvenile is charged with the crime.

- Believes use of the word "chronic" enlarges what was requested by the voters
- Opposed to "accomplices" to crime being automatically transferred; believes the jury should decide
- The County Attorney is the only one who can presently motion that a case be returned to juvenile court. Ms. Abrams believes it should be a prerogative of either side on the case to ask for a transfer hearing
- Dual sentencing was not included in Proposition 102. She emphasized that the juvenile who has need for juvenile services should be retained in the juvenile court.
- Allowing judges to take a child into temporary custody without a hearing or notice to counsel needs to be addressed
- Criteria is needed for children to receive services from community justice centers, to avoid the exclusion of minority children
- Concerning the provision requiring the parent of a child to pay restitution, if the parent does not have the money his/her property can be confiscated without a hearing or due process

Cochair Kaites pointed out that property can be seized only by separate civil court action.

Paul Badalucco, Deputy City Prosecutor, City of Phoenix, testified regarding misdemeanor prosecution of juveniles. He explained that the City Prosecutor's Office is concerned with the lack of enforcement of the judge's orders:

- Juvenile can fail to appear for hearing
- Juvenile who goes through the system is sentenced as provided in juvenile statutes and ignores the court's orders

He explained that city court judges have no authority or power to enforce court orders; they can only refer the juveniles back to juvenile court. Mr. Badalucco suggested giving the city judges the authority to suspend drivers' licenses for the juveniles who do not appear for hearings or who fail to obey the orders of the court.

In response to query, Mr. Badalucco stated that statute requires that parents attend the juvenile court hearings.

Cochair Kaites asked if juveniles convicted of driving under the influence (DUI) should be processed similar to adults convicted of DUI. Mr. Badalucco said he believes that option should be considered. He added that the treatment process for adults convicted of DUI does not presently exist in the juvenile justice system.

In response to query, Mr. Badalucco answered that updated technology would assist in keeping track of juveniles in the system. The City Prosecutors do not have access to the records in the juvenile system. He related that one of the problems concerns juveniles entering the system, and through court delays, turn 18-years-old after the case has

Attachment 4 depicts the effects of the proposed policy of increase in certainty and severity of punishment in dollars and cents. The table exhibits the benefits and costs of changes in imprisonment policies by type of crime using the figure of 5 percent for the longer time served. When the benefits are divided by the costs, the figure needs to be greater than one. He stated that he believes the message gleaned from the statistics is that an increase in the risk of imprisonment is more powerful than increasing the length of sentencing for violent crimes.

Dr. Block explained *Attachment 5*, which displays benefit costs if all criminals convicted of violent crimes served time (simulated figures.) He advised that if a policy change implements certainty and severity in punishment, statistics show that prison population will begin to decrease in four years. He added that implementing the policy gives States some power over the imprisonment process.

In response to query, Dr. Block replied that according to his research, in order to have power in the juvenile justice system, a policy of certainty and severity in terms of punishment must be implemented.

(Tape 1, Side B)

Dick Geasland, Chair, Arizona Council of Centers for Children and Adults (ACCCA) and Executive Director of Youth Etc., testified from a service provider's perspective. He emphasized the importance of swift consequences for teens and children convicted of crime as a must from the provider's point of view. He mentioned concern that realizing consequences of crime in the adult system is a lengthy process and needs to be considered when juveniles are transferred to adult court. He explained that the context of his comments arise from many years in the juvenile justice system, child welfare, and working with behavioral health children. Mr. Geasland reviewed ACCCA juvenile justice reform recommendations (*Attachment 6*).

Regarding prevention and early-intervention services for children, Cochair Kaites asked which programs are effective. Mr. Geasland replied that the Supreme Court and juvenile court judges may have that information.

Mr. Geasland indicated swift consequences within the community for child offenders will be the most effective in preventing some children from becoming "102" juveniles. He said he believes ACCCA provides the community with effective and efficient programs where more pertinent and appropriate services are provided for juveniles. He stated that he believes the Administrative Office of the Courts (AOC) is the most accountable organization that has the best handle on what to do for juveniles and how to do it. Mr. Geasland favors the centralizing of the juvenile court system to end duplication in children's services and State contracts with providers.

In response to query, Mr. Geasland explained that there needs to be utilization of the local juvenile courts already established and placed under AOC and juvenile court supervision. He said ACCCA favors dual sentencing so that contributory factors (poverty,

unemployment, etc.) will be considered in determining punishment. Mr. Geasland pointed out that there are very specific statistical evaluations showing that prevention and early intervention are effective in deterring juvenile crime.

Cochair Smith commented that he believes the consequences of crime should be as immediate as possible and the severity of the punishment needs to be increased if the initial consequences do not change the behavior.

Cochair Kaites asked the single most important motivating factor in modifying juvenile criminal behavior. Mr. Geasland stated that he believes that providing the juvenile with an appropriate role model is an important factor.

Cochair Smith remarked that recognizing an individual's success in at least one area is important to young juveniles. Mr. Geasland concurred.

(Tape 2, Side A)

Elizabeth Rice, representing herself, testified in favor of Proposition 102. Mrs. Rice related the incident that took the life of Jennifer Lynn Rice, senselessly murdered by a 14-year-old boy on September 8, 1996. She stated that she, her husband and friends wrote impact statements to the judge on this case, in an attempt to influence the judge's decision whether or not to transfer the juvenile to adult court for this crime. Barbra Miller, the prosecuting attorney, the boy's parole officer and the boy's psychologist, also recommended that the juvenile be transferred to adult court. The judge decided to retain the juvenile in the juvenile system where the maximum sentence is incarceration until the boy's 18th birthday (three years) Mrs. Rice stated that she does not believe this is justice. She pointed out that on November 5, 1996, voters unanimously voted in favor of Proposition 102 because decent citizens are sick and tired of the rising violent juvenile crime rate, and seeing them receive only a "slap on the wrist" as punishment. She declared that juveniles today will never learn to be responsible for their actions and learn to curtail their need for immediate gratification if citizens do not set clear standards for the behavior of juveniles. Her recommendations included the following:

- Parent's held accountable for the criminal acts of minor children
- Specific minimum and maximum jail sentences for specific crimes regardless of age
- Availability of counseling and services such as education for juveniles sentenced in adult court until age 18
- Victims having an opportunity to speak to convicted offenders and potential offenders in schools
- Schools implementing parenting classes, especially in high-risk populations

Cochair Kaites requested that Mrs. Rice supply staff with her telephone number and address for notification of upcoming meetings and progress of legislation.

already begun to be processed in the system, but before it is concluded. At that point the juvenile court loses jurisdiction, the original ticket must be dismissed, a new charge is filed as an adult and the process is repeated. Mr. Badalucco said the City Prosecutors Office wants a change allowing the case to become an automatic adult charge if the juvenile turns 18 in the middle of the court process.

Ms. Abrams addressed her earlier testimony. She stated that according to Proposition 102, the only way a transfer hearing for a juvenile to adult court will take place is if the State requests it. She recommends that a transfer hearing be automatic.

Jerry Landau, Special Assistant Deputy County Attorney, lobbyist, testified before the Committee. He urged that proposed legislation transcend Proposition 102 and provide for the enhanced ability to transfer juveniles to the criminal adult system by the prosecutors. Mr. Landau recommended reviewing the prior record of a juvenile before sentencing or transfer to adult court. He expressed agreement with Dr. Block, urging adoption of laws, if necessary, to provide for immediate consequences for juveniles; more funding for local detention centers and assurance that the Department of Juvenile Corrections will not practice early release of juveniles.

Cochair Kaites announced that the next Committee meeting will be held on Friday, December 20, with a presentation from the Governor's Office from 2:00 to 5:00 p.m. He requested that staff compile a menu of ideas and recommendations from different sources and testimony for use at the next meeting.

There being no objection, the meeting adjourned at 3:45 p.m.


Diann Haney, Committee Secretary

(Original minutes with attachments on file in the Chief Clerk's Office. Tapes on file in the Office of the Chief Clerk.)

ARIZONA STATE LEGISLATURE
Forty-second Legislature - Second Regular Session

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

Minutes of Meeting
Monday, December 20, 1996
Senate Hearing Room 2 - 2:00 p.m.

(Tape 1, Side A)

The meeting was convened at 2:12 p.m. by Cochair Kaites and attendance was noted by the secretary.

Members Present

Senator John Huppenthal
Senator Ruth Solomon
Representative Marilyn Jarrett
Representative Paul Newman
Representative Tom Smith, Cochair
Senator John Kaites, Cochair
Representative John Verkamp (ex-officio)

Members Absent

Senator Tom Patterson
Representative Wes Marsh

Speakers Present

Michael Block, Senior Policy Advisor for Criminal Justice, Office of the Governor
David Quantz, Deputy County Attorney, Juvenile Division, Pima County

Guest List (Attachment I)

* * *

Cochair Kaites said a letter will be sent to Speaker Killian requesting that the Committee report date be extended beyond December 31, 1996.

Mr. Newman mentioned he recently became aware of a technical assistance program available through the National Conference of State Legislatures (NCSL) which is designed to assist states in implementing model juvenile justice programs. Due to the holiday rush, he suggested the Committee continue meeting after commencement of the legislative session. Cochair Kaites

remarked that any juvenile justice reform measure developed by the Committee can be further studied and modified during the regular legislative process. He encouraged research staff members to access information available through NCSL for presentation to the House and Senate Judiciary Committees.

Michael Block, Senior Policy Advisor for Criminal Justice, Office of the Governor, mentioned his recent role as Cochair of the Governor's Advisory Committee for Implementation of Proposition 102.

Cochair Kaites clarified that Mr. Block will give a report of the Advisory Committee's recommendations to the Governor.

Mr. Block reported that the Advisory Committee met five times, approved an outline of recommendations, and is in the process of drafting a final report. With the aid of an overhead projector, he reviewed the recommendations which were approved by a majority of Advisory Committee members. (Mr. Block's presentation is based on the transparencies included as Attachment 2.)

(Tape 1, Side B)

David Quantz, Deputy County Attorney, Juvenile Division, Pima County, mentioned his role as a member of the Governor's Advisory Committee for Implementation of Proposition 102. With the aid of an overhead projector, he reviewed a flowchart entitled "Arrest and Release to Parents" pertaining to juvenile misdemeanors and subsequent arrests (Attachment 3).

Mr. Quantz explained that two reasons why misdemeanor offenses carry so little consequence for juveniles are the high cost involved in pursuing such cases and the length of time it takes for these types of cases to proceed through the court system. He suggested the Committee consider revolutionizing the juvenile court system by making it follow the procedure utilized for adult court -- that is, requiring the parent and child to appear in court *within ten days* and plead guilty or not guilty. He recommended that an attorney not be present at this stage in an effort to reduce court costs. As a trade off for not allowing legal counsel at this stage, he said the court will not be allowed to impose incarceration as a sanction.

Mr. Quantz continued his review of the flowchart (Attachment 3).

Mr. Quantz said the Advisory Committee felt strongly that money should follow children to community-based restorative justice centers.

(Tape 2, Side A)

Mr. Block displayed another transparency containing the following information:

Evaluation

- ▶ Performance audit of existing juvenile programs
- ▶ Going forward = analyze public safety outcome of all programs
- ▶ Arizona Criminal Justice Commission should be asked to specify the types of data collection and analysis necessary to analyze the effectiveness of criminal justice programs

Cochair Smith shared his observation that when a juvenile is transferred to adult court, he or she often receives a less severe sentence than would have been imposed in the juvenile system. He asked whether the Advisory Committee considered that a juvenile serving time in adult corrections might become eligible for parole and be released back into the community. Mr. Block said that in his role as advisor to the Governor, he will allow that some serious consequence needs to follow juveniles to adult court.

Cochair Smith remarked that the Committee will need to address funding and learn more about the impact on bed availability in both the juvenile and adult systems. He asked if the revamped juvenile justice system will be simplistic enough that a police officer will not be confused about whether to take a juvenile to jail or a detention center. Mr. Block replied that preliminary inquiries regarding bed availability indicate that the movement of juveniles to the adult system will create vacancies in the juvenile system. He added that although the juvenile vacancies are expected to be filled as a result of mandatory adjudication, the influx is not expected to exceed the number of juvenile beds scheduled to become available in 1998 and 1999. On the second point, he mentioned that both Sheriff Arpaio and Director Albo felt that offenses could be specified clearly enough that law enforcement officers will not be confused about where to take an arrested juvenile.

Mr. Block said the ambiguity surrounding the term "chronic offender" may be alleviated by a police link up to the Juvenile On-line Tracking System (JOLTS).

Senator Solomon asked if the Advisory Committee will issue a minority report. Mr. Block replied that the final report will indicate the items on which various members disagreed.

Senator Solomon inquired as to which elected officials should have input into reforming the juvenile justice system. Mr. Block shared his belief that the legislature and county attorney should be involved with developing reforms.

In response to Senator Solomon, Cochair Kaites envisioned that the legislature will not actually rewrite all court rules. Mr. Block asserted that the recommendations were to set transfer criteria. He said the legislature is fully capable of setting such criteria, and that implementation should be left to the courts.

Senator Solomon expressed surprise over the assertion that enough prison beds will exist to house the influx of individuals caused by Proposition 102. Mr. Block explained that the directors of the Department of Corrections (DOC) and Department of Juvenile Corrections (DJC) gave assurances

that sufficient bed space presently exists. However, he admitted to not inquiring too deeply with regard to bed availability in jails and detention centers.

Cochair Kaites stated his belief that juvenile justice reform legislation will require an appropriation.

Senator Solomon said the legislature must carry out the wishes of the voters. With regard to two 15-year-old mentally retarded boys who recently committed a serious crime, she pointed out that under Proposition 102 they will be automatically transferred to the adult system where they will receive even less, if any, services than they received in the juvenile system.

Mr. Verkamp recalled that the Department of Youth Corrections in Coconino County was a laughing stock and that there was a common saying that kids taken there "would beat the officers back up the hill." He related the subsequent bed shortage problems which occurred when juvenile judges attempted more stringent sentencing.

Mr. Verkamp asserted that any serious attempt at reforming the juvenile justice system must eliminate all emergency releases, adhere to truth in sentencing, and provide the funding necessary to ensure that offenders fulfill their sentences. Mr. Block concurred wholeheartedly and mentioned that he already placed a request for an outside expert to conduct a population forecast which can be used to determine bed needs. Cochair Kaites requested that Mr. Block provide Committee members with the information.

Mr. Verkamp predicted that Proposition 102 will result in more juveniles entering juvenile corrections, as compared with the number of juveniles who will enter adult corrections.

(Tape 2, Side B)

Mr. Newman asked if the Advisory Committee, in determining the categories for automatic transfer, studied the experiences of other states. Mr. Block replied that other states' systems were not studied because the Advisory Committee's proposal utilizes a different sentencing regime.

With regard to restitution, Mr. Newman questioned whether parents will be concerned over submitting to a system which does not involve attorneys. Mr. Quantz referred to the flowchart (Attachment 3) and mentioned the effectiveness it can have in situations in which a juvenile has a collection of misdemeanors. He suggested that in cases which involve restitution or unique circumstances, a mechanism should be developed which will allow a party to opt out of the accelerated system illustrated by the flowchart.

Mr. Newman asked whether the system reflected on the flowchart has been attempted in any other state. Mr. Quantz replied in the negative but expressed absolute confidence that it will prove workable in the arena of juvenile justice. He mentioned that since 1974 he has attended conferences and amassed a great deal of information on the subject of juvenile justice. Further, he emphasized that the system proposed by the flowchart is not untried because it is based on Arizona's adult system.

Mr. Newman asserted that without an attorney, children and parents may not know how to fend for themselves in the court system. Mr. Quantz stated his belief that the presiding judicial officer will have both the capability and motivation to ensure that what transpires in his or her courtroom will be fair.

In response to Mr. Newman, Mr. Block suggested that the Proposition 102 language concerning openness to the public should be repeated in the interest of clarity.

In answer to Mr. Newman, Cochair Kaites pointed out that drivers, age 16 to 18, are currently subject to adult penalties. He explained that the only proposed change for juvenile drivers pertains to DUI offenses.

Mr. Newman asked if the Advisory Committee included a representative of the federal court monitors. Mr. Block said no thought was given to placing a representative of the federal judiciary on the Advisory Committee because the Governor of Arizona structured the Advisory Committee to address business pertaining strictly to Arizona.

Mr. Block emphasized that the presentation to the Committee is simply comprised of recommendations which the Advisory Committee will make to the Governor.

Mrs. Jarrett requested an estimate of the budgetary savings which will be realized by streamlining the front end of the juvenile justice process. With regard to DUI offenses, she suggested that juvenile drivers, who should not be drinking at all, be stripped of their drivers license for a long time.

Cochair Smith said it would be a shame to exhaust funding on additional beds without addressing special education programs focusing on early intervention. He suggested that several million dollars worth of savings can be realized simply through prevention.

With regard to the secondary category, specifically arson of an occupied structure, Mr. Newman expressed concern over a scenario in which a juvenile might burn a home because a parent who committed an awful crime was inside. Further, he asserted that it was probably not the intent of Proposition 102 to transfer to the adult system a kid who merely steals a bicycle worth \$250.

Mr. Block emphasized that a child has made a conscious choice by the time he or she commits a third felony.

Mr. Quantz explained that if an arson case is transferred to adult court, the prosecutor who reviews the case and decides to file charges must be convinced the charges will prevail before a jury. He added that if a case is so ludicrous that there is very little probability of prosecution, the prosecutor will not issue the case as a felony.

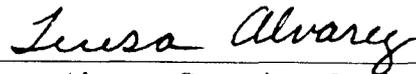
(Tape 3, Side A)

Cochair Kaites remarked that even in the case of the two 15-year-old mentally retarded boys, the prosecutor will have the option of determining whether the case should be tried in the juvenile or adult system.

Mr. Newman expressed considerable concern over the possibility of prosecutorial abuse.

Cochair Kaites announced that attempts will be made to have copies of draft legislation available at the next meeting of the Committee.

Without objection, the meeting was adjourned at 4:15 p.m.



Teresa Alvarez, Committee Secretary

(Original minutes with attachments and tapes on file in the Office of the Chief Clerk. Copy of minutes with attachments on file with Cochair Kaites and Cochair Smith.)

ARIZONA STATE LEGISLATURE
Forty-third Legislature - First Regular Session

JOINT COMMITTEE ON JUVENILE JUSTICE REFORM

Minutes of Meeting
Friday, January 17, 1997
Senate Hearing Room 2- 2:00 p.m.

(Tape 1, Side A)

Cochair Kaites called the meeting to order at 2:15 p.m., and attendance was noted by the secretary.

Members Present

Senator Huppenthal	Representative Jarrett	Representative Smith, Cochair
Senator Solomon	Representative Marsh	Senator Kaites, Cochair
	Representative Verkamp (ex-officio)	

Members Absent

Senator Tom Patterson
Representative Newman

Speakers Present

Rick Pyper, Senate Research Analyst
Barbara Lewall, Pima County Attorney
Jerry Landau, Special Assistant Maricopa County Attorney
John Foreman, Presiding Juvenile Judge, Maricopa County Superior Court
Linda Petit, Lieutenant Commander, U.S. Navy, representing herself
Connie Richardson, representing herself
Dr. Barry Fine, representing himself, Physician III, Arizona Department of Juvenile Corrections (DJC)
Michael Block, Senior Policy Advisor to the Governor; Professor of Law and Economics, University of Arizona

Guest List (Attachment 1)

Rick Pyper, Senate Research Analyst, presented a brief summary of the proposed legislation (juvenile justice; implement proposition 102). Copies of the Fact Sheet on the proposed legislation were made available to Members and guests (Attachment 2). Mr. Pyper stated that the purpose of the proposed

legislation is to implement the provisions of Proposition 102. The proposition specifically provides that juvenile criminal defendants 15 and older are to be tried as adults when accused of “violent felony offenses” or if they are “chronic felony offenders.” The proposition enumerates some violent felony offenses but leaves room for more to be provided by the Legislature. It does not define “chronic felony offenders.” Mr. Pyper advised that the proposition requires that convicted juveniles make prompt restitution to their victims and allows county attorneys to defer prosecution of juveniles in favor of community-based alternatives when the juvenile is not a chronic offender or accused of a violent offense. It also provides for juvenile criminal proceedings to be made public with exceptions for the protection and privacy of innocent victims and when there is a clear public interest in confidentiality, as determined by the courts. Mr. Pyper noted one change in the bill summary, page 2, item 26, strike “first time” and insert “repeat.”

(Tape 1, Side B)

Barbara Lewall, Pima County Attorney, testified in support of the proposed legislation. She said she believes there are two factors responsible for the increase in juvenile crime: 1) the growing number of young children in the communities today, and 2) the growing intensity of violence among juveniles (guns being more accessible). She opined the public’s perception is that there are no real consequences for juveniles involved in criminal acts. Ms. Lewall explained that the existing juvenile code was designed to deal with juveniles from a different era (delinquents), but is inadequate to deal with violent offenders (chronic repetitive felony offenders).

Ms. Lewall emphasized that it is time to deal with the serious violent juvenile offenders, to refocus and reallocate resources to intervene with rehabilitative youth, and to deal with prevention for young children. She stated her belief that the proposed legislation deals with juveniles in a way that produces a balance between prevention, intervention and punishment. Ms. Lewall opined that deterrence of crime will happen when young people are told what type of conduct is expected of them, requiring conformity to that conduct, and following through with swift and certain consequences for failure to do so.

Ms. Lewall recommends that prosecutors be given the discretion to proceed against juveniles who are 14 years and older as adults when deemed appropriate by the prosecutor. The discretion whether to charge or not is at the heart of the prosecutorial function. On the issue of misdemeanor offenses, she advised that adults are not assigned counsel when charged with a misdemeanor offense, but juveniles are. As a result, there is a lengthy delay between the time that a young person is cited into juvenile court and occurrence of consequences, which is very costly for local county jurisdictions. Direct expenses attributable to the public defenders office in Pima County for last fiscal year for misdemeanor cases is approximately \$250,000 to \$300,000 per year.

Cochair Kaites interjected that in the proposed legislation for misdemeanor cases, if the prosecutor is seeking incarceration for the juvenile, that juvenile will be entitled to legal representation.

Ms. Lewall voiced concern with the provision that allows for a young person, once he/she is transferred to adult court, tried or even pleads guilty and is sentenced as an adult to utilize adult and juvenile court services. If juvenile services are utilized, funds are taken away from young people eligible for rehabilitation.

Ms. Lewall expressed concern with the expungement provision. She asserted it is not “in sync” with current provisions on statute which provide for a period of time to pass prior to being able to petition the court for expungement. She stated that she believes there needs to be some requirement for showing that the offender is not going to reoffend prior to expungement taking place.

On the detention issue, Ms. Lewall said that it is critical to the success of the legislation that the repeat and chronic offender provisions at the juvenile level and the notification and warning that exists be sure and predictable to ensure deterrence. She emphasized the need for adequate funding to ensure adequate detention facilities for chronic offenders and for bed space in the Department of Corrections and the County Jail.

Ms. Lewall requested that the Committee place a provision in the statute to indicate that detention means incarceration in a secure facility, not release with an ankle bracelet. Further, she indicated the need for the imposition of a determinate sentence, and asked the Committee to consider some type of determinate sentence for the second juvenile offense.

(Tape 2, Side A)

Mr. Verkamp asked about the status of available beds in the Pima County Detention Center. Ms. Lewall stated that they are always full, and funding must be supplied for detention facilities and adequate beds through legislation.

Mr. Verkamp said he would like to see a provision in the legislation that states if there are mandatory sentences for juveniles, that any mechanism for early release will be taken to ensure the public that when a juvenile is sentenced for a time specific, he/she will serve the full sentence. Ms. Lewall concurred.

Mr. Verkamp questioned the categorizing of chronic offenders. Ms. Lewall advised that it is difficult to categorize chronic juvenile offenders, because, unlike adults, they commit a wide variety of offenses. On the third “felony” offense, the juvenile will be transferred to adult court, and depending on the nature of the offense, he/she will be treated in line with the nature of the offense and will be sentenced under the proposed legislation to a period of time in the Department of Corrections.

Mr. Verkamp asked if there will be any legal problem with the provision that a juvenile transferred automatically to adult court will not be eligible for probation, whereas an adult is eligible. Cochair Kaites clarified that under the proposed legislation juveniles will be eligible for probation, but will have to serve some time. Ms. Lewall stated that it is legally permissible.

Ms. Lewall added, on the question of categorizing chronic offenders, once juveniles are convicted of the first adult felony offense, there is an opportunity for expungement.

Cochair Kaites clarified that juveniles have committed the third felony offense by the time they get to adult court.

Mr. Verkamp inquired about the written notice provision, if not provided, and how it relates to out-of-state juvenile offenders. Ms. Lewall explained that out-of-state offenders will not have been given

written notice, so they will be starting at point zero in Arizona until such time as they receive written notice. She said she does not believe that the lack of written notice will disqualify the offense. Judges are required to give a variety of notices, written and otherwise, to offenders convicted, pled, sentenced, etc. She pointed out that this provision does not preclude judges from treating out-of-state juveniles with lengthy records the same as an individual who has received notice; sentencing is within the judges discretion.

On the issue of misdemeanors not handled by attorneys but “adjusted out” in the present system, Mr. Verkamp asked about the increased workload on hearing officers with the new system. Ms. Lewall replied that there is a large number of cases in her office that have not been adjusted out, approximately 7,000 per year. Those misdemeanor cases not seen by the county attorney’s office should go before a hearing officer. She said that she anticipates that many of these cases will be diverted to community boards.

Mr. Marsh asked if expungement of felony offenses means all “felonies.” Cochair Kaites said it is his understanding that the felony offenses that are still in the juvenile court will be expunged immediately upon probation and the adult prosecutions will go through the normal expungement procedure.

Jerry Landau, Special Assistant Maricopa County Attorney, representing County Attorney Rick Romley, testified in support of the proposed juvenile justice reform legislation.

(Tape 2, Side B)

Mr. Landau stated that he believes the areas of intervention and early intervention are as important as the area of consequence in juvenile crime and go to the heart of public safety. Arizona has an opportunity to take a juvenile system of the past and bring it into the future. He stated that he believes there is a class of criminal population under the age of 18, who cannot and should not expend the valuable resources of the juvenile system, and who belong in the adult system. There is also a class of young people in the population who can be rehabilitated within the juvenile system.

On the issue of charging discretion, he advised that Mr. Romley formally believes the forum for which to file as well as the charge to file should be at the discretion of the county attorneys.

In response to query, Mr. Landau explained that if an offender is under the age of 18, in the adult system; and is convicted of an offense that is probation eligible, the court in its discretion can place the person on dual probation, where the person can access the adult and juvenile services while being on adult probation. If the person completes probation successfully, the court may expunge the record, or order it expunged if it feels it appropriate. A mandated prison sentence does not fall under these expungement provisions.

Mr. Landau advised that he concurs with Ms. Lewall that there should not be early release for violent juvenile offenders. The sentence of the judges must be carried out, and funding is required to accomplish the sentencing provisions.

John Foreman, Presiding Juvenile Judge, Maricopa County Superior Court, testified regarding proposed juvenile justice reform legislation. He stated that the Maricopa County juvenile judges are committed to making Proposition 102 work and will contribute to the realistic enactment of the legislation.

He shared the following concerns from juvenile judges:

- The invitation to increase the number of mandatory adult file cases is understood, but accomplice liability needs to be considered by the Committee.
- The expansion of the mandatory transfer provision to the 14-year-old group with a larger group of offenses that are not necessarily violent offenses is a concern. The judges suggest the addition of a transfer back provision for cases in which the prosecutor's discretion, initially exercised to bring the more serious charge, turns out later on the charge for which there is a finding of guilt is not the larger charge for which the case was originally brought. If it is a lesser charge that would not have allowed prosecution in adult court in the first place, the judges believe the Committee should consider the possibility of granting the discretion to the court to transfer the case back to juvenile court.
- If appropriately used, support transferring traffic jurisdiction to adult court except driving under the influence (D.U.I.) cases. Judges need an opportunity to review the aggravated D.U.I. cases, and believe D.U.I.'s indicate a substance abuse problem that can be addressed more effectively in juvenile court.
- Support expediting the misdemeanor jurisdiction of the juvenile court, although Judge Foreman stressed that is not revenue neutral. There will be a savings from removing attorneys out of the process, but there will be increased time for judges, judges' staff and courtrooms.
- Concerned about the syphoning of juvenile funds to adult court through the dual sentencing provisions to handle the influx of juveniles going to adult court. New resources are needed to deal with probation and incarceration.
- In favor of establishing a revolving restitution fund that will allow victims to be paid, where the juvenile offender is not financially able to pay.

Cochair Kaites concurred on the establishment of a revolving restitution fund with the added component that private entities can contribute to the fund.

Judge Foreman continued:

- Opposed to determinant sentencing because when dealing with a juvenile, it is more the immediacy and certainty of consequence than the length of the consequence that brings results.

Judge Foreman urged the Committee to avoid making promises to the public on behalf of the juvenile court that cannot be kept due to the of lack of resources. Judge Foreman added that the detention facilities have been chronically full since 1991, and many more beds are required. He asked that the legislators provide the juvenile judges the tools to enact Proposition 102.

Cochair Kaites pointed out that from a technical aspect, the legislation needs to include language providing that where the legislature has not spoken, the courts have the authority to create rules of procedure. Judge Foreman concurred.

Judge Foreman stated that he believes the jurisdictional provision should be indicated by statute regarding original jurisdiction for dependency severance, adoption and delinquency.

(Tape 3, Side A)

Linda Petit, Lieutenant Commander, U.S. Navy, representing herself, testified regarding her sister, Jennifer Rice, who was murdered on September 9, 1996 by a 14-year-old drunken juvenile in a stolen vehicle. Ms. Petit is in support of the passage of juvenile justice reform legislation. She shared how juvenile crime has affected her family by initiating a life-time of grief. Ms. Petit advised that the judge in her sister's case ruled that the juvenile should not be transferred to adult court. The juvenile who murdered her sister will turn 18 in approximately three years, be released from the juvenile system and returned to the community. She opined that this juvenile will not be rehabilitated. Proposition 102 will hold the parents accountable and responsible for the actions of juveniles. She stated that she believes prevention through education has proved to save millions of dollars in the health care field and can also save millions of dollars in the juvenile justice system.

Connie Richardson, representing herself, testified in support of juvenile justice reform legislation. Ms. Richardson explained that she is as a victim of juvenile crime through the death of her 16-year-old son at the hands of another juvenile. She stated that she got involved with reform because of the awareness of the tremendous effect of crime on people in the community. She said it is crucial for money to be available for detention and DOC beds, and believes the passage of this proposed legislation with the provision for certainty of consequences will take away juveniles' power from the communities. Ms. Richardson stated that she believes a juvenile's second felony conviction should result in some incarceration. Ms. Richardson emphasized her support of the community justice system and the involvement of victims in the system.

Dr. Barry Fine, representing himself, Physician III, Department of Juvenile Corrections (DJC), informed Members that he has practiced child psychiatry for 26 years in the public sector; 21 years with the State of Arizona, and the past 13 years with the Department of Juvenile Corrections.

Dr. Fine shared what he believes to be the two major weaknesses in the Arizona juvenile justice system:

- Structurally: the county juvenile court centers require additional detention beds to adequately provide 1-4 months short term secure-care rehabilitation, while also protecting the public safety; and 6-24 months of medium to long-term secure-care treatment and rehabilitation while also protecting the public safety.

(Tape 3, Side B)

Dr. Fine continued:

- Procedurally: the Arizona juvenile justice system cannot provide meaningful rehabilitation services for a substantial group of 17+ year-old delinquents because "they are too close to 18." Dr. Fine proposed changing the existing laws to require all committed juveniles to serve out their full juvenile corrections' sentence, even beyond the 18th birthday. By requiring all committed juveniles to serve out their full sentence past 18 years of age in juvenile corrections as mandated by the juvenile judge, the juvenile courts will now be able to retain all those youth who truly belong in the juvenile system.

Michael Block, Senior Policy Advisor to the Governor; Professor of Law and Economics at the University of Arizona, testified on the proposed legislation. Mr. Block voiced concern with items 8 and 9 on the Fact Sheet (Attachment 2). He said he believes the passage of Proposition 102 and testimony shows that concerns lie with public safety, the seriousness of the crime, and the state of mind of the offender in the transfer process. He stated that he believes it is good to have the transfer provisions in law rather than with court rule, the reasons for transfer, and the provision that judges be required to write the reasons for transferring or not transferring.

Cochair Kaites pointed out that the juvenile cases being considered for transfer are not the third-time felony, violent offenders, or class 1, 2 or 3 offenders.

Mr. Block stated that he believes the criteria used by the judges in deciding whether to transfer a juvenile to adult court is a very important issue. He said he believes item 9 in the Fact Sheet (Attachment 2) is a "laundry list" and urged its removal. Cochair Kaites agreed to review the language in items 8 and 9 (Attachment 2). Regarding the performance audit provision, Mr. Block suggested the additional auditing of existing juvenile services, both in the juvenile courts and in DJC.

Cochair Kaites announced that the Committee will prepare a final report to include a general statement of the number of committee meetings and the testimony taken. Staff will prepare draft legislation for review. Prior to the issuance of the report on January 31, 1997, the report will be circulated to Members for signature, or they may write a minority opinion if opposed to the report. Cochair Kaites added that this will be the last meeting of the Committee on Juvenile Justice Reform.

Without objection, the meeting adjourned at 5:00 p.m.


Drann Haney, Committee Secretary

(Original minutes with attachments on file in the Chief Clerk's Office. Tapes on file in the Office of the Chief Clerk.)

V. COMMITTEE RECOMMENDATION

The Joint Committee on Juvenile Justice Reform recommends the development of implementing language for Proposition 102 to be introduced in the 43rd Legislature.

Charge	Arrest Risk*		Conviction Risk**	Imprisonment Risk (NRP/Bjs)***	Probability of Imprisonment	
	Victimization	Reported Crime			Victimization	Reported
Homicide	n.a.	64.00	71.50	81.30	n.a.	0.372
Rape	31.60	52.00	90.80	53.10	0.152	0.251
Robbery	11.43	24.00	42.20	59.70	0.029	0.060
Aggravated Assault	25.31	58.00	18.50	30.40	0.014	0.032
Violent Crime	21.39	45.26	28.60	48.70	0.03	0.06
Property Crime	6.91	17.67	15.60	33.50	0.00	0.01
Total	8.55	21.35	18.00	40.00	0.006	0.015

* Crime of type i cleared by arrest per 100 crimes of type i

** Number of all felony convictions per 100 defendants charged with crime

*** Number of felony defendants sent to prison per 100 defendants charged with crime type i and convicted of some felony

Conviction/Charge	Prison Time Conviction		Prison Time - Charge	
	Served	To Be Served	Served	To Be Served
Homicide	71.5	120.0	60.9	100.7
Rape	65.5	91.0	47.2	65.9
Robbery	45.7	54.0	36.1	43.1
Aggravated Assault	27.9	41.0	18.8	27.2
Violent Crime	44.8	64.8	33.8	47.7
Burglary	27.4	31.0	n.a.	n.a.
Auto Theft	17.5	30.0	n.a.	n.a.
Larceny	16.7	21.0	n.a.	n.a.
Property Crime	22.8	27.4	17.1	20.6
Total	31.1	44.8	24.2	32.3

Source: See Appendix 1

Table 2-1 Average Estimated Elasticity of Sentence length By Type of Crime

Crime Type	Number of Studies	Number of Separate Data Sets	Mean Elasticity Estimate	Mean t
Homicide	4	4	-0.205	1.625
Rape	3	2	-0.7	1.306
Robbery	8	9	-0.471	1.955
Assault	3	4	-0.604	1.834
Violent Crime	4	4	-0.193	1.400
Burglary	6	7	-0.336	1.876
Auto - Theft	5	4	-0.283	1.203
Larceny	7	8	-0.244	1.722
Property Crime	4	5	-0.393	1.892
Index crime	3	3	-0.468	2.137

Sources: Lewis 1986 (Table 2) p. 50

Table 2-2 Average Estimated Elasticity Of Likelihood Of Imprisonment By Type of Crime

Crime Type	Number of Studies	Number of Separate Data Sets	Mean Elasticity Estimate	Mean t
Homicide	4	3	-0.527	1.337
Rape	3	2	-1.553	2.202
Robbery	5	4	-1.383	2.536
Assault	5	4	0.638	2.059
Violent Crime	1	1	-0.676	4.302
Burglary	5	4	-0.353	2.195
Auto - Theft	3	2	-0.476	3.114
Larceny	5	4	-0.026	2.050
Property Crime	2	2	-0.597	3.035
Index crime	4	3	-0.484	2.118

Sources: See Appendix 2

Table 2-3 Comparison of Mean Elasticities of Sentence Length and Likelihood of imprisonment

Crime Type	Mean Elasticity of Sentence Length	Mean Elasticity of Likelihood of imprisonment
Homicide	-0.205	-0.527
Rape	-0.700	-1.553
Robbery	-0.471	-1.383
Assault	-0.604	0.638
Violent Crime	-0.193	-0.676
Burglary	-0.336	-0.353
Auto-Theft	-0.283	-0.476
Larceny	-0.244	-0.026
Property Crime	-0.393	-0.597
Index Crime	-0.468	-0.484

Sources: Lewis (1986)

**Table 3-2 Benefits and costs of changes in imprisonment policies by type of crime:
Reported Index Crime 1994**

5% Longer Time Served										
Benefits and costs	Homicide	Rape	Robbery	Aggravated Assault	Violent crim Total	Burglary	Auto Theft	Larceny	Property Crime Total	Index Crime Total
Benefits										
Number of Crimes	23,310	102,100	618,820	1,119,950	1,864,180	2,712,200	1,539,100	7,876,300	12,127,600	13,991,780
{*} percentage reduction	1.03	3.50	2.36	3.02		1.68	1.42	1.22		
{=} number reduction	239	3,574	14,573	33,822	52,208	45,565	21,778	96,091	163,434	215,642
{*} cost per crime	2,950,662	54,952	19,331	13,032		1,200	4,000	200		
{=} total benefit (mil.)	704.99	196.37	281.71	440.77	1,623.85	54.68	87.11	19.22	161.01	1,784.86
Costs										
Number of Prisoners	11,454	13,788	38,164	28,021	91,427	55,685	8,030	38,125	101,841	193,268
{*} avg. month in prison	120.00	91.00	54.00	41.00		31.00	30.00	21.00		
{*} monthly cost (95\$)	2,765	2,765	2,765	2,765		2,765	2,765	2,765		
{=} total cost (mil.)	190.04	173.48	284.95	158.85	807.32	238.68	33.31	110.70	382.69	1,190.01
Benefit-Cost Ratio	3.71	1.13	0.99	2.77	2.01	0.23	2.62	0.17	0.42	1.50
5% Higher Risk of Imprisonment										
Benefits and costs	Homicide	Rape	Robbery	Aggravated Assault	Violent crim Total	Burglary	Auto Theft	Larceny	Property Crime Total	Index Crime Total
Benefits										
Number of Crimes	23,310	102,100	618,820	1,119,950	1,864,180	2,712,200	1,539,100	7,876,300	12,127,600	13,991,780
{*} percentage reduction	2.64	7.77	6.92	3.19		1.77	2.38	0.13		
{=} number reduction	614	7,928	42,791	35,726	87,060	47,870	36,631	10,239	94,740	181,800
{*} cost per crime	2,950,662	54,952	19,331	13,032		1,200	4,000	200		
{=} total benefit (mil.)	1,812.35	435.66	827.19	465.59	3,540.79	57.44	146.52	2.05	206.01	3,746.80
Costs										
Number of Prisoners	11,454	13,788	38,164	28,021	91,427	55,685	8,030	38,125	101,841	193,268
5 % increase	573	689	1,908	1,401	4,571	2,784	402	1,906	5,092	9,665
{*} avg. month in prison	120	91	54	41		31	30	21		
{*} monthly cost (95\$)	2,765	2,765	2,765	2,765		2,765	2,765	2,765		
{=} total cost (mil.)	190.04	173.48	284.95	158.85	807.32	238.68	33.31	110.70	382.69	1,190.01
Benefit-Cost Ratio	9.54	2.51	2.90	2.93	4.39	0.24	4.40	0.02	0.54	3.15

Sources: See Appendix 1

Violent Crime	Year	0	1	2	3	4	5	6	7	8	9	10
Benefits		0	1	2	3	4	5	6	7	8	9	10
Anticipated offenses		1,864,180	1,864,130	1,664,180	1,864,160	1,864,180	1,864,180	1,864,180	1,864,180	1,864,130	1,664,180	1,864,180
Actual offenses		1,364,180	1,864,130	1,664,180	1,559,927	1,416,882	981,423	687,167	687,167	687,167	687,167	687,167
Disputed offenses		0	0	0	234,253	447,298	882,760	1,177,013	1,177,013	1,177,013	1,177,013	1,177,013
Benefit per offense		54,151	54,151	54,151	54,151	54,151	54,151	54,151	54,151	54,151	54,151	54,151
Costs		91,429	91,429	91,429	91,429	91,429	91,429	91,429	91,429	91,429	91,429	91,429
Anticipated prisoners		176,824	176,824	176,824	175,824	148,913	121,002	33,091	65,180	65,180	65,180	65,180
Actual prisoners		85,395	85,395	85,395	85,395	57,464	29,573	1,662	-26,249	-26,249	-26,249	-26,249
Additional prisoners		61	61	61	61	61	61	61	61	61	61	61
Average sentence (ms)		61	49	37	25	3	1	0	0	0	0	0
Monthly cost/prisoner		2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Construction cost/cell		40,000	40,000	40,000	40,000	40,000	2,667	0	0	0	0	0
Costs (mil)		7,000	7,000	7,000	7,000	7,000	1,534	0	0	0	0	0
Benefits-Costs		-16,356	-16,395	-16,396	-16,336	4,897	19,648	47,550	57,726	67,725	67,726	67,726
Discounted		-16,356	-16,396	-16,396	-15,792	4,764	19,522	47,550	57,726	67,725	67,726	67,726
Cumulative discounted		-16,356	-32,782	-49,187	-84,970	-60,208	-40,684	6,985	74,582	142,316	210,044	277,771

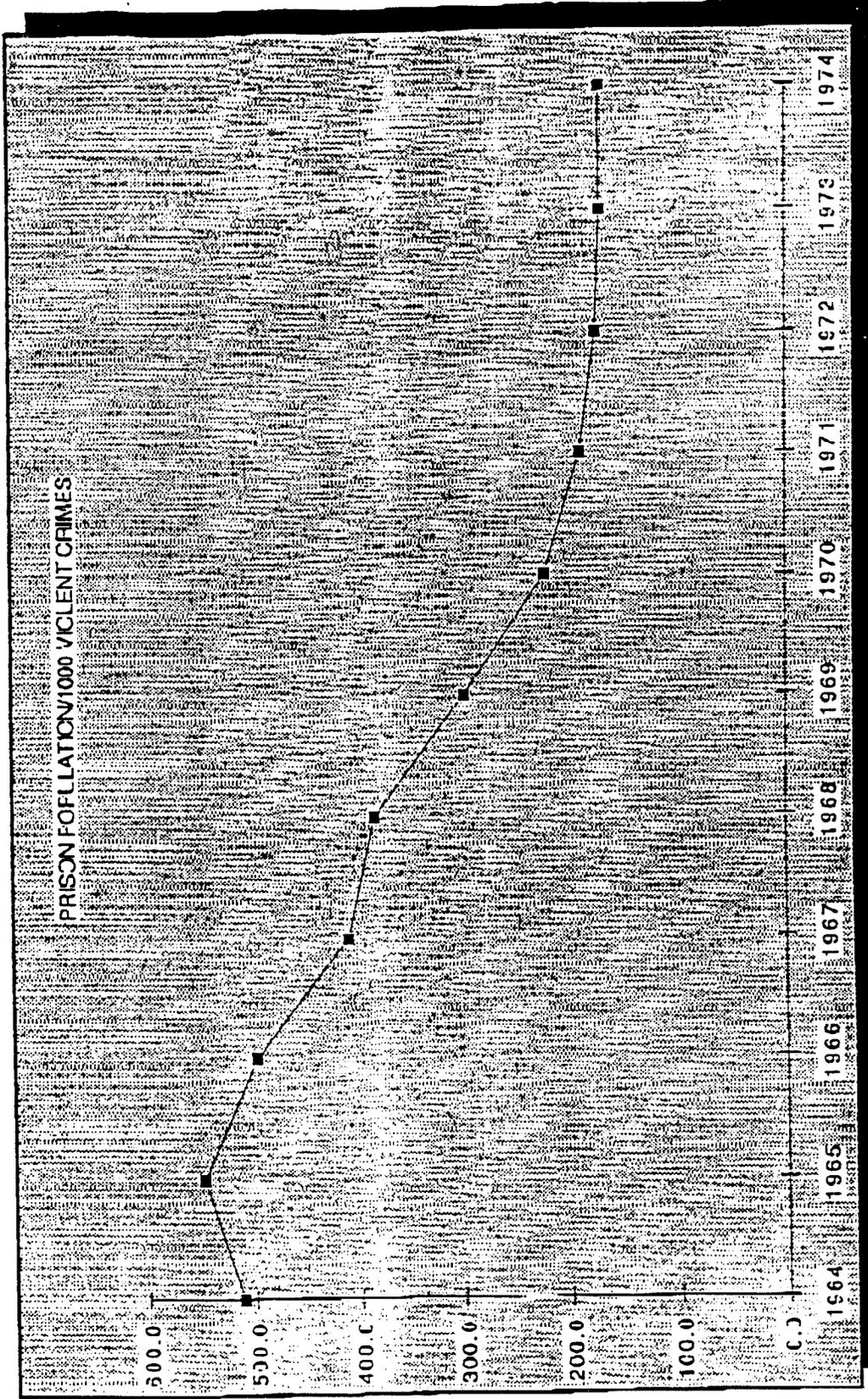
GROWTH IN INCARCERATION RATES AND CHANGES IN CRIME RATES

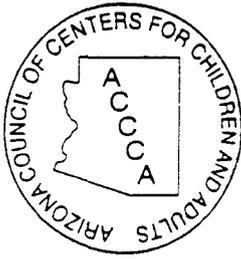
	Average Change In Prison Population Per 1000 Violent Crimes		Average Change in Violent Crime Rate	
	1960-80	1980-92	1960-80	1980-92
Top Ten States	-47%	+250%	+231%	-8%
Middle States	-75%	+98%	+379%	+26%
Bottom 10 States	-90%	+15%	+925%	+51%

ATTACHMENT 5

DECLINING IMPRISONMENT RATE

1964 - 1974





ARIZONA COUNCIL OF CENTERS FOR CHILDREN AND ADULTS

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MEMBER AGENCIES

Against Abuse, Inc.
Aid to Adoption of Special Kids (AASK)
Amity, Inc.
Arizona Baptist Children's Services
The Casey Family Program
Phoenix Division
Tucson Division
Catholic Social Service of Central
and Northern AZ, Inc.
Center Against Sexual Abuse (CASA)
Devereux-Arizona
El Rio Health Center
Family Counseling Agency
Family Service Agency
Florence Crittenton Services of Arizona
Golden Dawn Health Services, Inc.
Jewish Family & Children's Service
Jewish Family & Children's Service Southern AZ
La Hacienda
Las Familias
MENTOR Arizona
The New Foundation
Open Inn
Orinda St. Luke's Behavioral Health Center
PACT - Parents and Children Together
Parents Anonymous of Arizona
Phoenix Children's Hospital
Prepac of Arizona
Samaritan Behavioral Health Services
Sojourner Center
Southwest Human Development
Southwest Key Program
Touchstone Community, Inc.
Tri-City Behavioral Health Services, Inc.
Turnerweed
VisionQuest National, Ltd.
Westside Social Services, Inc.
Youth ETC

Bill Magritte
President

Marla Hoffman
Executive Director

Dr. Phyllis McFarland
Honorary Lifetime Member

PRESENTER: Dick Geasland; Chair, ACCCA AOC Committee
Executive Director, YOUTH ETC

Thursday; December 12, 1996
Joint House/Senate Committee on Proposition 102

RECOMMENDATIONS:

1. Continue to build upon community-based prevention and early-intervention services.
2. Continue to increase community-based diversion and consequence programs. They work!
3. Strong emphasis on community-based consequences for the pre-Proposition 102 juveniles.
4. Through judicial discretion in sentencing, adult courts need access to community-based consequences.
5. Language is needed to allow for the utilization of community-based consequences for the juvenile offender remanded to adult court.
6. To address fragmentation and duplication issues, pursue and continue at every opportunity intergovernmental agreements to address such issues as ADA (American's With Disability Act) requirements for education (up to twenty-one years of age), medical care, behavioral health services (i.e.: drug, alcohol and mental health).
7. Privatize where prudent and appropriate.
8. Retain all of the treatment and community diversion and consequence services through the AOC. In short, maintain the financial accountability and contracting systems already in place.
9. Continue with Arizona's efforts to expand to all counties the collaboration among community-based providers, schools, county attorneys' offices and the juvenile courts under the oversight and management of the AOC.
10. Give consideration to the system responding to the public safety issues of juveniles not remanded to adult courts and who have not responded to the juvenile system and in need of additional consequences beyond their eighteenth birthday.
11. Should the Legislature adopt provisions for the two previous recommendations (#9 and #10), then it makes good public policy to use more flexible definitions of the terms, i.e.: "other violent offenses" and "chronic offenders."

DOCUMENT #1

8-201. Definitions

In this chapter, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including the providing of normal supervision. Failure to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-223 and which is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

3. "ADJUST" MEANS TO DISPOSE OF A DELINQUENCY OR INCORRIGIBILITY REFERRAL OR CITATION IN A MANNER THAT DOES NOT REQUIRE THE FILING OF A PETITION.

~~3-~~ 4. "Adult" means a person eighteen years of age or older.

~~4-~~ 5. "Alcohol offense" means the purchase, possession or consumption by a juvenile of spirituous liquors in violation of section 4-244.

~~5-~~ 6. "Award" or "commit" means to assign legal custody.

~~6-~~ 7. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

8. "COMPLAINT" MEANS A WRITTEN STATEMENT OF THE ESSENTIAL FACTS CONSTITUTING A PUBLIC OFFENSE THAT IS MADE ON OATH BEFORE A JUDGE OR COMMISSIONER OF THE SUPERIOR COURT OR AN AUTHORIZED JUVENILE HEARING OFFICER OR THAT IS MADE PURSUANT TO SECTION 13-3903.

~~7-~~ 9. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

~~8-~~ 10. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a ~~child~~ JUVENILE has committed a specific delinquent act as set forth in a petition.

~~9-~~ 11. "Delinquent act" ~~includes~~ MEANS an act by a ~~child~~, JUVENILE which if committed by an adult would be a criminal offense ~~including a violation of section 4-244, paragraph 9~~ OR A PETTY OFFENSE, a violation of any law of this state, or of another state if the act occurred in that state, or a

law of the United States, or a violation of any law which can only be violated by a minor and which has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime, except that any ~~child remanded for prosecution~~ JUVENILE WHO IS PROSECUTED as an adult shall not be adjudicated as a delinquent ~~child for the same offense for which the child was remanded~~ JUVENILE UNLESS THE OFFENSE IS DESIGNATED A DELINQUENT ACT.

~~10-~~ 12. "Delinquent ~~child~~ JUVENILE" means a ~~child~~ JUVENILE who is adjudicated to have committed a delinquent act.

~~11-~~ 13. "Dependent child" means a child who is adjudicated to be:

(a) In need of proper and effective parental care and control and has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(b) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, A guardian, or any other person having custody or care of the child.

(c) Under the age of eight years AND who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.

~~12-~~ 14. "Detention" means the temporary care of a ~~child~~ JUVENILE who requires secure custody in physically restricting facilities for the protection of the ~~child~~ JUVENILE or the community pending court disposition.

~~13-~~ 15. "Incorrigible child" means a child WHO:

(a) IS adjudicated as ~~one~~ A CHILD who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian, ~~and who is beyond the control of such person, or any child who.~~

(b) Is habitually truant from school as ~~provided~~ DEFINED in section 15-803, subsection C, ~~or who.~~

(c) Is a runaway from THE CHILD'S home or parent, guardian or custodian, ~~or who.~~

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others, ~~or who.~~

(e) Commits any act constituting an offense which can only be committed by a minor and which is not designated as a delinquent offense, ~~or who.~~

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

~~14-~~ 16. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

~~15-~~ 17. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

~~16-~~ 18. "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by such governing body to act for the director. The term includes the

superintendent of the state hospital.

~~17-~~ 19. "Mental health agency" means any private or public facility THAT IS licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children AND ~~which~~ THAT utilizes secure settings or mechanical restraints.

20. "PETITION" MEANS A WRITTEN STATEMENT OF THE ESSENTIAL FACTS THAT ALLEGES DELINQUENCY, INCORRIGIBILITY OR DEPENDENCY AND THAT IS FILED BY THE COUNTY ATTORNEY OR THE ATTORNEY GENERAL.

~~18-~~ 21. "Protective supervision" means supervision ordered by the juvenile court of children found to be dependent or incorrigible.

22. "REFERRAL" MEANS A REPORT THAT IS SUBMITTED TO THE JUVENILE COURT AND THAT ALLEGES THAT A CHILD IS DEPENDENT OR HAS COMMITTED AN INCORRIGIBLE ACT OR A JUVENILE HAS COMMITTED A CRIMINAL OR DELINQUENT ACT.

23. "SECURE CARE" MEANS CONFINEMENT IN A FACILITY THAT IS COMPLETELY SURROUNDED BY A LOCKED AND PHYSICALLY SECURE BARRIER WITH RESTRICTED INGRESS AND EGRESS.

~~19-~~ 24. "Shelter care" means the temporary care of a child in any public or private facility or home licensed by this state AND offering a physically nonsecure environment, which is characterized by the absence of physically restricting construction or hardware and provides the child access to the surrounding community.

8-203. Court employees; appointment; certification; qualifications; salary; bond; participation in safe schools programs

A. The presiding judge of the juvenile court shall appoint a director of juvenile court services who shall serve at the pleasure of the presiding juvenile judge.

B. The director of juvenile court services shall recommend the appointment of deputy probation officers, detention personnel, other personnel and office assistants as the director deems necessary. Such deputy probation officers, detention personnel, other personnel and office assistants shall not have authority to act or draw a salary for their services until their appointments have been approved and ordered by the presiding judge of the juvenile court. A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time.

C. Probation department personnel shall qualify under minimum standards of experience and education established by the supreme court. Notwithstanding section 12-265, any additional salary costs that might be required as a result of the adoption of minimum salary standards by the supreme court may be paid by funds made available to the probation department pursuant to sections 12-267 and 12-268 or by the supreme court.

D. The presiding judge of the juvenile court may contract with the juvenile court and ~~the~~ COUNTY board of supervisors in one or more adjoining counties jointly to employ one or more juvenile probation officers who meet the minimum standards, with the salaries and expenses for such personnel

divided equally among the counties involved. The presiding judge of the juvenile court may contract with the state department of corrections for the juvenile court to provide parole services in the county.

E. The COUNTY board of supervisors, on recommendation of the presiding judge of the juvenile court, shall fix the salary ranges of all juvenile probation department personnel. Juvenile probation department personnel shall be hired pursuant to the rules and procedures approved by the supreme court.

F. Each director of juvenile court services and deputy juvenile probation officer receiving an official salary shall furnish a bond in the sum of not less than two thousand dollars which is approved by the judge of the juvenile court and conditioned for the faithful discharge of the duties of ~~his~~ THE PERSON'S office. If ~~such~~ bonds are furnished by a surety company licensed to transact business in the state, the premiums on ~~such~~ THESE bonds shall be a county charge. In the event the employees are included in a master bond pursuant to county regulations or covered by state risk management, the individual bonds prescribed shall not be required.

G. In cooperation with the department of education and the local superintendent of schools, the presiding judge of the juvenile court shall, with the consent of the school, assign juvenile probation officers to participate in the safe schools program in each junior and senior high school in the county. The cost of the juvenile probation officers is a state charge and shall be funded by the department of education.

8-206. Venue

A. The venue of proceedings in the juvenile court shall be determined by the county of the residence of the child, or the county where the alleged ~~delinquency, dependency or incorrigibility obtains or is committed~~ OCCURS.

B. THE VENUE OF PROCEEDINGS IN THE JUVENILE COURT IN WHICH A PETITION IS FILED IS THE COUNTY WHERE THE ALLEGED DELINQUENT ACT OCCURRED.

C. THE VENUE OF PROCEEDINGS IN THE JUVENILE COURT IN WHICH A REFERRAL IS DIVERTED PURSUANT TO SECTION 8-230.01 IS THE COUNTY OF RESIDENCY OF THE JUVENILE OR THE COUNTY WHERE THE ALLEGED DELINQUENT ACT OCCURRED.

~~B.~~ D. ~~Where~~ IF the residence of the ~~child~~ JUVENILE and the situs of the alleged ~~delinquency, dependency or incorrigibility~~ are in different counties, invoking proceedings in one county shall bar proceedings in the others.

8-207. Order of adjudication; noncriminal; use as evidence

A. Except as provided by section 28-444, an order of the juvenile court in proceedings under this chapter shall not be deemed a conviction of crime, ~~or~~ impose any civil disabilities ordinarily resulting from a conviction or operate to disqualify the ~~child~~ JUVENILE in any civil service application or appointment.

~~B. A child, by virtue of any such order, shall not be committed or transferred to an institution or other facility used primarily for the execution of sentences of persons convicted of a crime.~~

~~E.~~ B. The disposition of a ~~child~~ JUVENILE in the juvenile court may not be used against the ~~child~~ JUVENILE in any case or proceeding in any court ~~other than a juvenile court~~ OTHER THAN A CRIMINAL OR JUVENILE CASE, whether before or after reaching majority, except as provided by ~~section~~ SECTIONS 8-208 AND 28-444.

8-208. Release of juvenile court information

A. The juvenile court shall release to an adult probation department all information in its possession concerning a person ~~convicted in superior court of~~ WHO IS CHARGED WITH a criminal offense on the request of an adult probation officer ~~for the purpose of conducting a presentence investigation and report.~~

B. The juvenile court shall release to any state or local prosecutor or law enforcement officer or a person's attorney, upon the request of such person, the records of juvenile arrests, referrals or CRIMINAL complaints in its possession and the ADJUDICATIONS AND dispositions made of ~~these~~ juvenile arrests, referrals and CRIMINAL complaints concerning a person UNDER INVESTIGATION FOR OR charged ~~in superior court~~ with a criminal offense OR AN OFFENSE THAT COULD BE CHARGED AS A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT.

C. The juvenile court shall release all information in its possession concerning a person arrested for a criminal offense to superior court agencies or departments, other ~~superior~~ court divisions or magistrates ~~upon the request of a magistrate~~ OR AS AUTHORIZED BY THE SUPERIOR COURT for the purpose of assisting in the determination of release from custody, ~~and~~ bond AND PRETRIAL SUPERVISION.

D. The juvenile court shall release, upon request ~~to~~ BY the appropriate jail authorities for the purpose of determining classification, treatment and security, all information in its possession concerning persons WHO ARE under the age of eighteen, who have been transferred from juvenile court for criminal prosecution and WHO are being held in a county jail pending trial.

8-223. Taking into temporary custody; interference; release; separate custody; violation; classification

A. Except as provided in section 8-226, a ~~child~~ JUVENILE taken into temporary custody shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.

B. A child shall be taken into temporary custody:

1. Pursuant to an order of the juvenile court.

2. Pursuant to a warrant issued according to the laws of arrest.

3. In proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court upon a petition by a peace officer or a child protective services specialist under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse.

C. A ~~child~~ JUVENILE may be taken into temporary custody:

1. By a peace officer pursuant to the laws of arrest, without a warrant, if there are reasonable grounds to believe that ~~he~~ THE JUVENILE has

committed a delinquent act or THE CHILD is incorrigible.

2. By a peace officer or a child protective services specialist of the department of economic security if temporary custody is clearly necessary to protect the child because the child is either:

(a) Suffering or will imminently suffer abuse.

(b) Suffering serious physical or emotional damage which can only be diagnosed by a medical doctor or psychologist. The person taking a child into custody pursuant to this subdivision shall immediately have the child examined by a medical doctor or psychologist and after the examination the person shall release the child to the custody of the parent, guardian or custodian of the child unless the examination reveals abuse. Temporary custody of a child taken into custody pursuant to this subdivision shall not exceed twelve hours.

3. By a peace officer if there are reasonable grounds to believe that the child has run away from ~~his~~ THE CHILD'S parents, guardian or other custodian.

4. By a private person as provided by section 13-3884.

D. If a child is taken into temporary custody as provided in subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the law enforcement officer or child protective services specialist of the department of economic security taking the child into custody shall provide written notice within six hours to the parent, guardian or custodian of the child, unless:

1. The parent, guardian or custodian is present when the child is taken into custody, then written notice shall be provided immediately.

2. The residence of the parent, guardian or custodian is out-of-state and notice cannot be provided within six hours, then written notice shall be provided within twenty-four hours.

3. The residence of the parent, guardian or custodian is not ascertainable, then reasonable efforts shall be made to locate and notify as soon as possible the parent, guardian or custodian of the child.

E. The written notice shall contain the name of the person and agency taking the child into custody and the location from which the child was taken and all the following information:

1. The date and time of the taking into custody.

2. The name and ~~phone~~ TELEPHONE number of the agency responsible for the child.

3. A statement of the reasons for temporary custody of the child.

4. A statement that the child must be returned within forty-eight hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed and a statement that a child in temporary custody for examination pursuant to subsection C, paragraph 2, subdivision (b) of this section must be returned within twelve hours unless abuse is diagnosed.

5. A statement that if a dependency petition is filed and the child is declared a temporary ward of the court:

(a) The parent, guardian or custodian of the child may file a written request with the juvenile court for a hearing to review the temporary custody pursuant to section 8-546.06.

(b) The initial hearing on the dependency petition shall be set not later than twenty-one days from the filing of the petition, at which time the parent, guardian or custodian will be requested to personally appear before the court and answer the allegation of the petition.

(c) The parent, guardian or custodian of the child may request appointment of counsel pursuant to section 8-225 through the juvenile court.

F. Any peace officer or juvenile probation officer having a child in temporary custody for reasons other than the commission of a CRIMINAL OFFENSE OR A delinquent act may place the child in shelter care or a minimally secured facility.

G. A peace officer shall take a ~~child~~ JUVENILE into temporary custody pursuant to the laws of arrest, with or without a warrant, when there are reasonable grounds to believe that ~~both~~ EITHER:

1. The ~~child~~ JUVENILE has committed a CRIMINAL OFFENSE OR A delinquent act which if committed by an adult could be a felony or breach of the peace.

2. The ~~child~~ JUVENILE has been apprehended in commission of the act or in fresh pursuit.

~~Such child~~ THE JUVENILE may be released from temporary custody only to the parents, guardian or custodian of ~~such child~~ THE JUVENILE or to the juvenile court.

H. A person who knowingly interferes with the taking of a child into temporary custody under the provisions of this section is guilty of a class 2 misdemeanor.

I. A private person who files a dependency petition and obtains temporary custody of a child shall provide written notice as set forth in subsection D of this section containing the information required in subsection E, paragraph 5 of this section.

J. In determining if a child should be taken into custody under subsection C of this section, the peace officer or child protective services specialist may take into consideration as a mitigating factor the participation of the parent, guardian or custodian in the healthy families pilot program established in section 8-701.

8-223. Taking into temporary custody; interference; release; separate custody; violation; classification

A. Except as provided in section 8-226, a child taken into temporary custody shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.

B. A child shall be taken into temporary custody:

1. Pursuant to an order of the juvenile court.

2. Pursuant to a warrant issued according to the laws of arrest.

3. In proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court upon a petition by a peace officer or a child protective services specialist under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse.

C. A child may be taken into temporary custody:

1. By a peace officer pursuant to the laws of arrest, without a warrant, if there are reasonable grounds to believe that ~~he~~ THE JUVENILE has committed a delinquent act or THE CHILD is incorrigible.

2. By a peace officer or a child protective services specialist of the department of economic security if temporary custody is clearly necessary to protect the child because the child is either:

(a) Suffering or will imminently suffer abuse.

(b) Suffering serious physical or emotional damage which can only be diagnosed by a medical doctor or psychologist. The person taking a child into custody pursuant to this subdivision shall immediately have the child examined by a medical doctor or psychologist and after the examination the person shall release the child to the custody of the parent, guardian or custodian of the child unless the examination reveals abuse. Temporary custody of a child taken into custody pursuant to this subdivision shall not exceed twelve hours.

3. By a peace officer if there are reasonable grounds to believe that the child has run away from ~~his~~ THE CHILD'S parents, guardian or other custodian.

4. By a private person as provided by section 13-3884.

D. If a child is taken into temporary custody as provided in subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the law enforcement officer or child protective services specialist of the department of economic security taking the child into custody shall provide written notice within six hours to the parent, guardian or custodian of the child, unless:

1. The parent, guardian or custodian is present when the child is taken into custody, then written notice shall be provided immediately.

2. The residence of the parent, guardian or custodian is out-of-state and notice cannot be provided within six hours, then written notice shall be provided within twenty-four hours.

3. The residence of the parent, guardian or custodian is not ascertainable, then reasonable efforts shall be made to locate and notify as soon as possible the parent, guardian or custodian of the child.

E. The written notice shall contain the name of the person and agency taking the child into custody and the location from which the child was taken and all the following information:

1. The date and time of the taking into custody.

2. The name and ~~phone~~ TELEPHONE number of the agency responsible for the child.

3. A statement of the reasons for temporary custody of the child.

4. A statement that the child must be returned within forty-eight hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed and a statement that a child in temporary custody for examination pursuant to subsection C, paragraph 2, subdivision (b) of this section must be returned within twelve hours unless abuse is diagnosed.

5. A statement that if a dependency petition is filed and the child is declared a temporary ward of the court:

(a) The parent, guardian or custodian of the child may file a written request with the juvenile court for a hearing to review the temporary custody pursuant to section 8-546.06.

(b) The initial hearing on the dependency petition shall be set not later than twenty-one days from the filing of the petition, at which time the parent, guardian or custodian will be requested to personally appear before the court and answer the allegation of the petition.

(c) The parent, guardian or custodian of the child may request appointment of counsel pursuant to section 8-225 through the juvenile court.

F. Any peace officer or juvenile probation officer having a child in temporary custody for reasons other than the commission of a CRIMINAL OFFENSE OR A delinquent act may place the child in shelter care or a minimally secured facility.

G. A peace officer shall take a ~~child~~ JUVENILE into temporary custody pursuant to the laws of arrest, with or without a warrant, when there are reasonable grounds to believe that ~~both~~ EITHER:

1. The ~~child~~ JUVENILE has committed a CRIMINAL OFFENSE OR A delinquent act which if committed by an adult could be a felony or breach of the peace.

2. The ~~child~~ JUVENILE has been apprehended in commission of the act or in fresh pursuit.

~~Such child~~ THE JUVENILE may be released from temporary custody only to the parents, guardian or custodian of ~~such child~~ THE JUVENILE or to the juvenile court.

H. A person who knowingly interferes with the taking of a ~~child~~ JUVENILE into temporary custody under the provisions of this section is guilty of a class 2 misdemeanor.

I. A private person who files a dependency petition and obtains temporary custody of a child shall provide written notice as set forth in subsection D of this section containing the information required in subsection E, paragraph 5 of this section.

8-226. Detention center; separate custody

A. The COUNTY board of supervisors shall maintain a detention center separate and apart from a jail or lockup in which adults are confined where ~~children~~ JUVENILES alleged to be delinquent or CHILDREN ALLEGED TO BE incorrigible and within the provisions of this article shall, when necessary before or after a hearing, be detained.

B. THE COUNTY BOARD OF SUPERVISORS MAY PROVIDE FOR THE DETENTION OF JUVENILES WHO ARE ACCUSED OR CONVICTED OF A CRIMINAL OFFENSE OR WHO ARE ALLEGED OR ADJUDICATED DELINQUENT IN A JAIL OR LOCKUP IN WHICH ADULTS ARE CONFINED. A JUVENILE WHO IS CONFINED IN A JAIL OR LOCKUP IN WHICH ADULTS ARE CONFINED SHALL BE KEPT IN A SEPARATE SECTION FROM ANY ADULT WHO IS CHARGED WITH OR CONVICTED OF A CRIMINAL OFFENSE, AND SIGHT OR SOUND CONTACT BETWEEN THE JUVENILE AND ANY CHARGED OR CONVICTED ADULT IS NOT PERMITTED.

~~B.~~ C. A ~~child~~ JUVENILE, pending a TRIAL OR hearing, shall not be ~~placed in an apartment, cell or place of confinement~~ CONFINED with adults charged with or convicted of a crime, except that:

1. A ~~child~~ JUVENILE WHO IS ACCUSED OF A CRIMINAL OFFENSE OR WHO IS alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the ~~child~~ JUVENILE is detained ~~separately~~ IN A SEPARATE SECTION from any ~~adults~~ ADULT WHO IS charged with or convicted of a crime and no sight or sound contact between the child and any charged or convicted adult is permitted.

2. A ~~child~~ JUVENILE WHO IS transferred pursuant to a hearing to an adult court may be securely detained if the ~~child~~ JUVENILE is detained separately from any adult charged with or convicted of a crime and no sight or sound contact with any charged or convicted adult is permitted.

~~C~~ D. A ~~child~~ JUVENILE WHO IS alleged to be ~~dependent~~ DELINQUENT or A CHILD WHO IS ALLEGED TO BE incorrigible shall not be securely detained in a jail or lockup in which adults charged with or convicted of a crime are detained. A ~~child~~ JUVENILE may be nonsecurely detained if necessary to obtain the JUVENILE'S OR child's name, age, residence or other identifying information for up to six hours until arrangements for transportation to ~~a~~ ANY shelter care facility, home or other appropriate place can be made. A JUVENILE OR child who is nonsecurely detained shall be detained separately from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted.

~~D~~ E. Any detained JUVENILE OR child who, by ~~his~~ THE JUVENILE'S OR CHILD'S conduct, endangers or evidences that ~~he~~ THE JUVENILE OR CHILD may endanger the safety of other detained JUVENILES OR children shall not be allowed to intermingle with any other JUVENILE OR child in the detention center.

8-228. Subpoena, issuance, duty of clerk

THE CLERK MAY ISSUE SUBPOENAS AND OTHER PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AT A HEARING INVOLVING A CHILD. A PARTY WHO WILL PRESENT EVIDENCE AT A HEARING INVOLVING A CHILD, MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF A WITNESS AT A HEARING INVOLVING A CHILD. THE SUBPOENA MAY BE SERVED BY ANY PERSON. ANY OTHER PROCESS MAY BE SERVED BY AN OFFICER OF THE JUVENILE COURT OR AN OFFICER AUTHORIZED TO SERVE PROCESS IN A CIVIL ACTION.

9-229. Required attendance of parent, legal guardian or custodian in court; contempt

A. The parent, ~~or~~ legal guardian OR CUSTODIAN of a JUVENILE OR child against whom a ~~complaint~~ PETITION has been filed ~~citing~~ ALLEGING the commission of a delinquent or incorrigible act shall be served with a notice to appear and shall appear with the child OR JUVENILE at the juvenile court at the time set by the juvenile court. The court may waive the requirement that the parent, guardian or custodian appear. Failure of a parent, GUARDIAN OR CUSTODIAN to appear shall not bar further proceedings by the court.

B. The juvenile court may cite for contempt a parent, ~~or~~ legal guardian OR CUSTODIAN who fails to appear with the ~~child~~ JUVENILE in juvenile court.

8-230.01. Diversion program; eligibility requirements; recommendations; admission; county attorney

A. BEFORE THE FILING OF A PETITION OR BEFORE AN ADMISSION OR ADJUDICATION HEARING, THE COUNTY ATTORNEY MAY DIVERT THE PROSECUTION OF A JUVENILE WHO IS ACCUSED OF COMMITTING A DELINQUENT ACT OR A CHILD WHO IS ACCUSED OF COMMITTING AN INCORRIGIBLE ACT TO A JUVENILE PROBATION DEPARTMENT.

B. THE COUNTY ATTORNEY HAS SOLE DISCRETION TO DECIDE WHETHER TO DIVERT PROSECUTION OF A JUVENILE OFFENDER. THE COUNTY ATTORNEY MAY DESIGNATE THE OFFENSES THAT MAY INITIALLY BE REFERRED TO THE JUVENILE COURT FOR DIVERSION OR THAT MAY BE DIVERTED TO A JUVENILE PROBATION DEPARTMENT.

~~A.~~ C. EXCEPT FOR OFFENSES THE COUNTY ATTORNEY DESIGNATES AS ELIGIBLE FOR DIVERSION, upon receipt of a ~~delinquency complaint~~ REFERRAL alleging the commission of a ~~felony~~ AN offense, the juvenile probation officer shall submit the ~~complaint~~ REFERRAL to the county attorney ~~with the request that a petition be filed. Upon receipt of a~~ FOR REVIEW. ON REQUEST OF THE COUNTY ATTORNEY, THE JUVENILE PROBATION OFFICER SHALL SUBMIT ALL ~~delinquency complaint~~ REFERRALS AND CITATIONS alleging the commission of a ~~misdemeanor~~ AN offense ~~or a complaint or citation alleging an alcohol offense, the juvenile probation officer may submit the complaint or citation to the county attorney. with the request that~~ THE COUNTY ATTORNEY SHALL DETERMINE IF a petition SHOULD be filed, ~~except that on receipt of a delinquency complaint alleging the commission of a misdemeanor offense by a juvenile whose prior alleged delinquent acts have been adjusted on two separate occasions, the juvenile probation officer shall submit the complaint to the county attorney with the request that a petition be filed.~~ OR IF THE REFERRAL OR CITATION SHOULD BE ADJUSTED. THE JUVENILE PROBATION OFFICER MAY RECOMMEND EITHER THE FILING OR ADJUSTING OF THE REFERRAL OR CITATION.

~~B.~~ D. ~~If the county attorney does not file a petition after a request pursuant to subsection A of this section or, except as provided in subsection A of this section, if the juvenile probation officer receives a delinquency complaint alleging the commission of a misdemeanor offense or a complaint or citation alleging an alcohol offense,~~ IF THE JUVENILE COURT ESTABLISHES COMMUNITY JUSTICE BOARDS OR TEEN COURTS PURSUANT TO SECTION 8-237, THE COURT SHALL ESTABLISH PROCEDURES TO SCREEN AND ASSIGN APPROPRIATE CASES TO THE BOARDS OR TEEN COURTS. IF A CASE IS NOT APPROPRIATE TO ASSIGN TO A COMMUNITY JUSTICE BOARD OR TEEN COURT OR IF AN INSUFFICIENT NUMBER OF COMMUNITY JUSTICE BOARDS OR TEEN COURTS EXIST, THE COURT SHALL ASSIGN THE CASE OR CASES TO A JUVENILE PROBATION OFFICER. The juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT may conduct a personal interview with the alleged juvenile offender ~~and at least one of~~ AND the juvenile's parents or guardians AND WITH VICTIMS, WITNESSES AND OTHER PERSONS THAT ARE DEEMED APPROPRIATE. If the juvenile acknowledges responsibility for the delinquent act ~~or alcohol offense,~~ the ASSIGNED juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT shall adjust the complaint or citation. Before adjusting the complaint or citation, the juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT shall require that the juvenile comply with one or more of the following conditions:

1. Participation in unpaid community service work.
2. Participation in a counseling program approved by the court, which is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.
3. Participation in an education program approved by the court, which has as its goal the prevention of further delinquent behavior.
4. Participation in an education program approved by the court, which is designed to deal with ancillary problems experienced by the juvenile, such as alcohol or drug abuse.
5. Participation in a nonresidential program of rehabilitation or supervision offered by the court, or offered by a community youth serving agency and approved by the court.
6. Payment of restitution to the victim of the delinquent act.
7. Payment of a monetary assessment.
8. PARTICIPATION IN A COMMUNITY JUSTICE PROGRAM.
9. PARTICIPATION IN A TEEN COURT PROGRAM.
10. PARTICIPATION IN ANY OTHER PROGRAM AUTHORIZED BY THE COURT.

E. THE COUNTY ATTORNEY OR THE VICTIM MAY RECOMMEND THAT A JUVENILE BE PLACED INTO A COMMUNITY JUSTICE PROGRAM OR A TEEN COURT PROGRAM.

~~E.~~ F. The juvenile probation officer shall assess the parent of a ~~child~~ JUVENILE whose ~~complaint or citation~~ REFERRAL is adjusted pursuant to subsection ~~B~~ D of this section a MONTHLY fee of ~~thirty~~ NOT LESS THAN FORTY dollars unless, after determining the inability of the parent to pay the fee, the juvenile probation officer assesses a lesser amount. Monies assessed pursuant to this subsection shall be paid to the clerk of the superior court. The clerk of the superior court shall pay all monies collected from this assessment to the county treasurer for deposit in the juvenile probation services fund, to be utilized as provided in section 12-268.

~~B.~~ G. If the juvenile does not acknowledge responsibility for the ~~delinquent act or alcohol~~ offense, or fails to comply with the conditions set by the juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT, the ~~delinquency complaint or complaint or citation alleging an alcohol offense may~~ REFERRAL SHALL be submitted to the county attorney ~~with a request that a petition be filed~~ FOR DETERMINATION OF A CHARGE.

H. If the county attorney declines prosecution, the county attorney may return the referral to the juvenile probation department for further services.

I. Before establishing a program as a condition of deferred prosecution, a juvenile probation department, community justice board or teen court shall seek and consider the opinion of the county attorney.

8-230.02. Juvenile probation fund; program and contract requirements

A. The juvenile probation fund is established. The supreme court shall administer the fund. Monies in the juvenile probation fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

B. The supreme court shall allocate monies in the fund or appropriated to the superior court's juvenile probation services fund line based on its determination of the need for and probable effectiveness of each plan

submitted pursuant to this article. The supreme court shall require that the presiding juvenile court judge submit in accordance with rules of the supreme court a plan for the expenditure of monies allocated to the juvenile court pursuant to this section. The supreme court may reject a plan or a modification of a plan submitted pursuant to this subsection. THE PLAN SHALL INCLUDE GUIDELINES AND SPECIFIC PROGRAMS THAT ARE DEVELOPED IN COOPERATION WITH THE COUNTY ATTORNEY AND THE JUVENILE JUSTICE COUNCIL ESTABLISHED PURSUANT TO SECTION 8-237.

C. Monies shall be used to fund programs, the participation in which a juvenile probation officer has required as a condition precedent to adjustment of a delinquency ~~complaint or a complaint~~ REFERRAL or citation ~~alleging an alcohol offense pursuant to section 8-230.01~~ to reduce the number of repetitive juvenile offenders and to provide services, including treatment, testing, independent living programs and residential, foster and shelter care, for children referred to the juvenile court for incorrigibility or delinquency offenses. Monies may be used to provide the cost of care for persons under the age of twenty-one who were placed in an independent living program or in foster care before the age of eighteen, who voluntarily remain in such care and who are currently enrolled in and regularly attending any high school or certificate of equivalency program. Pursuant to section 8-241, subsection ~~M-0~~ 0, monies may also be used to provide services for persons who are under twenty-one years of age and who voluntarily participate in treatment. Except pursuant to section 8-241, subsection ~~M-0~~ 0, the cost of care shall not be continued for a person who has received a high school diploma or certificate of equivalency. These services shall be approved by the supreme court. The COUNTY juvenile court may develop and staff such programs, or the supreme court may enter into the purchase of service contracts with community youth serving agencies.

D. The monies shall be used to supplement, not supplant, funding to the juvenile court by the county.

E. The supreme court shall contract for a periodic evaluation to determine if the provisions of this article reduce the number of repetitive juvenile offenders. The supreme court shall send a copy of the evaluation to the speaker of the house of representatives, the president of the senate and the governor.

F. A contract entered into between the supreme court and any contract provider to provide services pursuant to this section to juveniles shall provide that personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall be fingerprinted as a condition of employment. The contract shall further provide that the contractor shall submit employee fingerprints to the supreme court or its designated agency prior to performance of any job duties by the employee which require or allow the employee to provide services directly to juveniles without supervision.

G. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

H. The contractor shall assume the costs of fingerprint checks and may

charge these costs to its fingerprinted personnel.

I. Personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the supreme court and notarized whether they are awaiting trial on or have ever been convicted of any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Kidnapping.
5. Arson.
6. Sexual assault.
7. Sexual exploitation of a minor.
8. Contributing to the delinquency of a minor.
9. Commercial sexual exploitation of a minor.
10. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
11. Burglary.
12. Robbery.
13. A dangerous crime against children as defined in section 13-604.01.
14. Child abuse.
15. Sexual conduct with a minor.
16. Molestation of a child.
17. Manslaughter.
18. Aggravated assault.

J. Personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the supreme court and notarized whether they have ever committed any act of sexual abuse of a child, including sexual exploitation and commercial sexual exploitation, or any act of child abuse.

K. Every service contract with any contract provider which involves the employment of persons who have contact with juveniles shall provide that the contract may be cancelled or terminated if the fingerprint check or the certified form of any person who is employed by a contract provider, whether paid or not, and who is required or allowed to provide services directly to juveniles discloses that the person has committed any act of sexual abuse of a child, including sexual exploitation or commercial sexual exploitation, or any act of child abuse or that the person has been convicted of or is awaiting trial on any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Commercial sexual exploitation of a minor.

7. A dangerous crime against children as defined in section 13-604.01.
8. Child abuse.
9. Sexual conduct with a minor.
10. Molestation of a child.

L. The contractor may avoid termination of the contract if the person whose fingerprints or certification form shows that ~~he~~ THE PERSON has been convicted of or is awaiting trial on any of the offenses listed in subsection K of this section or has committed any of the acts listed in subsection ~~J~~ I of this section is immediately prohibited from employment or service with the contractor in any capacity requiring or allowing contact with juveniles.

M. Every service contract with any contract provider which involves the employment of persons who have contact with juveniles shall contain a provision that the contract may be cancelled or terminated if the fingerprint check or the certified form of any person, whether paid or not, who is required or allowed to provide services to juveniles without supervision and who is employed by a contract provider discloses that the person has been convicted of or is awaiting trial on any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Arson.
2. Contributing to the delinquency of a minor.
3. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
4. Burglary.
5. Robbery.
6. Kidnapping.
7. Manslaughter.
8. Aggravated assault.

N. The contractor may avoid termination of the contract if the person whose fingerprints or certification form shows that he has been convicted of or is awaiting trial on an offense or similar offense as listed in subsection M of this section is immediately prohibited from employment or service with the contractor in any capacity requiring or allowing the person to provide services directly to juveniles without supervision or unless the person has been granted an exception for good cause pursuant to the requirements and procedures of section 41-1954.01. The supreme court may, in its sole discretion, determine whether to submit the application to the director of the department of economic security for review.

O. The requirements of subsections F through ~~M~~ N of this section do not apply to personnel who are employed by a contract provider that has a contract for services to juveniles with or is licensed or certified by the department of health services, the department of juvenile corrections or the department of economic security and who have been fingerprinted and submitted the required certification form in connection with that employment. Federally recognized Indian tribes or military bases may submit and the supreme court shall accept certifications that state that no personnel who are employed or who will be employed during the contract term and who provide services directly to juveniles have been convicted of, have admitted committing or are

awaiting trial on any offense under subsection I or K of this section.

P. Adult clients of a contract provider who are receiving treatment services are exempt from the requirements of this section, unless they provide services directly to juveniles without supervision.

Q. Volunteers who provide services to juveniles under the direct visual supervision of the contractor's or licensee's employees are exempt from the fingerprinting requirements of this section.

8-236. Appeals

A. Any aggrieved party in any proceeding under this title may appeal from a final order of the juvenile court to the court of appeals in the manner provided in THE rules of procedure for the juvenile court as promulgated ADOPTED or approved by the Arizona supreme court, ~~except the name of the child shall not appear in the record of the appeal, the juvenile court record number assigned to that case substituting for the name.~~

B. The order of the juvenile court shall not be suspended ~~or~~ AND the execution ~~thereof~~ OF THE ORDER SHALL NOT BE stayed pending the appeal, except THAT the appellate court may, by order, suspend or stay the execution ~~thereof~~ provided OF THE ORDER IF suitable provision is made for the care and custody of the ~~child~~ JUVENILE.

C. The court of appeals shall give the appeal precedence over all other actions except extraordinary writs or special actions.

D. The judge of the juvenile court shall appoint an attorney for an indigent party appealing a final order of the juvenile court, and a reasonable sum shall be fixed by the court to be paid by the county to ~~such~~ THE attorney for the appeal.

8-237. Cooperation

A. ~~It is hereby made the duty of~~ Every public official and department ~~to~~ SHALL render all assistance and cooperation within ~~his or its~~ THE OFFICIAL'S OR DEPARTMENT'S jurisdictional power which may further the objects of this chapter. An institution or agency to which the juvenile court awards a ~~child~~ JUVENILE shall give the court or an officer appointed by it such information concerning the ~~child~~ JUVENILE as the court or the officer may require.

B. The juvenile court ~~is authorized to~~ MAY seek the cooperation of organizations whose object is to protect or aid children and family life. The juvenile court ~~of~~ IN any county SHALL ESTABLISH A JUVENILE JUSTICE COUNCIL AND may establish, or assist in the establishment of, any OTHER public council or committee, INCLUDING COMMUNITY JUSTICE BOARDS AND TEEN COURTS, having as ~~its~~ THEIR object the prevention of juvenile delinquency ~~and~~. THE JUVENILE COURT may cooperate with, or participate in, the work of any such ~~councils~~ COUNCIL or ~~committees~~ COMMITTEE for the purpose of preventing or decreasing juvenile delinquency, including ~~the~~ improving ~~of~~ recreational, health, and other conditions in the community affecting juvenile welfare.

8-246. Jurisdiction; length of commitment; placement; assessment

A. When jurisdiction has been acquired by the juvenile court of a child, the child shall continue under the jurisdiction of the juvenile court until such child becomes eighteen years of age, unless sooner discharged pursuant to law. From the time of commitment to the department of juvenile corrections, a child shall be subject to the control of the department of juvenile corrections until such child's absolute discharge or until expiration of the commitment on the child's eighteenth birthday.

B. Except pursuant to section 8-241, subsections B and ~~+~~ N, the awarding of a child shall not extend beyond the eighteenth birthday of the child, and commitments to the department of juvenile corrections shall be until the child attains the age of eighteen years unless sooner discharged by the department of juvenile corrections.

C. The supreme court in cooperation with the department of juvenile corrections and other state agencies shall develop a common risk needs assessment instrument to be used for each child referred to the juvenile court. The juvenile court shall update the risk needs assessment on each subsequent referral of the child to the juvenile court, and the court shall use the risk needs assessment to determine the appropriate disposition of the child. The supreme court in cooperation with the department of juvenile corrections shall develop guidelines to be used by juvenile court judges in determining those juveniles that should be committed to the department of juvenile corrections.

8-250. Restitution payments

A. ~~The juvenile court shall retain jurisdiction of the case for purposes of modifying the manner in which restitution payments ordered pursuant to section 8-241, subsection D, are made until the child attains the age of eighteen years. At the time the child attains the age of eighteen years, the court shall enter~~ FOR ONE HUNDRED EIGHTY DAYS AFTER THE JUVENILE ATTAINS EIGHTEEN YEARS OF AGE FOR THE PURPOSE OF ENTERING both:

1. Judgment in favor of the state for the unpaid balance, if any, of any costs, fees, surcharges or monetary assessments imposed.
2. Judgment in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

B. The judgment may be enforced and renewed as any civil judgment.

8-251. Restitution lien; definition

A. A person who is entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR SECTION 8-241, subsection D OR E may file a restitution lien. No filing fee or other charge is required for filing a restitution lien.

B. ~~The attorney representing the state in the delinquency proceeding or~~ A judge, commissioner or juvenile hearing officer shall sign the restitution lien and shall set forth all of the following:

1. The name and date of birth of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON whose property or other interests are subject to the lien.

2. The present residence or principal place of business of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON named in the lien, if known.

3. The delinquency proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number.

4. The name and address of the attorney representing the state in the delinquency proceeding pursuant to which the lien is filed or the name and address of the person who is entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR SECTION 8-241, subsection D OR E and who is filing the lien.

5. A statement that the notice is being filed pursuant to this section.

6. The amount of restitution that the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN has been ordered to pay.

7. A statement that the total amount of restitution owed will change and that the clerk of the superior court shall maintain a record of the outstanding balance.

C. A restitution lien is perfected against interests in personal property by filing the lien with the secretary of state, except that for motor vehicles, the lien shall be filed with the department of transportation. A restitution lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The person entitled to restitution may give the additional notice of the lien as ~~he~~ THE PERSON deems appropriate.

D. The filing of a restitution lien creates a lien in favor of the person in all of the following:

1. Any interest of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON in real property that is situated in the county in which the lien is filed and that is currently maintained or thereafter acquired in the name of the ~~delinquent child~~ PERSON identified in the lien.

2. Any interest of the ~~delinquent child~~ PERSON OR OF THE PARENT OR GUARDIAN OF THE PERSON in personal property that is situated in this state and that is currently maintained or thereafter acquired in the name of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON identified in the lien.

3. Any property identified in the lien to the extent of the ~~delinquent child's~~ PERSON'S OR THE PARENT'S OR GUARDIAN'S interest in the property.

E. The filing of a restitution lien is notice to all persons dealing with the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON or WITH property identified in the lien of the claim of the person entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR 8-241, subsection D OR E. The lien created in favor of the person pursuant to this section is superior and prior to the claims or interests of any other person, except a person possessing any of the following:

1. A valid lien that is perfected before the filing of the restitution lien.

2. In the case of real property, an interest that is acquired and

recorded before the filing of the restitution lien.

3. In the case of personal property, an interest that is acquired before the filing of the restitution lien.

F. This section does not limit the right of the state or any other person entitled to restitution to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized by law.

G. For the purposes of this section, "parent or guardian" means a parent or guardian who is ordered to make restitution pursuant to section 8-232, subsection E, paragraph 9 or section 8-241, subsection E.

12-268. Juvenile probation services fund; use

A. The COUNTY board of supervisors shall designate a chief fiscal officer who shall establish and administer a juvenile probation services fund consisting of:

1. County general fund appropriations for juvenile probation.

2. Court information cost monies received pursuant to section 8-134, subsection I.

3. State appropriations for juvenile probation, except monies in the juvenile probation fund established by section 8-230.02 and except monies in the court appointed special advocate fund established by section 8-524, but including:

(a) Monies for juvenile probation officers authorized by section 8-203.

(b) Monies for state aid for juvenile probation services authorized by this article.

(c) Monies for family counseling services established by title 8, chapter 2, article 5.

(d) Monies for juvenile intensive probation services established by title 8, chapter 2, article 6.

4. Probation fees collected pursuant to section 8-230.01, subsection ~~E~~ F.

5. Probation fees collected pursuant to section 8-241, subsection C.

6. Federal monies provided for juvenile probation services.

7. Juvenile probation monies from any other source.

B. The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding juvenile judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the juvenile probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding juvenile judge of the superior court. The chief fiscal officer, on or before August 31 of each year for the preceding fiscal year, shall submit an annual report to

the supreme court showing the total amount of receipts and expenditures in each account of the juvenile probation services fund.

C. The state monies in the juvenile probation services fund shall be used in accordance with guidelines established by the supreme court or the granting authority.

D. State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.

E. County monies in the juvenile probation services fund shall be used in accordance with the fiscal policies and procedures established by the board of supervisors.

31-124. Segregation of prisoners; males and females; minors and adults

A. Male and female prisoners, except husband and wife, shall not be kept or placed in the same room.

B. A person under the age of eighteen years shall not be confined in ~~any apartment, cell or room in company with adults charged with crime~~ THE SAME SECTION OF ANY JAIL OR PRISON IN WHICH ADULT PRISONERS ARE CONFINED.

36-883.02. Child care personnel; registration; fingerprints; exemptions; definition

A. Child care personnel shall register with the department in order to work in a day care center.

B. Except as provided in subsection E of this section, child care personnel shall be fingerprinted and submit the form prescribed in subsection F of this section to the department within twenty days after the date they begin work for a day care center. Registration is conditioned on the results of the fingerprint check.

C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of health services. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

D. The department shall charge the prospective employer of child care personnel for the costs of fingerprint checks. The employer may charge those costs to its fingerprinted employee.

E. Exempt from the fingerprinting requirements of subsection B of this section are parents, including foster parents and guardians, who are not employees of the day care center and who participate in activities with their children under the supervision of and in the presence of child care personnel.

F. Child care personnel shall certify on forms that are provided by the department and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

(a) Sexual abuse of a minor.

(b) Incest.

- (c) First or second degree murder.
- (d) Kidnapping.
- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

G. Employers of day care center personnel shall make documented, good faith efforts to contact previous employers of day care center personnel to obtain information or recommendations which may be relevant to an individual's fitness for employment in a day care center.

H. The notarized forms and fingerprint checks are confidential.

I. For the purposes of this section, "child care personnel" means any employee or volunteer working at a day care center.

36-897.03. Day care group homes; child care personnel; registration; fingerprints; definition

A. ~~Beginning July 1, 1989,~~ Child care personnel shall register with the department in order to work in a certified day care group home.

B. ~~Beginning July 1, 1989,~~ Child care personnel shall be fingerprinted and submit the form prescribed in subsection E of this section to the department within twenty days after beginning work at a certified day care group home. Registration is conditioned on the results of the fingerprint check.

C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of health services. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

D. The department shall charge child care personnel for the costs of their fingerprint checks.

E. Child care personnel shall certify on forms that are provided by the

Department and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

- (a) Sexual abuse of a minor.
- (b) Incest.
- (c) First or second degree murder.
- (d) Kidnapping.
- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a certificate to operate a day care group home or a license to operate a day care center for the care of children for cause in this state or another state or had a license to operate a day care center or a certificate to operate a day care group home revoked.

F. The provider shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations which may be relevant to an individual's fitness to work in a certified day care group home.

G. The director may adopt rules prescribing the exclusion from day care group homes of individuals whose presence may be detrimental to the welfare of children.

H. The notarized forms and fingerprint checks are confidential.

I. For the purposes of this section, "child care personnel" means all employees of and persons who are eighteen years of age or older AND who reside in a day care group home which is certified by the department.

1-1607. Correctional facilities for minors; programs

A. The director may establish and operate correctional facilities for persons WHO ARE under the age of eighteen years ~~who are transferred to adult court~~ and who are committed to the state department of corrections ~~on conviction of a criminal offense~~. The minor inmates shall be kept IN A separate SECTION from adult inmates.

- B. The director shall require minors who are committed to the department to participate in the following intensive programs:
1. The functional literacy program established pursuant to section 31-229.
 2. An organized recreation and physical training program.
 3. A citizenship training program.
 4. A labor program pursuant to section 31-251.

41-1964. Day care homes; child care personnel; registration; fingerprints; definition

- A. Child care personnel shall register with the department in order to work in a certified day care home.
- B. Child care personnel shall be fingerprinted and submit the form prescribed in subsection E of this section to the department within twenty days after beginning work at a certified day care home. Registration is conditioned on the results of the fingerprint check.
- C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of economic security. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.
- D. The department shall charge child care personnel for the costs of their fingerprint checks.
- E. Child care personnel shall certify on forms that are provided by the department and notarized that:
1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
 - (a) Sexual abuse of a minor.
 - (b) Incest.
 - (c) First or second degree murder.
 - (d) Kidnapping.
 - (e) Arson.
 - (f) Sexual assault.
 - (g) Sexual exploitation of a minor.
 - (h) Contributing to the delinquency of a minor.
 - (i) Commercial sexual exploitation of a minor.
 - (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
 - (k) Burglary.
 - (l) Robbery.
 - (m) A dangerous crime against children as defined in section 13-604.01.
 - (n) Child abuse.
 - (o) Sexual conduct with a minor.
 - (p) Molestation of a child.
 - (q) Manslaughter.
 - (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

F. The department shall make documented, good faith efforts to contact previous employers of certified day care home personnel to obtain information or recommendations which may be relevant to an individual's fitness for work in a certified day care home.

G. The notarized forms and fingerprint checks are confidential.

H. For the purposes of this section, "child care personnel" means all employees of and persons residing in a day care home which is certified by the department pursuant to section 41-1954, subsection A, paragraph 1, subdivision (b) AND who are eighteen years of age or older.

41-2801. Definitions

In this chapter, unless the context otherwise requires:

1. "Committed youth" or "youth" means a person who is eight years of age or older but who has not yet attained the age of eighteen years and who has been committed according to law to the department of juvenile corrections for supervision, rehabilitation, treatment and education.

2. "Department" means the department of juvenile corrections.

3. "Director" means the director of the department of juvenile corrections.

4. "Educational system" means the state educational system for committed youth.

5. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

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41-2822. Education and work requirement for committed youth; classification; compensation; restitution; terms of conditional liberty

A. Notwithstanding title 23, chapter 2, article 3, each youth under commitment to the department and confined in a secure care facility under the department's jurisdiction shall engage in not fewer than forty hours per week of work unless exempted under subsection D of this section, except that if the youth regularly attends and is making satisfactory progress in educational classes as prescribed in this section the youth shall be required to work not fewer than twenty hours per week with up to ten hours of homework per week counting toward this requirement.

B. A committed youth who has not received a high school diploma, a high school certificate of equivalency or an exception from the director shall attend school full time and make satisfactory progress in educational classes.

C. The director shall establish a committed youth work classification system to ensure that:

1. A committed youth receives work assignments commensurate and compatible with the condition and limitations of ~~his~~ THE YOUTH'S physical and mental health.

2. No committed youth participates in a work assignment that threatens the safety and security of the public, the secure care facility or the committed youth.

D. Each committed youth placed by the department in a secure care facility shall be classified pursuant to the committed youth work classification system established by the director. A committed youth may be exempted from the work requirement if the staff of the secure care facility determines that the exemption is necessary for the health, safety or treatment of the youth. The director or the director's authorized designee shall review and approve each classification that results in exempting a committed youth from engaging in the work requirements of subsection A of this section.

E. Each committed youth who is engaged in productive work while confined in a secure care facility under the jurisdiction of the department shall receive such compensation for ~~his~~ THE YOUTH'S work as the director shall determine. The compensation shall be in accordance with a graduated schedule based on quality and quantity of work performed and skill required for its performance, but ~~in no event shall~~ the compensation SHALL NOT exceed one dollar per hour unless the director enters into a contract with a private person, firm, corporation or association, in which case the compensation shall be as prescribed by the person, firm, corporation or association.

F. The compensation of committed youth shall be paid out of monies established pursuant to section 41-2807, monies received pursuant to section 8-243 or monies appropriated by the legislature.

G. Two-thirds of any compensation earned pursuant to this section by a committed youth shall be paid to the clerk of the superior court to satisfy any juvenile court restitution OR MONETARY ASSESSMENT order made pursuant to section 8-241, subsection D or ~~E~~ F.

H. If a committed youth is not subject to a restitution order, two-thirds of any compensation earned pursuant to this section shall be used to defer the costs of room and board for maintaining the committed youth at the secure care facility.

I. The department shall require the payment of court ordered monetary reimbursements or assessments as a term of conditional liberty. While a youth is on conditional liberty the department shall determine the portion of wages to be credited to restitution and the nature of the work program.

46-321. Fingerprinting; affidavit

A. Sponsors except military bases and federally recognized Indian tribes receiving federal child care food program monies from the department of education shall register with the department of education in order to receive those monies, unless they are public schools, day care centers licensed by the department of health services or day care homes certified by the department of economic security.

B. Sponsors except military bases and federally recognized Indian tribes receiving federal child care food program monies as provided in subsection A of this section shall require all child care personnel to be fingerprinted and shall require all child care personnel to submit the form prescribed in subsection G of this section to the department of education before they receive any of those monies.

C. Sponsors that are federally recognized Indian tribes or military bases may submit and the department shall accept certifications which state that no child care personnel employed or who will be employed during the contract term has been convicted of, has admitted to or is awaiting trial on any of the offenses listed in subsection G, paragraph 1 of this section or is the parent or guardian of a child adjudicated to be a dependent child as defined in section 8-201, paragraph 11 or the parent or guardian of a child adjudicated a dependent child under similar provisions in another state or jurisdiction.

D. Sponsors that are federally recognized Indian tribes or military bases may submit and the department shall accept certifications which state that good faith efforts have been made to contact previous employers of tribal and military child care personnel.

E. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

F. The department of education shall charge sponsors receiving federal child care food program monies as provided in subsection A of this section for the costs of their fingerprint checks.

G. Sponsors receiving federal child care food program monies as provided in subsection A of this section shall require all child care personnel to certify on forms that are provided by the department of education and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

- (a) Sexual abuse of a minor.
- (b) Incest.
- (c) First or second degree murder.
- (d) Kidnapping.

- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

H. Sponsors shall make documented, good faith efforts to contact previous employers of child care personnel who receive federal child care food program monies as provided in subsection A of this section to obtain information or recommendations which may be relevant to an individual's fitness for child care.

I. The notarized forms, fingerprint checks and certifications are confidential.

DOCUMENT #2

8-202. Jurisdiction of juvenile court

A. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this chapter.

B. The juvenile court also has exclusive original jurisdiction of proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law.

C. The juvenile court has ~~exclusive~~ original jurisdiction over civil traffic violations committed within the county by persons under eighteen years of age unless the presiding judge of the county declines jurisdiction of such cases. The presiding judge of the county may decline jurisdiction of civil traffic violations committed within the county by juveniles if ~~he~~ THE PRESIDING JUDGE finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

D. THE JUVENILE COURT MAY HEAR MATTERS INVOLVING JUVENILES WHO ARE ACCUSED OF CRIME.

~~D-~~ E. The orders of the juvenile court under the authority of this chapter shall, to the extent that they are inconsistent ~~therewith~~ WITH THIS CHAPTER, take precedence over any order of any other court of this state excepting the court of appeals and the supreme court.

~~E-~~ F. Jurisdiction of a ~~child~~ JUVENILE obtained by the juvenile court in a proceeding under this chapter shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court prior thereto.

~~F-~~ G. In counties having more than one judge of the superior court the ~~judges~~ PRESIDING JUDGE of ~~such~~ THE county shall annually, ~~between November 15 and December 31,~~ designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year. The presiding judge shall from time to time designate ~~such~~ additional judges as may be necessary for the prompt disposition of judicial business before the juvenile court. In all counties where more than one judge is designated as a judge of the juvenile court the judges of such county shall also designate one such judge as the presiding judge of the juvenile court.

8-222. Transfer to and from other courts

A. If, during the pendency of a criminal charge in any court of this state, it ~~shall be~~ IS ascertained that the defendant is a ~~child~~ JUVENILE, ~~that~~ ON MOTION OF THE COUNTY ATTORNEY, THE court shall ~~forthwith~~ SUSPEND THE CRIMINAL PROSECUTION OF A JUVENILE ACCUSED OF A CRIME AND SHALL transfer the case to the juvenile court, together with all the original accusatory

pleadings and other papers, documents, and transcripts of any testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the juvenile court or to that court itself, or shall release ~~him~~ THE DEFENDANT to the custody of ~~his~~ THE DEFENDANT'S parent or guardian or ANY other person legally responsible for ~~him~~ THE DEFENDANT, to be brought before the juvenile court at a time designated by that court. The juvenile court shall then proceed WITH ALL OTHER PROCEEDINGS as if a petition alleging delinquency had been filed with the juvenile court under section 8-221 on the effective date of such transfer. The court shall enter a determination of delinquency that is consistent with any determination of guilty that was made before the suspension.

B. On motion of the prosecutor, prior to the adjudication hearing, the court may dismiss the petition without prejudice to allow criminal charges to be filed.

8-233. County attorney

A. The county attorney shall:

1. Direct such investigation ~~he~~ THE COUNTY ATTORNEY deems necessary of acts of alleged delinquent behavior~~—~~.

2. ~~Cause~~ FILE CRIMINAL COMPLAINTS WITH THE SUPERIOR COURT AGAINST JUVENILES ACCUSED OF CRIME OR petitions alleging delinquent behavior ~~to be drafted and filed~~ with the juvenile court as ~~he~~ THE COUNTY ATTORNEY deems necessary in the public interest~~—and~~.

3. Attend the juvenile court within ~~his~~ THE COUNTY ATTORNEY'S county and conduct on behalf of the state all contested hearings involving allegations of delinquent acts or incorrigibility.

B. In a juvenile court hearing where the ~~child~~ JUVENILE who is the subject of the petition not alleging a delinquent act or incorrigibility is represented by counsel in a contested matter, the county attorney shall, when requested by the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of evidence.

8-241. Disposition and commitment; definition

A. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

1. It may award a dependent child:

(a) To the care of the child's parents, subject to the supervision of the department of economic security.

(b) To a suitable institution.

(c) To an association willing to receive the child.

(d) To a reputable citizen of good moral character.

(e) To an appropriate public or private agency licensed to care for children.

(f) To a suitable school.

(g) To maternal or paternal relatives, as guardian of the person, provided they are physically and financially able to provide proper care.

(h) To the protective supervision of a probation department subject to such conditions as the court may impose.

(i) To supervision under the independent living program established pursuant to section 8-521.

(j) To any adult as a permanent guardian pursuant to chapter 5, article 1 of this title.

2. It may award a delinquent ~~child~~ JUVENILE:

(a) To the care of the ~~child's~~ JUVENILE'S parents, subject to supervision of a probation department.

(b) To a probation department, subject to such conditions as the court may impose.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a private agency or institution, subject to the supervision of a probation officer.

(e) To the department of juvenile corrections ~~without further directions as to placement by that department. From and after September 30, 1995,~~ AND the court may make further directions as to placement by the department concerning the child's length of stay in secure care.

(f) To maternal or paternal relatives, subject to the supervision of a probation department.

(g) TO AN APPROPRIATE OFFICIAL OF A FOREIGN COUNTRY OF WHICH THE JUVENILE IS A FOREIGN NATIONAL WHO IS UNACCOMPANIED BY A PARENT OR GUARDIAN IN THIS STATE TO REMAIN ON UNSUPERVISED PROBATION FOR ONE YEAR ON THE CONDITION THAT THE JUVENILE COOPERATE WITH THAT OFFICIAL.

3. It may award an incorrigible child:

(a) To the care of the child's parents, subject to the supervision of a probation department.

(b) To the protective supervision of a probation department, subject to such conditions as the court may impose.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a public or private agency, subject to the supervision of a probation department.

(e) To maternal or paternal relatives, subject to the supervision of a probation department.

B. If a ~~child~~ JUVENILE is placed on probation pursuant to this section, the period of probation shall be a maximum of one year unless:

1. The ~~child~~ JUVENILE is charged with a subsequent offense.

2. The ~~child~~ JUVENILE violates a condition of probation.

3. The court determines that it is in the best interests of the ~~child~~ JUVENILE or the public to require continued supervision. ~~The court shall state by minute entry or written order its reasons for finding that continued supervision is required.~~

4. ~~The person has not made the Restitution required~~ ORDERED pursuant to subsection D OR E of this section HAS NOT BEEN MADE.

5. THE JUVENILE IS ADJUDICATED DELINQUENT FOR A SERIOUS OFFENSE AS

DEFINED IN SECTION 13-604 OR AN OFFENSE INVOLVING PHYSICAL INJURY OR THE THREAT OF PHYSICAL INJURY.

C. Notwithstanding section 8-243, the juvenile court shall order the parent of a ~~child~~ JUVENILE to pay a fee of not less than ~~thirty~~ FORTY dollars per month for the supervision of the ~~child~~ JUVENILE unless, after determining the inability of the parent to pay the fee, the court orders payment of a lesser amount. If the department of economic security is the supervising agency, monies assessed pursuant to this subsection shall be ordered to be paid and utilized as provided in section 8-243.01. If the juvenile probation office is the supervising agency, monies assessed pursuant to this subsection shall be ordered to be paid to the clerk of the superior court. The clerk of the superior court shall pay all monies collected from this fee to the county treasurer for deposit in the juvenile probation services fund to be utilized as provided in section 12-268. If the department of juvenile corrections is the supervising agency, monies assessed pursuant to this subsection shall be ordered paid to the department of juvenile corrections and used to fund work restitution programs for juveniles. If a person or another state agency or state institution is responsible for supervision, the monies assessed pursuant to this subsection shall be ordered paid to the state treasurer to be deposited in the state general fund.

D. The court shall, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the ~~child~~ JUVENILE, order the following dispositions for a delinquent ~~child~~ JUVENILE, either as exclusive dispositions or in addition to the dispositions provided by subsection A, paragraph 2 of this section:

1. To make full or partial restitution to the victim of the offense for which the ~~child~~ JUVENILE was adjudicated delinquent. The court shall notify the victim of the dispositional hearing. The court may consider a ~~verified~~ statement from the victim concerning damages for lost wages, reasonable damages for injury to or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering.

2. To pay a reasonable monetary assessment if the court determines that an assessment is in aid of rehabilitation. If the director of the department of juvenile corrections determines that enforcement of an order for monetary assessment as a term and condition of parole is not cost-effective, the director may require the youth to perform an equivalent amount of community service in lieu of the payment ordered as a condition of parole.

E. IF AFTER ORDERING RESTITUTION PURSUANT TO SUBSECTION D OF THIS SECTION THE COURT SUBSEQUENTLY FINDS THAT THE EARNING CAPACITY OF THE JUVENILE IS INSUFFICIENT TO PAY RESTITUTION TO THE VICTIM, THE COURT MAY ORDER ONE OR BOTH OF THE JUVENILE'S CUSTODIAL PARENTS OR GUARDIANS TO MAKE RESTITUTION TO THE VICTIM OF THE OFFENSE FOR WHICH THE JUVENILE WAS ADJUDICATED DELINQUENT. THE AMOUNT OF RESTITUTION SHALL NOT EXCEED THE LIABILITY LIMIT ESTABLISHED PURSUANT TO SECTION 12-661. IF THE COURT ORDERS THE JUVENILE'S PARENTS OR GUARDIANS TO MAKE RESTITUTION PURSUANT TO THIS SUBSECTION, THE COURT SHALL ORDER THE JUVENILE TO MAKE PARTIAL RESTITUTION, REGARDLESS OF THE JUVENILE'S INSUFFICIENT EARNING CAPACITY. THE COURT SHALL NOT CONSIDER THE ABILITY OF

THE JUVENILE'S PARENTS OR GUARDIANS TO PAY RESTITUTION BEFORE MAKING A RESTITUTION ORDER. THE COURT MAY CONSIDER A STATEMENT FROM THE VICTIM CONCERNING DAMAGES FOR LOST WAGES, REASONABLE DAMAGES FOR INJURY TO OR LOSS OF PROPERTY AND ACTUAL EXPENSES OF MEDICAL TREATMENT FOR PERSONAL INJURY, EXCLUDING PAIN AND SUFFERING.

~~E~~ F. If a youth is adjudicated incorrigible, the court may impose a monetary assessment on the youth of not more than one hundred fifty dollars.

~~F~~ G. A juvenile who is charged with unlawful purchase, possession or consumption of spirituous liquor is subject to section 8-232. The monetary assessment for a conviction of unlawful possession or consumption of spirituous liquor by a minor shall not exceed five hundred dollars. The court of competent jurisdiction may order a monetary assessment or equivalent community service.

~~G~~ H. The court shall require the restitution or monetary assessment imposed under subsection D, ~~or~~ E OR F of this section on a youth who is not committed to the department of juvenile corrections to be satisfied in one or both of the following forms:

1. Monetary reimbursement by the youth in a lump sum or installment payments through the clerk of the superior court for appropriate distribution.

2. A program of work, not in conflict with regular schooling, to repair damage to the victim's property, to provide community service or to provide the youth with a job for wages. The court order for restitution or monetary assessment shall specify, according to the dispositional program, the amount of reimbursement and the portion of wages of either existing or provided work that is to be credited toward satisfaction of the restitution or assessment, or the nature of the work to be performed and the number of hours to be spent working. The number of hours to be spent working shall be set by the court based on the severity of the offense but shall not be less than sixteen hours.

I. A PARENT, GUARDIAN OF A JUVENILE WHO IS ORDERED TO MAKE RESTITUTION PURSUANT TO SUBSECTION E OF THIS SECTION SHALL SATISFY THE ORDER THROUGH A MONETARY REIMBURSEMENT IN A LUMP SUM OR INSTALLMENT PAYMENTS THROUGH THE CLERK OF THE SUPERIOR COURT FOR APPROPRIATE DISTRIBUTION.

~~H~~ J. If a youth is committed to the department of juvenile corrections the court shall specify the amount of monetary restitution or assessment imposed pursuant to subsection D, ~~or~~ E OR F of this section.

~~I~~ K. ~~From and after September 30, 1995,~~ After considering the length of stay guidelines developed pursuant to section 41-2816, subsection C, the court may set forth in the order of commitment the minimum period during which the ~~child~~ JUVENILE shall remain in secure care while in the custody of the department of juvenile corrections. When the court awards a ~~child~~ JUVENILE to the department of juvenile corrections or an institution or agency, it shall transmit with the order of commitment copies of a diagnostic psychological evaluation and educational assessment if one has been administered, copies of the case report, all other psychological and medical reports, restitution orders and other documents or records pertaining to the case requested by the department of juvenile corrections, institution or agency. ~~From and after September 30, 1995 and~~ Except pursuant to subsection ~~J~~ L of this section, the

department shall not release a ~~child~~ JUVENILE from secure care before the ~~child~~ JUVENILE completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The department may release the ~~child~~ JUVENILE from secure care without a further court order after the ~~child~~ JUVENILE completes the length of stay determined by the court or may retain the ~~child~~ JUVENILE in secure care for any period subsequent to the completion of the length of stay in accordance with the law.

~~J. L. From and after September 30, 1995,~~ If a secure care facility operates at ninety-eight per cent or more of capacity, the director of the department of juvenile corrections may declare that there is a shortage of beds available for youths committed to the department. After a shortage of beds is declared, the director may order the conditional release of those youths from secure care that do not pose any undue risk to the community prior to completion of the minimum stay ordered by the court without a prior court order. A youth shall not be released pursuant to this subsection prior to completion of the minimum stay ordered by the court and without a prior court order if any of the following apply:

1. The offense for which the youth was committed involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or the intentional or knowing infliction of serious physical injury.

2. The offense for which the youth was committed constitutes a serious offense as defined by section 13-604.

3. The prior offense and referral history of the youth includes an adjudication for an offense described in ~~paragraphs~~ PARAGRAPH 1 or 2 of this subsection, or is an offense which would be a felony offense if committed by an adult.

~~K. M. From and after September 30, 1995,~~ Written notice of the release of any youth pursuant to subsection ~~I~~ K of this section shall be made to any victim requesting notice, the juvenile court that committed the youth and the county attorney of the county from which the youth was committed.

~~L. N.~~ The juvenile court may permit removal from the state of a dependent child or ward of the court by the person to whom the child's or ward's care may be temporarily awarded, upon such recognizance, with or without sureties, as may satisfy the court, obligating the person to produce the child OR WARD when required by the court.

~~M. O.~~ Notwithstanding any law to the contrary, if a person is under the supervision of the court as an adjudicated delinquent ~~child~~ JUVENILE at the time the person reaches eighteen years of age, treatment services may be provided until the person reaches twenty-one years of age if THE JUVENILE AND THE STATE AGREE TO THE EXTENDED TREATMENT AND the court, ~~the person and the state agree to the provision of the treatment and a motion to waive jurisdiction and transfer the person has not been filed or has been withdrawn~~ ORDERS CONTINUED TREATMENT. The court may terminate the provision of treatment services after the person reaches eighteen years of age if the court determines that any of the following apply:

1. The person is not progressing toward treatment goals.

2. The person terminates treatment.
3. The person commits a new offense after reaching eighteen years of age.
4. Continued treatment is not required or is not in the best interests of the state or the person.

P. THE COURT MAY ORDER A JUVENILE AGAINST WHOM A PETITION HAS BEEN FILED AND WHO IS ALLEGED TO HAVE COMMITTED A SEXUAL OFFENSE OR AN OFFENSE THAT INVOLVED SIGNIFICANT EXPOSURE AS DEFINED IN SECTION 13-1415 TO SUBMIT TO A TEST FOR THE HUMAN IMMUNODEFICIENCY VIRUS AND TO CONSENT TO THE RELEASE OF THE TEST RESULTS TO THE VICTIM.

~~N~~ Q. On the request of a victim of a ~~delinquent~~ AN act that may have involved significant exposure as defined in section 13-1415 or that if committed by an adult would be a sexual offense, the prosecuting attorney shall petition the adjudicating court to require that the ~~delinquent child~~ JUVENILE be tested for the presence of the human immunodeficiency virus. If the victim is a ~~child~~ JUVENILE the prosecuting attorney shall file this petition at the request of the victim's parent or guardian. WITHIN TEN DAYS AFTER RECEIVING THE PETITION, THE COURT SHALL DETERMINE IF SUFFICIENT EVIDENCE EXISTS THAT INDICATES THAT SIGNIFICANT EXPOSURE OCCURRED. If the act committed against a victim is an act that if committed by an adult would be a sexual offense or the court determines that sufficient evidence exists to indicate that significant exposure occurred, it shall order the department of juvenile corrections or the department of health services to test the ~~child~~ JUVENILE pursuant to section 13-1415. Notwithstanding any law to the contrary, the department of juvenile corrections and the department of health services shall release the test results only to the victim, the delinquent ~~child~~ JUVENILE, the delinquent ~~child's~~ JUVENILE'S parent or guardian and a minor victim's parent or guardian and shall counsel them regarding the meaning and health implications of the results.

~~Q~~ R. For the purposes of SUBSECTIONS P AND Q OF this section, "sexual offense" means oral sexual contact, sexual contact or sexual intercourse as defined in section 13-1401.

8-247. Destruction of records — *Procedural*

A. On application of a person who has been adjudicated delinquent FOR AN OFFENSE OTHER THAN AN OFFENSE LISTED UNDER SECTION 13-3113 or incorrigible or on the court's own motion, and after a hearing, the juvenile court may order the destruction of the files and records, including arrest records, in the proceeding, if the court finds ALL OF THE FOLLOWING:

1. The person has attained ~~his eighteenth birthday~~ EIGHTEEN YEARS OF AGE.
2. No proceeding is pending seeking the person's conviction of a crime.
3. The person has been rehabilitated to the satisfaction of the juvenile court.
4. The person is not under the jurisdiction of the juvenile court, nor under commitment to the department of juvenile corrections from the juvenile court.

B. Reasonable notice of the hearing shall be given to:
1. The county attorney who may oppose the order.
2. The authority granting the discharge if the final discharge was from an institution, ~~or from parole~~ CONDITIONAL LIBERTY OR FROM COMMUNITY SUPERVISION.

C. ~~When~~ IF a juvenile ~~who has been adjudicated delinquent or incorrigible has attained the juvenile's twenty-third birthday~~ ATTAINS TWENTY-THREE YEARS OF AGE AND WAS ADJUDICATED DELINQUENT FOR AN OFFENSE OTHER THAN AN OFFENSE LISTED UNDER SECTION 13-3113, the juvenile court may order destruction of files and records, including arrest records, if the court finds:

1. There is no pending criminal complaint.
2. The state department of corrections has no current jurisdiction.
3. There is no adult criminal record.

8-283.01. Victim reconciliation services

The presiding judge of the juvenile court in each county shall establish and provide voluntary victim reconciliation and restitution services to assist victims of juvenile crimes.

ARTICLE 8. COMMUNITY JUSTICE

8-291. Community justice boards; members; jurisdiction

A. Community justice boards may be established in designated geographical areas in each county as part of a diversion program for juvenile offenders who are eligible for diversion pursuant to section 8-230.01.

B. The juvenile division of the superior court in the county in which the board is located shall administer the board.

C. The community justice board has jurisdiction to hear all matters involving juveniles who are referred to the board pursuant to section 8-230.01 and who live within the geographical area served by the board.

D. The presiding judge of the juvenile court shall appoint members to the board. The board shall consist of at least three members. To the extent feasible, board members shall represent the various socioeconomic, racial and ethnic groups in the geographical area in which the board serves.

E. The board shall determine all actions by a majority vote.

F. Through the juvenile court the community justice board shall notify a juvenile within the board's jurisdiction, the juvenile's parents or guardians and the victim of the alleged offense of a meeting of the board. The juvenile, the juvenile's parents or guardians and the victim have the right to appear and participate in any meeting that is conducted by the board.

G. The community justice board shall convene a meeting within thirty days after receiving the referral.

H. The community justice board shall require the parent or legal guardian of a juvenile who is referred to appear with the juvenile at the time set.

I. All meetings of the community justice board are open to the public and all records are public.

J. While the juvenile offender is under the jurisdiction of the

community justice board, the juvenile offender is under the supervision of the juvenile probation department.

SB 1363 sought to repeal the existing section 13-501 and add the following:
13-501. Persons under the age of eighteen years; felony charging

A person under eighteen years of age may be charged with a felony by the filing of a complaint, information or indictment.

13-608. Persons under eighteen years of age; conviction; sentence; transfer to juvenile court; disposition; definitions

A. If a juvenile is convicted of any of the following offenses the juvenile shall be sentenced as provided by law:

1. first degree murder pursuant to section 13-1105, subsection A, paragraph 1.
2. Second degree murder pursuant to section 13-1104, subsection A, paragraph 1 or 2.
3. Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.
4. Sexual assault pursuant to section 13-1406 involving the use or threatening exhibition of a deadly weapon or dangerous instrument or serious physical injury as defined in section 13-105.
5. Armed robbery pursuant to section 13-1904, subsection A, paragraph 2.
6. Drive by shooting pursuant to section 13-1209.

B. Subsection A of this section does not apply to a juvenile who is found by the court to be solely an accomplice as defined in section 13-301.

C. If a juvenile is convicted of a second or subsequent felony offense, which is an historical prior felony conviction the juvenile shall be sentenced as provided by law.

D. If a juvenile is convicted of a felony offense and does not fall within the provisions of subsection A of this section, the judge may, but is not required to apply any law that mandates a term of imprisonment. In lieu of imposing a term of imprisonment otherwise required by law, the judge may either:

1. Impose a term of imprisonment pursuant to chapter 7 of this title.
 2. Place the juvenile on probation pursuant to chapter 9 of this title.
- E. If the judge is imposing a sentence for a class 1 felony pursuant to subsection D of this section, the judge may, but is not required to, impose a sentence authorized by chapter 6 or 7 of this title for a class 2 felony.

F. If a juvenile is charged with a class 4, 5 or 6 felony, the juvenile may, after a finding of guilt or acceptance of a plea, and prior to the entry of judgment of guilt and sentencing, petition the court to designate the offense a delinquent act pursuant to title 8 and transfer the case to juvenile court for all further proceedings pursuant to section 8-222. In deciding whether to transfer the case to the juvenile court the judge shall determine if the public interest or safety would be served by the transfer. In making this determination, the judge shall consider the following:

1. The seriousness of the offense involved.
 2. The record and previous history of the juvenile, including the juvenile's previous contacts with law enforcement and the courts, if the juvenile participated in any prior court ordered probation and the results of that probation and if the juvenile was previously committed to a juvenile residential facility or secure care facility.
 3. If the juvenile was previously committed to the department of juvenile corrections on conviction of a felony offense and if the juvenile committed another felony offense while the juvenile was in the custody of the department of juvenile corrections.
 4. The views of the victim of the offense.
 5. The degree of the juvenile's participation in the offense and if the juvenile's participation was relatively minor, except that the juvenile's participation shall not have been so minor as to constitute a defense to prosecution.
 6. Any other relevant factors.
- G. The judge shall not transfer the case to juvenile court unless the judge finds by the preponderance of the evidence that the public safety and interest would be served by the transfer.
- H. An offense may not be designated a delinquent act and a case may not be transferred to juvenile court if any of the following apply:
1. The juvenile is convicted of an offense involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
 2. The juvenile has previously been convicted of a felony offense which would be a historical prior felony conviction.
 3. The juvenile is convicted in the same indictment or information of a class 1, 2 or 3 felony.
 4. The juvenile has previously been adjudicated in juvenile court on three separate occasions for acts, not committed on the same occasion, that if committed by an adult would constitute three or more felony offenses.
 5. The juvenile has previously been convicted of a class 4, 5 or 6 felony and the offense was designated a delinquent act.
- I. If the offense is designated a delinquent act, the juvenile is deemed not to have been convicted of the offense and the offense is not admissible pursuant to section 13-604 and cannot be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant. However, the delinquent act is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446.
- J. On motion of the prosecutor, prior to the entry of judgment and guilt and sentencing, the judge may designate the offense a juvenile act and transfer the case to juvenile court for all further proceedings pursuant to section 8-222.
- K. For the purposes of this section:
1. "Juvenile" means a person under eighteen years of age.
 2. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over juveniles in any proceeding relating to

delinquency.

13-921. Probation for persons under eighteen years of age; dual adult juvenile probation

A. The court may enter a judgment of guilt and place the defendant on probation pursuant to this section if all of the following apply:

1. The defendant is under eighteen years of age.
2. The defendant is convicted of a felony offense.
3. The defendant is not sentenced to a term of imprisonment.

B. If the court places a defendant on probation pursuant to this section, the court may discharge the defendant and expunge the defendant's conviction or designate the offense a delinquent act as permitted by subsection C or D of this section.

C. If the court places a defendant on probation pursuant to this section, the following apply:

1. If the defendant successfully completes the terms and conditions of probation, the court may set aside the judgment of guilt, dismiss the information or indictment and order the person be released from all penalties and disabilities resulting from the conviction other than those in paragraphs 2 through 4 of this subsection. The clerk of the court where the conviction occurred shall notify each agency to which the original conviction was reported of the discharge and expungement.

2. Notwithstanding paragraph 1 of this subsection, the conviction may be used as a conviction if the conviction would be admissible pursuant to section 13-604 if it had not been set aside and the conviction may be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant.

3. Notwithstanding paragraph 1 of this subsection, the conviction is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446.

4. Notwithstanding paragraph 1 of this subsection, the defendant shall comply with sections 13-3821 and 13-3822.

D. Notwithstanding subsection C of this section, if the court places a defendant on probation for a class 4, 5 or 6 felony and the defendant successfully completes the terms and conditions of probation, the court may designate the offense as a delinquent act pursuant to title 8.

E. In deciding whether to designate the offense as a delinquent act the judge shall determine whether the public and safety would be served by the designation as a juvenile act. In making this determination, the judge shall consider the following:

1. The seriousness of the offense involved.
2. The record and previous history of the juvenile including the juvenile's previous contacts with law enforcement and the courts, if the juvenile participated in any previous court ordered probation and the results of that probation and if the juvenile was previously committed to a juvenile residential facility or secure care facility.

3. If the juvenile was previously committed to the department of

juvenile corrections on conviction of a felony offense and if the juvenile committed another felony offense while the juvenile was in the custody of the department of corrections.

4. The views of the victim of the offense.

5. The degree of the juvenile's participation in the offense and if the juvenile's participation was relatively minor, except that the juvenile's participation shall not have been so minor as to constitute a defense to the prosecution.

6. The juvenile's performance on probation.

7. Any other relevant factor.

F. The judge shall not designate the offense a delinquent act unless the judge finds by the preponderance of the evidence that the public safety and interest would best be served by the designation.

G. If the offense is designated a delinquent act, the defendant is deemed not to have been convicted of the offense and the offense is not admissible pursuant to section 13-604 and cannot be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant. However, the delinquent act is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446. The clerk of the court where the conviction occurred shall notify each agency to which the original conviction was reported that the offense has been designated a juvenile act.

H. The court may not designate the offense as a delinquent act if any of the following apply:

1. The juvenile was convicted in the same indictment or information of a class 1, 2 or 3 felony.

2. The juvenile has previously been adjudicated in juvenile court on three separate occasions for acts not committed on the same occasion that if committed by an adult would constitute three or more felony offenses.

3. The juvenile was previously convicted of a class 4, 5 or 6 felony and the offense was designated a delinquent act.

I. A defendant who has previously been convicted of a felony or had an offense designated a delinquent act pursuant to section 13-608 or this section is not eligible for probation pursuant to this section.

J. A defendant who is placed on probation pursuant to this section is deemed to be on adult probation.

K. If a defendant is placed on probation pursuant to this section, the court as a condition of probation may order the defendant to participate in services that are available to the juvenile court.

L. The court may order that a defendant who is placed on probation pursuant to this section be incarcerated in a juvenile detention facility while the defendant remains under eighteen years of age at whatever time or intervals, consecutive or nonconsecutive, the court determines. The incarceration shall not extend beyond the period of court ordered probation, and the length of time the defendant actually spends in a juvenile detention facility shall not exceed one year.

M. The court may order that a defendant who is placed on probation

pursuant to this section be incarcerated in a county jail while the defendant remains under eighteen years of age at whatever time or intervals, consecutive or nonconsecutive, the court determines. The incarceration shall not extend beyond the period of court ordered probation, and the length of time the defendant actually spends in a county jail shall not exceed one year.

N. The court may order the defendant to be incarcerated in both a juvenile detention facility and a county jail as long as the period actually spent in the juvenile detention facility and the county jail does not exceed one year.

O. If the court grants probation pursuant to this section, the court may require that the defendant be committed to the department of juvenile corrections for a period of time up to the defendant's eighteenth birthday.

P. The court, in addition to the provisions of this section, may apply any of the provisions of section 13-901.

- ▶ Proposition 102 was about delinquency, not dependency.
- ▶ The criminal justice system must provide for public safety.
- ▶ The message from the criminal justice system should be straightforward.
- ▶ Bad acts should have bad consequences.
- ▶ Juveniles have to be held accountable earlier in their criminal careers.
- ▶ Elected public officials should have a larger role in deciding how juvenile offenders are handled.

RECOMMENDATIONS ON

1. Jurisdiction
2. Repeat offenders
3. Procedural matters
4. Misdemeanors
5. Community-based programs
6. Restitution
7. Funding
8. Evaluation

JURISDICTION

1. Mandatory direct filing
2. Discretionary filing by county attorney
3. Petition for transfer by county attorney

MANDATORY DIRECT FILING

Category 1

Most serious violent crimes 15 years and older

Proposition 102

First-degree murder

Second-degree murder

Armed robbery

Forcible sexual assault

Other violent

Aggravated assault with serious bodily injury

Aggravated assault with a deadly weapon

Drive-by shooting

Arson of an occupied structure

Category 2

Repeat felony offenders

Chronic offender

- ▶ equivalent of two historical prior felonies

DISCRETIONARY FILING BY COUNTY ATTORNEY

Category 1

Serious violent crimes by 15 year olds

- ▶ Manslaughter / negligent homicide
- ▶ Sexual assault other than by force
- ▶ Burglary in the first degree
- ▶ Aggravated assault other than with a deadly weapon and serious bodily injury
- ▶ Leading organized crime
- ▶ Kidnapping

Category 2

Most problematic 14 year olds

- ▶ First-degree murder
- ▶ Second-degree murder
- ▶ Manslaughter / negligent homicide
- ▶ Armed robbery
- ▶ Forcible sexual assault
- ▶ Aggravated assault with serious bodily injury
- ▶ Aggravated assault with a deadly weapon
- ▶ Drive-by shooting
- ▶ Arson of an occupied structure

COUNTY ATTORNEY BEDS FOR TRANSFER

- ▶ All other cases
- ▶ Criteria specified by legislation
- ▶ Reasons for refusal on the record

REPEAT OFFENDERS

- ▶ Notice of consequences for recidivism
- ▶ Mandatory confinement
- ▶ Mandatory transfer

REPEAT OFFENDERS

Notice

First time felony adjudication accompanied by notice that the next felony adjudication at 14 years or older will result in mandatory confinement in juvenile corrections.

Second time felony adjudication accompanied by notice that the next felony accusation, if at 15 years old or older, will automatically result in a trial in adult court.

Consequences

Second felony adjudication for those 14 years and older should result in a mandatory confinement in juvenile corrections for a substantial “length of stay.” These sentences would be followed up by a substantial period of community supervision.

Third felony by a juvenile 15 years and older will be tried in adult court and the offender will have to spend some time in confinement.

PROCEDURE

Arson

Book into jail if subject to mandatory or discretionary direct filing.

Chronic offender

Allege and prove in superior court.

Traffic violation

All violations including DUI would be handled in adult court.

Records

Public

Juvenile court = proceedings

Arrests, delinquency hearings, appellate review

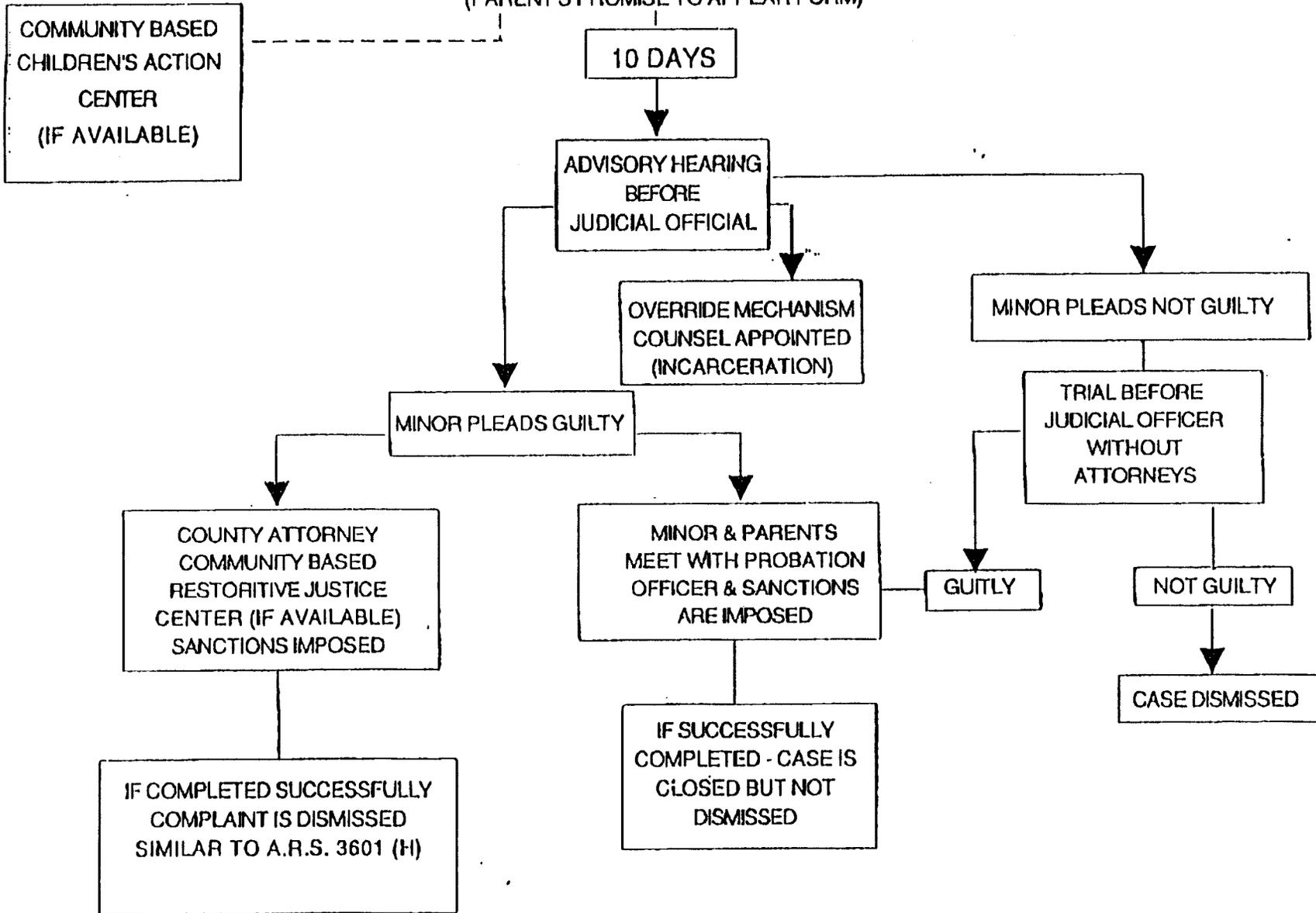
Not public

Non-delinquency cases

Protection of victims

Clear public interest in confidentiality

ARREST & RELEASE TO PARENT
(PARENT'S PROMISE TO APPEAR FORM)



ARIZONA STATE SENATE
Phoenix, Arizona

FINAL REVISED

FACT SHEET FOR S.B. 1356

juvenile crime omnibus

Purpose

Makes numerous changes to provisions relating to juvenile justice.

Background

Recently, much attention has been paid to the issue of juvenile crime. Recommendations have been put forth by committees studying the issue, by all three branches of government and by other interested parties. This bill brings together many of the recommendations into one bill.

Provisions

PARENTAL RESPONSIBILITY

- Requires the parent of a juvenile who is alleged to have committed a delinquent or incorrigible act to appear with the juvenile in court. 8-229
- Allows the court to cite a parent for contempt who fails to appear with the child. 8-229
- Allows the court to waive the appearance requirement. 8-229
- Imposes a duty on parents to exercise reasonable care, supervision, protection and control over his or her child. 8-235
- Allows the court to order a juvenile or his family to participate in a counseling, treatment or education program if the court believes it is necessary for the rehabilitation of the juvenile. 8-235
- Allows the court to use its contempt powers to enforce the court's order for treatment, counseling or education or to enforce a restraining or protective order against those who are the subject of an order and those who are ordered to provide the services. 8-235
- Provides that if the court finds that a parent does not exercise reasonable care, supervision, protection and control over his child or if the court holds a person in contempt for violating an order issued under this section, the court may do one or more of the following:
 1. Fine the person up to \$1,000, plus applicable surcharges and assessments.

2. Incarcerate the person in jail up to 30 days. Before a hearing to determine whether to incarcerate the parent, the person must be advised of his right to counsel.
 3. Order the parents to perform community service with their child.
8-235
- Allows the court, instead of taking any of the actions above, to order the parents or guardian to participate in a diversion program. If the diversion program is successfully completed, the court shall dismiss findings. 8-235
 - Increases from \$2,500 to \$10,000 the amount a parent or legal guardian can be jointly and severally liable for a tort of a minor. 12-661

KIDS AND GUNS

- Provides that a juvenile who is adjudicated delinquent does not have the right to carry or possess a gun or firearm. 13-904
- Provides that a juvenile who is adjudicated delinquent for a dangerous offense, a serious offense, burglary in the first or second degree or arson, may not file for restoration of his right to possess a gun or firearm until he reaches 30 years of age. 13-912.01.
- Provides that if a juvenile is adjudicated delinquent for a felony offense, other than a dangerous offense, a serious offense, burglary in the first or second degree or arson, he may file for restoration of his right to possess a gun or firearm two years from the date of his discharge. 13-912.01.
- Conforms the statute related to persons prohibited from possessing firearms to the changes made to the restoration of civil rights statutes. 13-3101.
- Provides that a minor who possesses a firearm in violation of the law is a delinquent child. 13-3111
- Requires that if a minor unlawfully possesses a firearm while in a motor vehicle, the minor shall be fined not more than \$500 and the minor's driver's license shall be suspended until the minor is eighteen years of age. 13-3111
- Requires law enforcement to return a seized firearm to the lawful owner if the identity of that person is known. 13-3111
- Provides that if a juvenile who was previously adjudicated delinquent for certain offenses possesses, uses or carries a firearm within 10 years from the date of his adjudication or his release or escape from custody, he is guilty of a class 5 felony for a first offense and a class 4 felony for a second or subsequent offenses. 13-3112

SECURE CARE

- Allows the court to provide direction to DYTR as to the length of stay of a delinquent child the court places with DYTR. 8-241
- Requires DYTR to keep a juvenile in secure care for the entire length of stay determined by the court unless the court otherwise orders. 8-241
- Allows DYTR to declare a shortage of beds when a secure care facility operates at 98% or more of capacity. When this happens, the director of DYTR may authorize the conditional release of certain juveniles who do not pose undue risk to the community. DYTR is required to give written notice to any victim requesting notice, the juvenile court and the county attorney. 8-241
- Specifies that DYTR and the juvenile court shall develop length of stay guidelines for secure care which shall be reviewed annually. 41-2816
- Mandates that the supreme court, DYTR and other state agencies develop a common risk needs assessment instrument to be used for each child referred to the juvenile court to be used to determine the appropriate disposition of each juvenile referred to juvenile court. 8-246
- Places in statute the community work program for which the Senate appropriated \$186,600. The program would be under the jurisdiction of DYTR and involve community restitution programs, including graffiti abatement, park maintenance and other community service activities by youths granted conditional liberty. 41-2826
- Appropriates \$186,600 from the general fund to DYTR to establish a community work release program for youths committed to DYTR. Sec. 31
- Requires DYTR to conduct a needs assessment to determine the number of beds required in secure care facilities, taking into consideration the projected number of juveniles committed, the average length of stay, the existing length of stay guidelines and the protection of the public. Sec. 22
- Specifies that DYTR shall complete and report on the results of the needs assessment to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court by August 31, 1994. Sec. 22
- Appropriates \$350,000 for architectural and engineering services for a one hundred bed high-security unit for youths under the jurisdiction of the department of youth treatment and rehabilitation. Sec. 30
- Appropriates \$714,600 from the general fund to DYTR and the court to establish boot camps at secure care facilities. Requires each youth committed to the boot camp to serve at least three months in the program, followed by nine months of intensive aftercare. Sec. 32

- Allows both the court and DYTR to place youths in the boot camps. Sec. 32
- Sunsets the boot camps on June 30, 1997. Requires DYTR to report to the legislature by June 30, 1996 on the effectiveness of boot camps. Sec. 32

TREATMENT PAST EIGHTEEN YEARS

- Allows treatment services to be provided to a juvenile past the age of 18, up to the age of 21 if the court, the juvenile and the state agree to the treatment. 8-241
- Allows the court to terminate treatment if the person is not progressing toward treatment goals, terminates treatment, commits a new offense after reaching 18 years of age or continued treatment is not required or is not in the best interests of the state or the person. 8-241
- Stipulates that monies in the juvenile probation fund may also be used to provide services for a person under 21 years of age who voluntarily continues treatment past the age of 18 years. 8-230.02

OTHER PROVISIONS

- Provides that a juvenile probation officer may supervise no more than 35 juveniles at one time. 8-203
- Appropriates \$414,700 from the general fund to the supreme court for distribution to the juvenile probation fund. Sec. 29
- Mandates that a juvenile's probation term be a maximum of one year unless the juvenile is charged with a subsequent offense, violates a condition of probation or if the court determines that it is in the best interests of the juvenile or the public to require continued supervision. 8-241
- Permits the victim of a delinquent act that involved significant exposure to request that the prosecution petition the court for HIV testing of the delinquent child. 13-1415
- Establishes a joint legislative committee on school safety and allows a school district to apply to the joint legislative committee on school safety for funds to improve the safety of the schools in the district. Sec. 23
- Appropriates \$2,500,000 to the state department of education to pay the cost of placing peace officers and juvenile probation officers in schools. Sec. 33
- Allows the department of transportation to lease land at less than full rental value to a charitable organization that provides anti-crime, recreational and educational programming for juveniles. Sec. 27
- Adds a severability clause. Sec. 34

Amendments Adopted by Committee of the Whole

- Strikes the provisions which required a parent to perform the same amount of community service that the court ordered the delinquent juvenile to perform. The provisions also allowed the court to impose restitution and court fees against a parent whose child had been adjudicated delinquent.
- Changed the automatic transfer provision to a presumptive transfer.
- Strikes the appropriation for construction of a juvenile facility for juveniles under the jurisdiction of the DOC.
- Appropriates \$350,000 for architectural and engineering services for a 100 high security bed unit for youths under the jurisdiction of DYTR.
- Strikes the provision that prohibited minors from carrying handguns with no exceptions. Handguns would be treated as a firearm for purposes of juvenile possession.
- Restores language that applies the restrictions on juveniles possessing firearms only to Maricopa and Pima counties.
- Reduces the appropriation to DYTR for boot camps from \$1,864,600 to \$932,300 and makes it applicable for one year instead of two years.
- Adds the provisions allowing the court to place youths in the boot camps, providing for a sunset of the boot camp program and requiring a report on the effectiveness of boot camps.
- Fills in the blank appropriation for monies for the supreme court for distribution to the juvenile probation fund. The amount is \$414,700.
- Strikes the appropriation to the victim impact program. The amount was \$50,000.
- Strike the appropriation for the gang unit in DPS. The amount was \$1,250,000.

Amendments Adopted by the House

- Strikes the "presumptive transfer" provisions related to transferring certain juveniles to adult court for prosecution.
- Provides that a juvenile probation officer may supervise no more than 35 juveniles at one time.
- Requires the parent or guardian of an incorrigible child (the Senate bill only applies to delinquent children) to appear with the child at juvenile court. The House bill allows the court to waive the appearance requirement for both delinquent and incorrigible children.

- Allows the court to place a child on probation for more than one year if restitution has not been paid.
- Allows the juvenile court to set the minimum period of time a child sent to the DYTR must stay in secure care.
- Allows DYTR to retain a child in secure care after the length of time determined by the juvenile court has expired.
- Allows DYTR to declare a shortage of beds when a secure care facility operates at 98% or more of capacity. When this happens, the director of DYTR may authorize the conditional release of certain juveniles who do not pose undue risk to the community. The House bill prescribes those youths who may not be released. DYTR is required to give written notice to any victim requesting notice, the juvenile court and the county attorney.
- Strikes the provisions establishing the youthful offender program.
- Strikes the provision enacting a weapon-free school zone.
- Strikes the provision requiring the suspension of a minor's driver's license if he was present in a vehicle in which the driver or another passenger was unlawfully possessing a firearm and the minor knew or should have known the driver or other passenger was in possession of the firearm unlawfully. The House bill allows for suspension of a driver's license if the minor unlawfully possesses a firearm in a vehicle.
- Places in statute the community work program for which the Senate appropriated \$186,600. The program would be under the jurisdiction of DYTR and involve community restitution programs, including graffiti abatement, park maintenance and other community service activities by youths granted conditional liberty.
- Makes changes to the school safety program which will place juvenile probation officers and school trained resource officers in certain schools and will provide law related education to students.
- Requires the court and DYTR to submit the common risk needs assessments instruments and commitment guidelines required of them by December 1, 1994.
- Reduces the amount of the appropriation to DYTR to establish a boot camp program from \$932,200 to \$714,600.
- Strikes provisions that are included in other legislation.

Amendments Adopted by Conference Committee

- Corrects an inconsistency between two statutes that deal with the right to possess a firearm once a person has been adjudicated delinquent.

- Simplifies the approach for dealing with a juvenile who is caught unlawfully possessing a firearm in a vehicle.
- Requires law enforcement to return a seized firearm to its owner if the identity of the lawful owner is known.
- Provides that an equal sum of money will be spent on peace officers and juvenile probation officers in schools.
- Allows the director of ADOT to lease certain land at less than full rental value.
- Permits the victims of a delinquent act that involved significant exposure to request that the prosecution petition the court for HIV testing of the delinquent child.
- Adds a severability clause.

Senate Action

JUD	DPA	7-1-1
3RD READ		27-2-1

House Action

JUD	DPA	7-0-0-4
APPROP	DPA	13-0-0-4
3RD READ		49-8-3

SIGNED BY GOVERNOR 4/19/94

CHAPTER 201

Prepared by Senate Staff
April 21, 1994

As Passed by the Senate

XX

ARIZONA STATE SENATE
Phoenix, Arizona

REVISED
FACT SHEET FOR S.B. 1363

juvenile justice reform

Purpose

Makes significant changes to the method of charging and sentencing juveniles who commit unlawful acts. Appropriates monies to the Department of Administration, the Supreme Court and the Department of Education pursuant to the purpose of this bill.

Background

In 1994, major juvenile crime legislation was passed. That legislation included provisions which increased parental accountability, toughened juvenile firearm laws, established the safe schools program, enacted mandatory lengths of stay in the Department of Juvenile Corrections and required that commitment guidelines be developed.

This bill makes further changes to Arizona's juvenile justice system by allowing prosecutors to make case processing decisions based on the nature of the offense and the juvenile's prior record. Prosecutors would decide whether to divert cases from criminal prosecution or to prosecute juvenile offenders in the superior court as either delinquents or adults. If prosecuted as adults, the juveniles would have the right to a jury trial. At the time of sentencing, the judge would be able to do any of the following: 1) suspend criminal prosecution and sentence the juvenile under juvenile law 2) impose an adult sentence 3) impose a dual adult and juvenile sentence.

The bill also makes numerous other changes, including expanding the safe schools program, providing authority for judges to return foreign national youth to the care and custody of corrections officials in their country of origin, providing state funding to expand the capacity of local detention centers, allowing for the establishment of community justice boards and requiring courts to expand and establish victim reconciliation programs.

Provisions

1. Expands the jurisdiction of the juvenile court to hear matters related to juveniles accused of crime. (8-202)
2. Allows the presiding judge of counties having more than one judge to annually appoint at least one judge to hear juvenile justice cases. Currently, the judges select which judge or judges will serve in this capacity. (8-202)

Att. 3

FACT SHEET

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3. Expands the safe schools program by requiring the presiding juvenile court judge to, with the consent of the school, assign a juvenile probation officer to each junior and senior high school in the county. This will be done in cooperation with the Department of Education and the local superintendent of schools. The program will be funded by the Department of Education. (8-203)
4. Requires the juvenile probation department staff to forward all petitions alleging delinquency or incorrigibility to the county attorney unless the county attorney has predesignated certain referrals as eligible for diversion. (8-205)
5. Provides that the venue for an alleged delinquent act is the county in which the alleged delinquent act occurred. Currently, the venue is either where the act occurred or where the juvenile lives. For cases diverted to the juvenile probation department, the venue is either the county of residence of the juvenile or where the act occurred. (8-206)
6. Requires the release of juvenile records to an adult probation department if the juvenile is charged with a crime either in superior court or in justice court. Currently, only information related to a conviction may be released and this only applies to superior court. Also allows the use of the information for other than conducting a presentence investigation. (8-207)
7. Requires the release of juvenile records to prosecutors, law enforcement officers or a person's attorney if the juvenile is under investigation for a criminal offense. Currently this information would be released only if a juvenile had been charged in superior court. (8-208)
8. Allows the county attorney to move to have a case transferred to juvenile court if, during the pendency of a criminal charge, it is discovered the defendant is a juvenile. If the juvenile had been found guilty of the offense before the case was transferred back to juvenile court, the juvenile court must find the juvenile delinquent. (8-222)
9. Allows the board of supervisors to detain juveniles accused or convicted of a criminal offense or who are alleged or adjudicated delinquent in an adult jail. However, juveniles must be kept separated from adults. (8-226)
10. Repeals an outdated section of law that allows the court to refer juveniles to a youth service bureau. These do not exist. (8-228)
11. Provides that a juvenile is deemed a delinquent child if after conviction in adult court the court designates the offense a delinquent act. (8-228)
12. Allows the county attorney to divert the prosecution of a juvenile accused of committing a delinquent or incorrigible act to the juvenile probation department. Allows the county attorney to predesignate offenses that may initially be diverted. (8-230.01)

FACT SHEET

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13. **Requires the probation officer to submit all referrals, except those the county attorney has predesignated eligible for diversion, to the county attorney for review. The county attorney determines whether a petition should be filed or whether the referral or citation should be adjusted, but the juvenile probation officer may recommend either filing of a petition or adjusting the referral or citation. (8-230.01)**
14. **Requires the court to establish procedures for screening and assigning cases to community justice boards or teen court if they exist in the county. (8-230.01)**
15. **Allows for adjustment of the complaint or citation by a community justice board or teen court if after a personal interview with the juvenile offender, the juvenile's parents, victims, witnesses and others, the juvenile accepts responsibility for the act. (8-230.01)**
16. **Adds participation in a community justice program, participation in a teen court program and participation in any other program authorized by the court to the list of conditions with which the juvenile may be required to comply before the complaint or citation has been adjusted. (8-230.01)**
17. **Increases the monthly adjustment fee from \$30 to not less than \$40. (8-230.01)**
18. **Provides that if the juvenile does not comply with the conditions of adjustment or does not accept responsibility for the act, the probation department must submit the referral to the county attorney for determination of a charge. If the county attorney declines to prosecute, the county attorney may return the referral to the juvenile probation department for further services. (8-230.01)**
19. **Requires the juvenile probation department, the community justice board or the teen court to consider the opinion of the county attorney before establishing a program as a condition of deferred prosecution. (8-230.01)**
20. **Requires input from the county attorney before the presiding juvenile court judge submits a plan to the Supreme Court for expending monies allocated from the juvenile probation fund. (8-230.02)**
21. **Clarifies that juvenile hearing officers do not hear felony cases. Strikes their authority over cases involving possession of firearms by a juvenile. Strikes from those things a juvenile hearing officer may order on a finding that a juvenile did commit the violation the ability to reprimand the child and take no further action and the ability to direct the filing of a petition. Adds that the juvenile hearing officer may place the juvenile on probation or transfer the citation to the juvenile court. (8-232)**

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22. Requires that when a juvenile hearing officer orders restitution, one or both of the custodial parents must be included in the order. If one or both of the parents are included in the restitution order, the amount of the order shall not exceed the statutory liability limit of \$10,000. (8-232)
23. Allows the juvenile hearing officer to suspend the juvenile's driver's license or privilege to drive until the juvenile reaches 18 years of age if the juvenile has committed a second or subsequent alcohol offense. Requires the juvenile hearing officer to advise the juvenile who commits the first alcohol violation that on the second offense the court may suspend the juvenile's driver's license. (8-232)
24. Requires a juvenile court in any county to establish a juvenile justice council and allows the court to establish community justice boards and teen courts. (8-237)
25. Allows the court to award a foreign national delinquent juvenile to an appropriate official of the country of the juvenile's origin for placement on probation. (8-241)
26. Allows a court to place a juvenile on probation for more than one year if the juvenile is adjudicated delinquent for a serious offense or an offense involving physical injury or the threat of physical injury. (8-241)
27. Increases the monthly juvenile probation supervision fee from at least \$30 to at least \$40. (8-241)
28. Provides that if a juvenile ordered to pay restitution is financially unable to pay, the court may order one or both of the juvenile's custodial parents to make restitution to the victim, not to exceed the statutory liability limit of \$10,000. However, the juvenile shall make partial restitution, regardless of the juvenile's insufficient earning capacity. Allows the court to consider the victim's statement with respect to restitution. (8-241)
29. Requires the parent, guardian or juvenile ordered to pay restitution to satisfy the order through a lump sum payment or installment payments through the clerk of the court. (8-241)
30. Strikes the provision requiring the offender and the state to agree to allow a juvenile to be placed on probation until the person reaches 21 years of age for purposes of continuing treatment. The court would be able to order continued treatment beyond 18 years of age without agreement from the person or the state. (8-241)
31. Allows the court to order a juvenile who is alleged to have committed a sexual offense or an offense involving significant exposure to submit to an HIV test and to consent to release the test results to the victim. (8-241)

32. Provides that if a person is adjudicated delinquent or incorrigible for possessing, using or carrying a firearm in the commission of burglary in the first or second degree, arson, any felony offense involving the use or threatening exhibition of a deadly weapon or dangerous instrument or a serious offense, the person may not apply to have their juvenile records destroyed when the person reaches 23 years of age. (8-247)
33. Repeals the section relating to alcohol and drug related offenses from Title 8 and places it in Title 28. (8-249) (28-445.01)
34. Allows the court to retain jurisdiction for 180 days after a juvenile reaches 18 years of age for purposes of entering a judgment for restitution in favor of either the state for unpaid fines or fees or the victim for unpaid restitution. (8-250)
35. Requires the presiding juvenile court judge in each county to establish voluntary victim reconciliation and restitution services for victims of juvenile crime. (8-283.01)
36. Allows juvenile justice boards to be established in designated areas of each county for juvenile offenders eligible for diversion who live within the geographical area served by the board. The juvenile division of the superior court is responsible for administering the board. (8-291)
37. Prescribes the appointment of juvenile justice board members and the powers, duties, procedures and jurisdiction of the board. (8-291)
38. Repeals the law which states that a child under the age of 14 years is not criminally responsible in the absence of clear proof the person knew the act was wrong and replaces it with a statute that allows a person under the age of 18 to be charged with a felony. (8-501)
39. Provides that a juvenile who is convicted of certain serious offenses or has an historical prior felony conviction must be sentenced as an adult according to adult sentencing statutes. (13-608)
40. Allows the judge to sentence a juvenile convicted in adult court, except those juveniles convicted of certain serious offenses, to an adult sentence or to a dual adult and juvenile sentence. (13-608)
41. Allows a juvenile charged with a class 4, 5 or 6 felony in adult court to petition the court to have the case transferred to the juvenile court. The petition must be filed after a finding of guilt or acceptance of a plea and before the entry of judgment and guilt. Lists relevant factors the judge must consider in making the suspension decision. (13-608)
42. Prohibits the judge from transferring the case to juvenile court unless the judge finds by the preponderance of the evidence that public safety would be served. (13-608)

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43. Provides for a system of dual adult and juvenile probation options the court may use for sentencing a juvenile defendant. The court may require the juvenile to be incarcerated in a juvenile detention center or jail as a condition of probation for whatever time or intervals, consecutive or nonconsecutive, the court deems appropriate. A juvenile placed on probation is deemed to be on adult probation but the court may order the juvenile to participate in juvenile court probation services. (13-921)
44. Allows the court to set aside the juvenile's conviction if the juvenile successfully completes probation, except for certain offenses and under certain circumstances. (13-921)
45. Allows the court to designate an offense a delinquent act if a juvenile who is placed on probation for a class 4, 5 or 6 felony successfully completes the probation. In this case, the offense cannot be used a prior conviction in any subsequent prosecution. For some offenses and under some circumstances, this provision does not apply. (13-921)
46. Removes the restriction that allows the Department of Corrections to house only juveniles transferred to the adult court. (41-1607)
47. Clarifies that "secure care" means a locked facility for juvenile offenders. (41-2801)
48. Makes the following appropriations from the general fund for the 1996-1997 fiscal year:
 - a. Two million dollars to the Department of Administration for architectural and engineering services to expand juvenile secure care facilities by 1,500 beds.
 - b. Four million dollars to the juvenile detention system enhancement fund to expand local detention alternatives and local detention centers for preadjudicated and adjudicated juveniles.
 - c. Two million five hundred thousand dollars to the Department of Education to expand the safe schools program during the 1996-1997 academic year.
 - d. Five hundred thousand dollars to the Supreme Court to establish and operate victims reconciliation and restitution services.
 - e. One million dollars to the Supreme Court to provide systems and facilities necessary for jury trials and related hearings for processing cases of juveniles charged with a crime.
 - f. One million dollars to the juvenile treatment services fund, to provide additional community based treatment services and programs.
49. Makes technical and conforming changes.
50. Delays the effective date of the bill to January 1, 1997.

Amendments Adopted by the Judiciary Committee

1. **Strikes provisions requiring that a suspension hearing be held on conviction of a juvenile in adult court and replaces them with the sentencing options judges may impose on the convicted juvenile. (13-608)**
2. **Modifies the probation sentencing statute in the bill to specify under what circumstances a juvenile adult conviction may be designated a delinquent act. (13-921)**
3. **Delays the effective date of the bill to January 1, 1997.**

Amendments Adopted by the Appropriations Committee

1. **Establishes the juvenile detention enhancement fund, administered by the Supreme Court. Monies in the fund will be used to expand the capacity of local detention centers and local detention center alternatives. Appropriates \$4 million to the fund.**
2. **Changes the recipient of one of the appropriations in the bill from the Department of Juvenile Corrections for purposes of planning for the expansion of secure care beds in the Department by 1,500. The appropriation of \$2 million is now to the Department of Administration for architectural and engineering services to expand the secure care bed capacity of the Department to a total of 1,500 beds.**
3. **Appropriates \$2.5 million to the Department of Education to expand the safe schools program.**
4. **Appropriates \$500,000 to the Supreme Court to establish, operate and expand victim reconciliation and victim restitution services.**
5. **Appropriates \$1 million to the Supreme Court to provide systems and facilities necessary for jury trials and related hearings for juveniles charged with a crime.**
6. **Appropriates \$1 million to the juvenile treatment services fund to provide additional community based treatment services and programs.**

Amendments Adopted by Committee of the Whole

1. **Adds drive by shooting to the list of offenses for which a juvenile must be sentenced under the adult sentencing statutes.**
2. **Prescribes factors a judge must consider when deciding whether to designate an offense a juvenile offense, after a juvenile successfully completes probation.**

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3. **Changes the provision regarding expungement of a juvenile's record to conform to adult statutes relating to setting aside convictions.**

Senate Action

JUD	DPA	6-2-0
APPROP	DPA	11-2-2
Third Read		28-2-0

Prepared by Senate Staff
March 5, 1996

DOCUMENT #1

8-201. Definitions

In this chapter, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including the providing of normal supervision. Failure to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-223 and which is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

3. "ADJUST" MEANS TO DISPOSE OF A DELINQUENCY OR INCORRIGIBILITY REFERRAL OR CITATION IN A MANNER THAT DOES NOT REQUIRE THE FILING OF A PETITION.

~~3-~~ 4. "Adult" means a person eighteen years of age or older.

~~4-~~ 5. "Alcohol offense" means the purchase, possession or consumption by a juvenile of spirituous liquors in violation of section 4-244.

~~5-~~ 6. "Award" or "commit" means to assign legal custody.

~~6-~~ 7. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

8. "COMPLAINT" MEANS A WRITTEN STATEMENT OF THE ESSENTIAL FACTS CONSTITUTING A PUBLIC OFFENSE THAT IS MADE ON OATH BEFORE A JUDGE OR COMMISSIONER OF THE SUPERIOR COURT OR AN AUTHORIZED JUVENILE HEARING OFFICER OR THAT IS MADE PURSUANT TO SECTION 13-3903.

~~7-~~ 9. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

~~8-~~ 10. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a ~~child~~ JUVENILE has committed a specific delinquent act as set forth in a petition.

~~9-~~ 11. "Delinquent act" ~~includes~~ MEANS an act by a ~~child~~, JUVENILE which if committed by an adult would be a criminal offense ~~including a violation of section 4-244, paragraph 9~~ OR A PETTY OFFENSE, a violation of any law of this state, or of another state if the act occurred in that state, or a

law of the United States, or a violation of any law which can only be violated by a minor and which has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime, except that any ~~child remanded for prosecution~~ JUVENILE WHO IS PROSECUTED as an adult shall not be adjudicated as a delinquent ~~child for the same offense for which the child was remanded~~ JUVENILE UNLESS THE OFFENSE IS DESIGNATED A DELINQUENT ACT.

~~10.~~ 12. "Delinquent ~~child~~ JUVENILE" means a ~~child~~ JUVENILE who is adjudicated to have committed a delinquent act.

~~11.~~ 13. "Dependent child" means a child who is adjudicated to be:

(a) In need of proper and effective parental care and control and has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(b) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, A guardian, or any other person having custody or care of the child.

(c) Under the age of eight years AND who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.

~~12.~~ 14. "Detention" means the temporary care of a ~~child~~ JUVENILE who requires secure custody in physically restricting facilities for the protection of the ~~child~~ JUVENILE or the community pending court disposition.

~~13.~~ 15. "Incorrigible child" means a child WHO:

(a) IS adjudicated as ~~one~~ A CHILD who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian, ~~and who is beyond the control of such person, or any child who.~~

(b) Is habitually truant from school as ~~provided~~ DEFINED in section 15-803, subsection C, ~~or who.~~

(c) Is a runaway from THE CHILD'S home or parent, guardian or custodian, ~~or who.~~

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others, ~~or who.~~

(e) Commits any act constituting an offense which can only be committed by a minor and which is not designated as a delinquent offense, ~~or who.~~

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

~~14.~~ 16. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

~~15.~~ 17. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

~~16.~~ 18. "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by such governing body to act for the director. The term includes the

superintendent of the state hospital.

~~17-~~ 19. "Mental health agency" means any private or public facility THAT IS licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children AND ~~which~~ THAT utilizes secure settings or mechanical restraints.

20. "PETITION" MEANS A WRITTEN STATEMENT OF THE ESSENTIAL FACTS THAT ALLEGES DELINQUENCY, INCORRIGIBILITY OR DEPENDENCY AND THAT IS FILED BY THE COUNTY ATTORNEY OR THE ATTORNEY GENERAL.

~~18-~~ 21. "Protective supervision" means supervision ordered by the juvenile court of children found to be dependent or incorrigible.

22. "REFERRAL" MEANS A REPORT THAT IS SUBMITTED TO THE JUVENILE COURT AND THAT ALLEGES THAT A CHILD IS DEPENDENT OR HAS COMMITTED AN INCORRIGIBLE ACT OR A JUVENILE HAS COMMITTED A CRIMINAL OR DELINQUENT ACT.

23. "SECURE CARE" MEANS CONFINEMENT IN A FACILITY THAT IS COMPLETELY SURROUNDED BY A LOCKED AND PHYSICALLY SECURE BARRIER WITH RESTRICTED INGRESS AND EGRESS.

~~19-~~ 24. "Shelter care" means the temporary care of a child in any public or private facility or home licensed by this state AND offering a physically nonsecure environment, which is characterized by the absence of physically restricting construction or hardware and provides the child access to the surrounding community.

8-203. Court employees; appointment; certification; qualifications; salary; bond; participation in safe schools programs

A. The presiding judge of the juvenile court shall appoint a director of juvenile court services who shall serve at the pleasure of the presiding juvenile judge.

B. The director of juvenile court services shall recommend the appointment of deputy probation officers, detention personnel, other personnel and office assistants as the director deems necessary. Such deputy probation officers, detention personnel, other personnel and office assistants shall not have authority to act or draw a salary for their services until their appointments have been approved and ordered by the presiding judge of the juvenile court. A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time.

C. Probation department personnel shall qualify under minimum standards of experience and education established by the supreme court. Notwithstanding section 12-265, any additional salary costs that might be required as a result of the adoption of minimum salary standards by the supreme court may be paid by funds made available to the probation department pursuant to sections 12-267 and 12-268 or by the supreme court.

D. The presiding judge of the juvenile court may contract with the juvenile court and ~~the~~ COUNTY board of supervisors in one or more adjoining counties jointly to employ one or more juvenile probation officers who meet the minimum standards, with the salaries and expenses for such personnel

divided equally among the counties involved. The presiding judge of the juvenile court may contract with the state department of corrections for the juvenile court to provide parole services in the county.

E. The COUNTY board of supervisors, on recommendation of the presiding judge of the juvenile court, shall fix the salary ranges of all juvenile probation department personnel. Juvenile probation department personnel shall be hired pursuant to the rules and procedures approved by the supreme court.

F. Each director of juvenile court services and deputy juvenile probation officer receiving an official salary shall furnish a bond in the sum of not less than two thousand dollars which is approved by the judge of the juvenile court and conditioned for the faithful discharge of the duties of ~~his~~ THE PERSON'S office. If ~~such~~ bonds are furnished by a surety company licensed to transact business in the state, the premiums on ~~such~~ THESE bonds shall be a county charge. In the event the employees are included in a master bond pursuant to county regulations or covered by state risk management, the individual bonds prescribed shall not be required.

G. In cooperation with the department of education and the local superintendent of schools, the presiding judge of the juvenile court shall, with the consent of the school, assign juvenile probation officers to participate in the safe schools program in each junior and senior high school in the county. The cost of the juvenile probation officers is a state charge and shall be funded by the department of education.

8-206. Venue

A. The venue of proceedings in the juvenile court shall be determined by the county of the residence of the child, or the county where the alleged ~~delinquency~~, dependency or incorrigibility ~~obtains or is committed~~ OCCURS.

B. THE VENUE OF PROCEEDINGS IN THE JUVENILE COURT IN WHICH A PETITION IS FILED IS THE COUNTY WHERE THE ALLEGED DELINQUENT ACT OCCURRED.

C. THE VENUE OF PROCEEDINGS IN THE JUVENILE COURT IN WHICH A REFERRAL IS DIVERTED PURSUANT TO SECTION 8-230.01 IS THE COUNTY OF RESIDENCY OF THE JUVENILE OR THE COUNTY WHERE THE ALLEGED DELINQUENT ACT OCCURRED.

~~B.~~ D. ~~Where~~ IF the residence of the ~~child~~ JUVENILE and the situs of the alleged ~~delinquency~~, dependency or incorrigibility are in different counties, invoking proceedings in one county shall bar proceedings in the others.

8-207. Order of adjudication; noncriminal; use as evidence

A. Except as provided by section 28-444, an order of the juvenile court in proceedings under this chapter shall not be deemed a conviction of crime, ~~or~~ impose any civil disabilities ordinarily resulting from a conviction or operate to disqualify the ~~child~~ JUVENILE in any civil service application or appointment.

~~B. A child, by virtue of any such order, shall not be committed or transferred to an institution or other facility used primarily for the execution of sentences of persons convicted of a crime.~~

~~6-~~ B. The disposition of a ~~child~~ JUVENILE in the juvenile court may not be used against the ~~child~~ JUVENILE in any case or proceeding in any court ~~other than a juvenile court~~ OTHER THAN A CRIMINAL OR JUVENILE CASE, whether before or after reaching majority, except as provided by ~~section~~ SECTIONS 8-208 AND 28-444.

8-208. Release of juvenile court information

A. The juvenile court shall release to an adult probation department all information in its possession concerning a person ~~convicted in superior court of~~ WHO IS CHARGED WITH a criminal offense on the request of an adult probation officer ~~for the purpose of conducting a presentence investigation and report.~~

B. The juvenile court shall release to any state or local prosecutor or law enforcement officer or a person's attorney, upon the request of such person, the records of juvenile arrests, referrals or CRIMINAL complaints in its possession and the ADJUDICATIONS AND dispositions made of ~~these~~ juvenile arrests, referrals and CRIMINAL complaints concerning a person UNDER INVESTIGATION FOR OR charged ~~in superior court~~ with a criminal offense OR AN OFFENSE THAT COULD BE CHARGED AS A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT.

C. The juvenile court shall release all information in its possession concerning a person arrested for a criminal offense to superior court agencies or departments, other ~~superior~~ court divisions or magistrates ~~upon the request of a magistrate~~ OR AS AUTHORIZED BY THE SUPERIOR COURT for the purpose of assisting in the determination of release from custody, ~~and~~ bond AND PRETRIAL SUPERVISION.

D. The juvenile court shall release, upon request ~~to~~ BY the appropriate jail authorities for the purpose of determining classification, treatment and security, all information in its possession concerning persons WHO ARE under the age of eighteen, who have been transferred from juvenile court for criminal prosecution and WHO are being held in a county jail pending trial.

8-223. Taking into temporary custody; interference; release; separate custody; violation; classification

A. Except as provided in section 8-226, a ~~child~~ JUVENILE taken into temporary custody shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.

B. A child shall be taken into temporary custody:

1. Pursuant to an order of the juvenile court.
2. Pursuant to a warrant issued according to the laws of arrest.
3. In proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court upon a petition by a peace officer or a child protective services specialist under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse.

C. A ~~child~~ JUVENILE may be taken into temporary custody:

1. By a peace officer pursuant to the laws of arrest, without a warrant, if there are reasonable grounds to believe that ~~he~~ THE JUVENILE has

committed a delinquent act or THE CHILD is incorrigible.

2. By a peace officer or a child protective services specialist of the department of economic security if temporary custody is clearly necessary to protect the child because the child is either:

(a) Suffering or will imminently suffer abuse.

(b) Suffering serious physical or emotional damage which can only be diagnosed by a medical doctor or psychologist. The person taking a child into custody pursuant to this subdivision shall immediately have the child examined by a medical doctor or psychologist and after the examination the person shall release the child to the custody of the parent, guardian or custodian of the child unless the examination reveals abuse. Temporary custody of a child taken into custody pursuant to this subdivision shall not exceed twelve hours.

3. By a peace officer if there are reasonable grounds to believe that the child has run away from ~~his~~ THE CHILD'S parents, guardian or other custodian.

4. By a private person as provided by section 13-3884.

D. If a child is taken into temporary custody as provided in subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the law enforcement officer or child protective services specialist of the department of economic security taking the child into custody shall provide written notice within six hours to the parent, guardian or custodian of the child, unless:

1. The parent, guardian or custodian is present when the child is taken into custody, then written notice shall be provided immediately.

2. The residence of the parent, guardian or custodian is out-of-state and notice cannot be provided within six hours, then written notice shall be provided within twenty-four hours.

3. The residence of the parent, guardian or custodian is not ascertainable, then reasonable efforts shall be made to locate and notify as soon as possible the parent, guardian or custodian of the child.

E. The written notice shall contain the name of the person and agency taking the child into custody and the location from which the child was taken and all the following information:

1. The date and time of the taking into custody.

2. The name and ~~phone~~ TELEPHONE number of the agency responsible for the child.

3. A statement of the reasons for temporary custody of the child.

4. A statement that the child must be returned within forty-eight hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed and a statement that a child in temporary custody for examination pursuant to subsection C, paragraph 2, subdivision (b) of this section must be returned within twelve hours unless abuse is diagnosed.

5. A statement that if a dependency petition is filed and the child is declared a temporary ward of the court:

(a) The parent, guardian or custodian of the child may file a written request with the juvenile court for a hearing to review the temporary custody pursuant to section 8-546.06.

(b) The initial hearing on the dependency petition shall be set not later than twenty-one days from the filing of the petition, at which time the parent, guardian or custodian will be requested to personally appear before the court and answer the allegation of the petition.

(c) The parent, guardian or custodian of the child may request appointment of counsel pursuant to section 8-225 through the juvenile court.

F. Any peace officer or juvenile probation officer having a child in temporary custody for reasons other than the commission of a CRIMINAL OFFENSE OR A delinquent act may place the child in shelter care or a minimally secured facility.

G. A peace officer shall take a ~~child~~ JUVENILE into temporary custody pursuant to the laws of arrest, with or without a warrant, when there are reasonable grounds to believe that ~~both~~ EITHER:

1. The ~~child~~ JUVENILE has committed a CRIMINAL OFFENSE OR A delinquent act which if committed by an adult could be a felony or breach of the peace.

2. The ~~child~~ JUVENILE has been apprehended in commission of the act or in fresh pursuit.

~~Such child~~ THE JUVENILE may be released from temporary custody only to the parents, guardian or custodian of ~~such child~~ THE JUVENILE or to the juvenile court.

H. A person who knowingly interferes with the taking of a child into temporary custody under the provisions of this section is guilty of a class 2 misdemeanor.

I. A private person who files a dependency petition and obtains temporary custody of a child shall provide written notice as set forth in subsection D of this section containing the information required in subsection E, paragraph 5 of this section.

J. In determining if a child should be taken into custody under subsection C of this section, the peace officer or child protective services specialist may take into consideration as a mitigating factor the participation of the parent, guardian or custodian in the healthy families pilot program established in section 8-701.

8-223. Taking into temporary custody; interference; release; separate custody; violation; classification

A. Except as provided in section 8-226, a child taken into temporary custody shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.

B. A child shall be taken into temporary custody:

1. Pursuant to an order of the juvenile court.

2. Pursuant to a warrant issued according to the laws of arrest.

3. In proceedings to declare a child a temporary ward of the court to protect the child, pursuant to an order of the juvenile court upon a petition by a peace officer or a child protective services specialist under oath that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse.

C. A child may be taken into temporary custody:

1. By a peace officer pursuant to the laws of arrest, without a warrant, if there are reasonable grounds to believe that ~~he~~ THE JUVENILE has committed a delinquent act or THE CHILD is incorrigible.

2. By a peace officer or a child protective services specialist of the department of economic security if temporary custody is clearly necessary to protect the child because the child is either:

(a) Suffering or will imminently suffer abuse.

(b) Suffering serious physical or emotional damage which can only be diagnosed by a medical doctor or psychologist. The person taking a child into custody pursuant to this subdivision shall immediately have the child examined by a medical doctor or psychologist and after the examination the person shall release the child to the custody of the parent, guardian or custodian of the child unless the examination reveals abuse. Temporary custody of a child taken into custody pursuant to this subdivision shall not exceed twelve hours.

3. By a peace officer if there are reasonable grounds to believe that the child has run away from ~~his~~ THE CHILD'S parents, guardian or other custodian.

4. By a private person as provided by section 13-3884.

D. If a child is taken into temporary custody as provided in subsection B, paragraph 3 or subsection C, paragraph 2 of this section, the law enforcement officer or child protective services specialist of the department of economic security taking the child into custody shall provide written notice within six hours to the parent, guardian or custodian of the child, unless:

1. The parent, guardian or custodian is present when the child is taken into custody, then written notice shall be provided immediately.

2. The residence of the parent, guardian or custodian is out-of-state and notice cannot be provided within six hours, then written notice shall be provided within twenty-four hours.

3. The residence of the parent, guardian or custodian is not ascertainable, then reasonable efforts shall be made to locate and notify as soon as possible the parent, guardian or custodian of the child.

E. The written notice shall contain the name of the person and agency taking the child into custody and the location from which the child was taken and all the following information:

1. The date and time of the taking into custody.

2. The name and ~~phone~~ TELEPHONE number of the agency responsible for the child.

3. A statement of the reasons for temporary custody of the child.

4. A statement that the child must be returned within forty-eight hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed and a statement that a child in temporary custody for examination pursuant to subsection C, paragraph 2, subdivision (b) of this section must be returned within twelve hours unless abuse is diagnosed.

5. A statement that if a dependency petition is filed and the child is declared a temporary ward of the court:

(a) The parent, guardian or custodian of the child may file a written request with the juvenile court for a hearing to review the temporary custody pursuant to section 8-546.06.

(b) The initial hearing on the dependency petition shall be set not later than twenty-one days from the filing of the petition, at which time the parent, guardian or custodian will be requested to personally appear before the court and answer the allegation of the petition.

(c) The parent, guardian or custodian of the child may request appointment of counsel pursuant to section 8-225 through the juvenile court.

F. Any peace officer or juvenile probation officer having a child in temporary custody for reasons other than the commission of a CRIMINAL OFFENSE OR A delinquent act may place the child in shelter care or a minimally secured facility.

G. A peace officer shall take a ~~child~~ JUVENILE into temporary custody pursuant to the laws of arrest, with or without a warrant, when there are reasonable grounds to believe that ~~both~~ EITHER:

1. The ~~child~~ JUVENILE has committed a CRIMINAL OFFENSE OR A delinquent act which if committed by an adult could be a felony or breach of the peace.

2. The ~~child~~ JUVENILE has been apprehended in commission of the act or in fresh pursuit.

~~Such child~~ THE JUVENILE may be released from temporary custody only to the parents, guardian or custodian of ~~such child~~ THE JUVENILE or to the juvenile court.

H. A person who knowingly interferes with the taking of a ~~child~~ JUVENILE into temporary custody under the provisions of this section is guilty of a class 2 misdemeanor.

I. A private person who files a dependency petition and obtains temporary custody of a child shall provide written notice as set forth in subsection D of this section containing the information required in subsection E, paragraph 5 of this section.

8-226. Detention center; separate custody

A. The COUNTY board of supervisors shall maintain a detention center separate and apart from a jail or lockup in which adults are confined where ~~children~~ JUVENILES alleged to be delinquent or CHILDREN ALLEGED TO BE incorrigible and within the provisions of this article shall, when necessary before or after a hearing, be detained.

B. THE COUNTY BOARD OF SUPERVISORS MAY PROVIDE FOR THE DETENTION OF JUVENILES WHO ARE ACCUSED OR CONVICTED OF A CRIMINAL OFFENSE OR WHO ARE ALLEGED OR ADJUDICATED DELINQUENT IN A JAIL OR LOCKUP IN WHICH ADULTS ARE CONFINED. A JUVENILE WHO IS CONFINED IN A JAIL OR LOCKUP IN WHICH ADULTS ARE CONFINED SHALL BE KEPT IN A SEPARATE SECTION FROM ANY ADULT WHO IS CHARGED WITH OR CONVICTED OF A CRIMINAL OFFENSE, AND SIGHT OR SOUND CONTACT BETWEEN THE JUVENILE AND ANY CHARGED OR CONVICTED ADULT IS NOT PERMITTED.

~~B.~~ C. A ~~child~~ JUVENILE, pending a TRIAL OR hearing, shall not be ~~placed in an apartment, cell or place of confinement~~ CONFINED with adults charged with or convicted of a crime, except that:

1. A ~~child~~ JUVENILE WHO IS ACCUSED OF A CRIMINAL OFFENSE OR WHO IS alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the ~~child~~ JUVENILE is detained ~~separately~~ IN A SEPARATE SECTION from any ~~adults~~ ADULT WHO IS charged with or convicted of a crime and no sight or sound contact between the child and any charged or convicted adult is permitted.

2. A ~~child~~ JUVENILE WHO IS transferred pursuant to a hearing to an adult court may be securely detained if the ~~child~~ JUVENILE is detained separately from any adult charged with or convicted of a crime and no sight or sound contact with any charged or convicted adult is permitted.

~~C.~~ D. A ~~child~~ JUVENILE WHO IS alleged to be ~~dependent~~ DELINQUENT or A CHILD WHO IS ALLEGED TO BE incorrigible shall not be securely detained in a jail or lockup in which adults charged with or convicted of a crime are detained. A ~~child~~ JUVENILE may be nonsecurely detained if necessary to obtain the JUVENILE'S OR child's name, age, residence or other identifying information for up to six hours until arrangements for transportation to ~~a~~ ANY shelter care facility, home or other appropriate place can be made. A JUVENILE OR child who is nonsecurely detained shall be detained separately from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted.

~~D.~~ E. Any detained JUVENILE OR child who, by ~~his~~ THE JUVENILE'S OR CHILD'S conduct, endangers or evidences that ~~he~~ THE JUVENILE OR CHILD may endanger the safety of other detained JUVENILES OR children shall not be allowed to intermingle with any other JUVENILE OR child in the detention center.

8-228. Subpoena, issuance, duty of clerk

THE CLERK MAY ISSUE SUBPOENAS AND OTHER PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AT A HEARING INVOLVING A CHILD. A PARTY WHO WILL PRESENT EVIDENCE AT A HEARING INVOLVING A CHILD, MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF A WITNESS AT A HEARING INVOLVING A CHILD. THE SUBPOENA MAY BE SERVED BY ANY PERSON. ANY OTHER PROCESS MAY BE SERVED BY AN OFFICER OF THE JUVENILE COURT OR AN OFFICER AUTHORIZED TO SERVE PROCESS IN A CIVIL ACTION.

8-229. Required attendance of parent, legal guardian or custodian in court; contempt

A. The parent, ~~or~~ legal guardian OR CUSTODIAN of a JUVENILE OR child against whom a ~~complaint~~ PETITION has been filed ~~alleging~~ ALLEGING the commission of a delinquent or incorrigible act shall be served with a notice to appear and shall appear with the child OR JUVENILE at the juvenile court at the time set by the juvenile court. The court may waive the requirement that the parent, guardian or custodian appear. Failure of a parent, GUARDIAN OR CUSTODIAN to appear shall not bar further proceedings by the court.

B. The juvenile court may cite for contempt a parent, ~~or~~ legal guardian OR CUSTODIAN who fails to appear with the ~~child~~ JUVENILE in juvenile court.

8-230.01. Diversion program; eligibility requirements; recommendations; admission; county attorney

A. BEFORE THE FILING OF A PETITION OR BEFORE AN ADMISSION OR ADJUDICATION HEARING, THE COUNTY ATTORNEY MAY DIVERT THE PROSECUTION OF A JUVENILE WHO IS ACCUSED OF COMMITTING A DELINQUENT ACT OR A CHILD WHO IS ACCUSED OF COMMITTING AN INCORRIGIBLE ACT TO A JUVENILE PROBATION DEPARTMENT.

B. THE COUNTY ATTORNEY HAS SOLE DISCRETION TO DECIDE WHETHER TO DIVERT PROSECUTION OF A JUVENILE OFFENDER. THE COUNTY ATTORNEY MAY DESIGNATE THE OFFENSES THAT MAY INITIALLY BE REFERRED TO THE JUVENILE COURT FOR DIVERSION OR THAT MAY BE DIVERTED TO A JUVENILE PROBATION DEPARTMENT.

~~A.~~ C. EXCEPT FOR OFFENSES THE COUNTY ATTORNEY DESIGNATES AS ELIGIBLE FOR DIVERSION, upon receipt of a ~~delinquency complaint~~ REFERRAL alleging the commission of a ~~felony~~ AN offense, the juvenile probation officer shall submit the ~~complaint~~ REFERRAL to the county attorney ~~with the request that a petition be filed.~~ Upon receipt of a FOR REVIEW. ON REQUEST OF THE COUNTY ATTORNEY, THE JUVENILE PROBATION OFFICER SHALL SUBMIT ALL ~~delinquency complaint~~ REFERRALS AND CITATIONS alleging the commission of a ~~misdemeanor~~ AN offense ~~or a complaint or citation alleging an alcohol offense,~~ the juvenile probation officer may submit the ~~complaint or citation~~ to the county attorney. ~~with the request that~~ THE COUNTY ATTORNEY SHALL DETERMINE IF a petition SHOULD be filed, ~~except that on receipt of a delinquency complaint alleging the commission of a misdemeanor offense by a juvenile whose prior alleged delinquent acts have been adjusted on two separate occasions, the juvenile probation officer shall submit the complaint to the county attorney with the request that a petition be filed.~~ OR IF THE REFERRAL OR CITATION SHOULD BE ADJUSTED. THE JUVENILE PROBATION OFFICER MAY RECOMMEND EITHER THE FILING OR ADJUSTING OF THE REFERRAL OR CITATION.

~~B.~~ D. ~~If the county attorney does not file a petition after a request pursuant to subsection A of this section or, except as provided in subsection A of this section, if the juvenile probation officer receives a delinquency complaint alleging the commission of a misdemeanor offense or a complaint or citation alleging an alcohol offense,~~ IF THE JUVENILE COURT ESTABLISHES COMMUNITY JUSTICE BOARDS OR TEEN COURTS PURSUANT TO SECTION 8-237, THE COURT SHALL ESTABLISH PROCEDURES TO SCREEN AND ASSIGN APPROPRIATE CASES TO THE BOARDS OR TEEN COURTS. IF A CASE IS NOT APPROPRIATE TO ASSIGN TO A COMMUNITY JUSTICE BOARD OR TEEN COURT OR IF AN INSUFFICIENT NUMBER OF COMMUNITY JUSTICE BOARDS OR TEEN COURTS EXIST, THE COURT SHALL ASSIGN THE CASE OR CASES TO A JUVENILE PROBATION OFFICER. The juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT may conduct a personal interview with the alleged juvenile offender ~~and at least one of~~ AND the juvenile's parents or guardians AND WITH VICTIMS, WITNESSES AND OTHER PERSONS THAT ARE DEEMED APPROPRIATE. If the juvenile acknowledges responsibility for the delinquent act ~~or alcohol offense,~~ the ASSIGNED juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT shall adjust the complaint or citation. Before adjusting the complaint or citation, the juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT shall require that the juvenile comply with one or more of the following conditions:

1. Participation in unpaid community service work.
2. Participation in a counseling program approved by the court, which is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.
3. Participation in an education program approved by the court, which has as its goal the prevention of further delinquent behavior.
4. Participation in an education program approved by the court, which is designed to deal with ancillary problems experienced by the juvenile, such as alcohol or drug abuse.
5. Participation in a nonresidential program of rehabilitation or supervision offered by the court, or offered by a community youth serving agency and approved by the court.
6. Payment of restitution to the victim of the delinquent act.
7. Payment of a monetary assessment.
8. PARTICIPATION IN A COMMUNITY JUSTICE PROGRAM.
9. PARTICIPATION IN A TEEN COURT PROGRAM.
10. PARTICIPATION IN ANY OTHER PROGRAM AUTHORIZED BY THE COURT.

E. THE COUNTY ATTORNEY OR THE VICTIM MAY RECOMMEND THAT A JUVENILE BE PLACED INTO A COMMUNITY JUSTICE PROGRAM OR A TEEN COURT PROGRAM.

~~E-~~ F. The juvenile probation officer shall assess the parent of a ~~child~~ JUVENILE whose ~~complaint or citation~~ REFERRAL is adjusted pursuant to subsection ~~B-~~ D of this section a MONTHLY fee of ~~thirty~~ NOT LESS THAN FORTY dollars unless, after determining the inability of the parent to pay the fee, the juvenile probation officer assesses a lesser amount. Monies assessed pursuant to this subsection shall be paid to the clerk of the superior court. The clerk of the superior court shall pay all monies collected from this assessment to the county treasurer for deposit in the juvenile probation services fund, to be utilized as provided in section 12-268.

~~D-~~ G. If the juvenile does not acknowledge responsibility for the ~~delinquent act or alcohol~~ offense, or fails to comply with the conditions set by the juvenile probation officer, COMMUNITY JUSTICE BOARD OR TEEN COURT, the ~~delinquency complaint or complaint or citation alleging an alcohol offense may~~ REFERRAL SHALL be submitted to the county attorney with a ~~request that a petition be filed~~ FOR DETERMINATION OF A CHARGE.

H. If the county attorney declines prosecution, the county attorney may return the referral to the juvenile probation department for further services.

I. Before establishing a program as a condition of deferred prosecution, a juvenile probation department, community justice board or teen court shall seek and consider the opinion of the county attorney.

8-230.02. Juvenile probation fund; program and contract requirements

A. The juvenile probation fund is established. The supreme court shall administer the fund. Monies in the juvenile probation fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

B. The supreme court shall allocate monies in the fund or appropriated to the superior court's juvenile probation services fund line based on its determination of the need for and probable effectiveness of each plan

submitted pursuant to this article. The supreme court shall require that the presiding juvenile court judge submit in accordance with rules of the supreme court a plan for the expenditure of monies allocated to the juvenile court pursuant to this section. The supreme court may reject a plan or a modification of a plan submitted pursuant to this subsection. THE PLAN SHALL INCLUDE GUIDELINES AND SPECIFIC PROGRAMS THAT ARE DEVELOPED IN COOPERATION WITH THE COUNTY ATTORNEY AND THE JUVENILE JUSTICE COUNCIL ESTABLISHED PURSUANT TO SECTION 8-237.

C. Monies shall be used to fund programs, the participation in which a juvenile probation officer has required as a condition precedent to adjustment of a delinquency ~~complaint or a complaint~~ REFERRAL or citation ~~alleging an alcohol offense pursuant to section 8-230.01~~ to reduce the number of repetitive juvenile offenders and to provide services, including treatment, testing, independent living programs and residential, foster and shelter care, for children referred to the juvenile court for incorrigibility or delinquency offenses. Monies may be used to provide the cost of care for persons under the age of twenty-one who were placed in an independent living program or in foster care before the age of eighteen, who voluntarily remain in such care and who are currently enrolled in and regularly attending any high school or certificate of equivalency program. Pursuant to section 8-241, subsection ~~M-0~~, monies may also be used to provide services for persons who are under twenty-one years of age and who voluntarily participate in treatment. Except pursuant to section 8-241, subsection ~~M-0~~, the cost of care shall not be continued for a person who has received a high school diploma or certificate of equivalency. These services shall be approved by the supreme court. The COUNTY juvenile court may develop and staff such programs, or the supreme court may enter into the purchase of service contracts with community youth serving agencies.

D. The monies shall be used to supplement, not supplant, funding to the juvenile court by the county.

E. The supreme court shall contract for a periodic evaluation to determine if the provisions of this article reduce the number of repetitive juvenile offenders. The supreme court shall send a copy of the evaluation to the speaker of the house of representatives, the president of the senate and the governor.

F. A contract entered into between the supreme court and any contract provider to provide services pursuant to this section to juveniles shall provide that personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall be fingerprinted as a condition of employment. The contract shall further provide that the contractor shall submit employee fingerprints to the supreme court or its designated agency prior to performance of any job duties by the employee which require or allow the employee to provide services directly to juveniles without supervision.

G. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

H. The contractor shall assume the costs of fingerprint checks and may

charge these costs to its fingerprinted personnel.

I. Personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the supreme court and notarized whether they are awaiting trial on or have ever been convicted of any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Kidnapping.
5. Arson.
6. Sexual assault.
7. Sexual exploitation of a minor.
8. Contributing to the delinquency of a minor.
9. Commercial sexual exploitation of a minor.
10. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
11. Burglary.
12. Robbery.
13. A dangerous crime against children as defined in section 13-604.01.
14. Child abuse.
15. Sexual conduct with a minor.
16. Molestation of a child.
17. Manslaughter.
18. Aggravated assault.

J. Personnel who are employed by any contract provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the supreme court and notarized whether they have ever committed any act of sexual abuse of a child, including sexual exploitation and commercial sexual exploitation, or any act of child abuse.

K. Every service contract with any contract provider which involves the employment of persons who have contact with juveniles shall provide that the contract may be cancelled or terminated if the fingerprint check or the certified form of any person who is employed by a contract provider, whether paid or not, and who is required or allowed to provide services directly to juveniles discloses that the person has committed any act of sexual abuse of a child, including sexual exploitation or commercial sexual exploitation, or any act of child abuse or that the person has been convicted of or is awaiting trial on any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Commercial sexual exploitation of a minor.

7. A dangerous crime against children as defined in section 13-604.01.
8. Child abuse.
9. Sexual conduct with a minor.
10. Molestation of a child.

L. The contractor may avoid termination of the contract if the person whose fingerprints or certification form shows that ~~he~~ THE PERSON has been convicted of or is awaiting trial on any of the offenses listed in subsection K of this section or has committed any of the acts listed in subsection ~~J~~ I of this section is immediately prohibited from employment or service with the contractor in any capacity requiring or allowing contact with juveniles.

M. Every service contract with any contract provider which involves the employment of persons who have contact with juveniles shall contain a provision that the contract may be cancelled or terminated if the fingerprint check or the certified form of any person, whether paid or not, who is required or allowed to provide services to juveniles without supervision and who is employed by a contract provider discloses that the person has been convicted of or is awaiting trial on any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Arson.
2. Contributing to the delinquency of a minor.
3. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
4. Burglary.
5. Robbery.
6. Kidnapping.
7. Manslaughter.
8. Aggravated assault.

N. The contractor may avoid termination of the contract if the person whose fingerprints or certification form shows that he has been convicted of or is awaiting trial on an offense or similar offense as listed in subsection M of this section is immediately prohibited from employment or service with the contractor in any capacity requiring or allowing the person to provide services directly to juveniles without supervision or unless the person has been granted an exception for good cause pursuant to the requirements and procedures of section 41-1954.01. The supreme court may, in its sole discretion, determine whether to submit the application to the director of the department of economic security for review.

O. The requirements of subsections F through ~~M~~ N of this section do not apply to personnel who are employed by a contract provider that has a contract for services to juveniles with or is licensed or certified by the department of health services, the department of juvenile corrections or the department of economic security and who have been fingerprinted and submitted the required certification form in connection with that employment. Federally recognized Indian tribes or military bases may submit and the supreme court shall accept certifications that state that no personnel who are employed or who will be employed during the contract term and who provide services directly to juveniles have been convicted of, have admitted committing or are

awaiting trial on any offense under subsection I or K of this section.

P. Adult clients of a contract provider who are receiving treatment services are exempt from the requirements of this section, unless they provide services directly to juveniles without supervision.

Q. Volunteers who provide services to juveniles under the direct visual supervision of the contractor's or licensee's employees are exempt from the fingerprinting requirements of this section.

8-236. Appeals

A. Any aggrieved party in any proceeding under this title may appeal from a final order of the juvenile court to the court of appeals in the manner provided in THE rules of procedure for the juvenile court as ~~promulgated~~ ADOPTED or approved by the Arizona supreme court, ~~except the name of the child shall not appear in the record of the appeal, the juvenile court record number assigned to that case substituting for the name.~~

B. The order of the juvenile court shall not be suspended ~~or~~ AND the execution ~~thereof~~ OF THE ORDER SHALL NOT BE stayed pending the appeal, except THAT the appellate court may, by order, suspend or stay the execution ~~thereof~~ ~~provided~~ OF THE ORDER IF suitable provision is made for the care and custody of the ~~child~~ JUVENILE.

C. The court of appeals shall give the appeal precedence over all other actions except extraordinary writs or special actions.

D. The judge of the juvenile court shall appoint an attorney for an indigent party appealing a final order of the juvenile court, and a reasonable sum shall be fixed by the court to be paid by the county to ~~such~~ THE attorney for the appeal.

8-237. Cooperation

A. ~~It is hereby made the duty of~~ Every public official and department ~~to~~ SHALL render all assistance and cooperation within ~~his or its~~ THE OFFICIAL'S OR DEPARTMENT'S jurisdictional power which may further the objects of this chapter. An institution or agency to which the juvenile court awards a ~~child~~ JUVENILE shall give the court or an officer appointed by it such information concerning the ~~child~~ JUVENILE as the court or the officer may require.

B. The juvenile court ~~is authorized to~~ MAY seek the cooperation of organizations whose object is to protect or aid children and family life. The juvenile court ~~of~~ IN any county SHALL ESTABLISH A JUVENILE JUSTICE COUNCIL AND may establish, or assist in the establishment of, any OTHER public council or committee, INCLUDING COMMUNITY JUSTICE BOARDS AND TEEN COURTS, having as ~~its~~ THEIR object the prevention of juvenile delinquency ~~and~~. THE JUVENILE COURT may cooperate with, or participate in, the work of any such ~~councils~~ COUNCIL or ~~committees~~ COMMITTEE for the purpose of preventing or decreasing juvenile delinquency, including ~~the~~ improving ~~of~~ recreational, health, ~~and~~ and other conditions in the community affecting juvenile welfare.

8-246. Jurisdiction; length of commitment; placement; assessment

A. When jurisdiction has been acquired by the juvenile court of a child, the child shall continue under the jurisdiction of the juvenile court until such child becomes eighteen years of age, unless sooner discharged pursuant to law. From the time of commitment to the department of juvenile corrections, a child shall be subject to the control of the department of juvenile corrections until such child's absolute discharge or until expiration of the commitment on the child's eighteenth birthday.

B. Except pursuant to section 8-241, subsections B and ~~←~~ N, the awarding of a child shall not extend beyond the eighteenth birthday of the child, and commitments to the department of juvenile corrections shall be until the child attains the age of eighteen years unless sooner discharged by the department of juvenile corrections.

C. The supreme court in cooperation with the department of juvenile corrections and other state agencies shall develop a common risk needs assessment instrument to be used for each child referred to the juvenile court. The juvenile court shall update the risk needs assessment on each subsequent referral of the child to the juvenile court, and the court shall use the risk needs assessment to determine the appropriate disposition of the child. The supreme court in cooperation with the department of juvenile corrections shall develop guidelines to be used by juvenile court judges in determining those juveniles that should be committed to the department of juvenile corrections.

8-250. Restitution payments

A. ~~The juvenile court shall retain jurisdiction of the case for purposes of modifying the manner in which restitution payments ordered pursuant to section 8-241, subsection D, are made until the child attains the age of eighteen years. At the time the child attains the age of eighteen years, the court shall enter~~ FOR ONE HUNDRED EIGHTY DAYS AFTER THE JUVENILE ATTAINS EIGHTEEN YEARS OF AGE FOR THE PURPOSE OF ENTERING both:

1. Judgment in favor of the state for the unpaid balance, if any, of any costs, fees, surcharges or monetary assessments imposed.
2. Judgment in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

B. The judgment may be enforced and renewed as any civil judgment.

8-251. Restitution lien; definition

A. A person who is entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR SECTION 8-241, subsection D OR E may file a restitution lien. No filing fee or other charge is required for filing a restitution lien.

B. ~~The attorney representing the state in the delinquency proceeding or~~ A judge, commissioner or juvenile hearing officer shall sign the restitution lien and shall set forth all of the following:

1. The name and date of birth of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON whose property or other interests are subject to the lien.

2. The present residence or principal place of business of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON named in the lien, if known.

3. The delinquency proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number.

4. The name and address of the attorney representing the state in the delinquency proceeding pursuant to which the lien is filed or the name and address of the person who is entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR SECTION 8-241, subsection D OR E and who is filing the lien.

5. A statement that the notice is being filed pursuant to this section.

6. The amount of restitution that the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN has been ordered to pay.

7. A statement that the total amount of restitution owed will change and that the clerk of the superior court shall maintain a record of the outstanding balance.

C. A restitution lien is perfected against interests in personal property by filing the lien with the secretary of state, except that for motor vehicles, the lien shall be filed with the department of transportation. A restitution lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The person entitled to restitution may give the additional notice of the lien as ~~he~~ THE PERSON deems appropriate.

D. The filing of a restitution lien creates a lien in favor of the person in all of the following:

1. Any interest of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON in real property that is situated in the county in which the lien is filed and that is currently maintained or thereafter acquired in the name of the ~~delinquent child~~ PERSON identified in the lien.

2. Any interest of the ~~delinquent child~~ PERSON OR OF THE PARENT OR GUARDIAN OF THE PERSON in personal property that is situated in this state and that is currently maintained or thereafter acquired in the name of the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON identified in the lien.

3. Any property identified in the lien to the extent of the ~~delinquent child's~~ PERSON'S OR THE PARENT'S OR GUARDIAN'S interest in the property.

E. The filing of a restitution lien is notice to all persons dealing with the ~~delinquent child~~ PERSON OR THE PARENT OR GUARDIAN OF THE PERSON or WITH property identified in the lien of the claim of the person entitled to restitution pursuant to section 8-232, SUBSECTION E, PARAGRAPH 9 OR 8-241, subsection D OR E. The lien created in favor of the person pursuant to this section is superior and prior to the claims or interests of any other person, except a person possessing any of the following:

1. A valid lien that is perfected before the filing of the restitution lien.

2. In the case of real property, an interest that is acquired and

recorded before the filing of the restitution lien.

3. In the case of personal property, an interest that is acquired before the filing of the restitution lien.

F. This section does not limit the right of the state or any other person entitled to restitution to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized by law.

G. For the purposes of this section, "parent or guardian" means a parent or guardian who is ordered to make restitution pursuant to section 8-232, subsection E, paragraph 9 or section 8-241, subsection E.

12-268. Juvenile probation services fund; use

A. The COUNTY board of supervisors shall designate a chief fiscal officer who shall establish and administer a juvenile probation services fund consisting of:

1. County general fund appropriations for juvenile probation.

2. Court information cost monies received pursuant to section 8-134, subsection I.

3. State appropriations for juvenile probation, except monies in the juvenile probation fund established by section 8-230.02 and except monies in the court appointed special advocate fund established by section 8-524, but including:

(a) Monies for juvenile probation officers authorized by section 8-203.

(b) Monies for state aid for juvenile probation services authorized by this article.

(c) Monies for family counseling services established by title 8, chapter 2, article 5.

(d) Monies for juvenile intensive probation services established by title 8, chapter 2, article 6.

4. Probation fees collected pursuant to section 8-230.01, subsection ~~E~~ F.

5. Probation fees collected pursuant to section 8-241, subsection C.

6. Federal monies provided for juvenile probation services.

7. Juvenile probation monies from any other source.

B. The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding juvenile judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the juvenile probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding juvenile judge of the superior court. The chief fiscal officer, on or before August 31 of each year for the preceding fiscal year, shall submit an annual report to

the supreme court showing the total amount of receipts and expenditures in each account of the juvenile probation services fund.

C. The state monies in the juvenile probation services fund shall be used in accordance with guidelines established by the supreme court or the granting authority.

D. State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.

E. County monies in the juvenile probation services fund shall be used in accordance with the fiscal policies and procedures established by the board of supervisors.

31-124. Segregation of prisoners; males and females; minors and adults

A. Male and female prisoners, except husband and wife, shall not be kept or placed in the same room.

B. A person under the age of eighteen years shall not be confined in ~~any apartment, cell or room in company with adults charged with crime~~ THE SAME SECTION OF ANY JAIL OR PRISON IN WHICH ADULT PRISONERS ARE CONFINED.

36-883.02. Child care personnel; registration; fingerprints; exemptions; definition

A. Child care personnel shall register with the department in order to work in a day care center.

B. Except as provided in subsection E of this section, child care personnel shall be fingerprinted and submit the form prescribed in subsection F of this section to the department within twenty days after the date they begin work for a day care center. Registration is conditioned on the results of the fingerprint check.

C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of health services. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

D. The department shall charge the prospective employer of child care personnel for the costs of fingerprint checks. The employer may charge those costs to its fingerprinted employee.

E. Exempt from the fingerprinting requirements of subsection B of this section are parents, including foster parents and guardians, who are not employees of the day care center and who participate in activities with their children under the supervision of and in the presence of child care personnel.

F. Child care personnel shall certify on forms that are provided by the department and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

(a) Sexual abuse of a minor.

(b) Incest.

- (c) First or second degree murder.
- (d) Kidnapping.
- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

G. Employers of day care center personnel shall make documented, good faith efforts to contact previous employers of day care center personnel to obtain information or recommendations which may be relevant to an individual's fitness for employment in a day care center.

H. The notarized forms and fingerprint checks are confidential.

I. For the purposes of this section, "child care personnel" means any employee or volunteer working at a day care center.

36-897.03. Day care group homes; child care personnel; registration; fingerprints; definition

A. ~~Beginning July 1, 1989,~~ Child care personnel shall register with the department in order to work in a certified day care group home.

B. ~~Beginning July 1, 1989,~~ Child care personnel shall be fingerprinted and submit the form prescribed in subsection E of this section to the department within twenty days after beginning work at a certified day care group home. Registration is conditioned on the results of the fingerprint check.

C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of health services. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

D. The department shall charge child care personnel for the costs of their fingerprint checks.

E. Child care personnel shall certify on forms that are provided by the

Department and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

- (a) Sexual abuse of a minor.
- (b) Incest.
- (c) First or second degree murder.
- (d) Kidnapping.
- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a certificate to operate a day care group home or a license to operate a day care center for the care of children for cause in this state or another state or had a license to operate a day care center or a certificate to operate a day care group home revoked.

F. The provider shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations which may be relevant to an individual's fitness to work in a certified day care group home.

G. The director may adopt rules prescribing the exclusion from day care group homes of individuals whose presence may be detrimental to the welfare of children.

H. The notarized forms and fingerprint checks are confidential.

I. For the purposes of this section, "child care personnel" means all employees of and persons who are eighteen years of age or older AND who reside in a day care group home which is certified by the department.

1-1607. Correctional facilities for minors; programs

A. The director may establish and operate correctional facilities for persons WHO ARE under the age of eighteen years ~~who are transferred to adult court~~ and who are committed to the state department of corrections ~~on conviction of a criminal offense~~. The minor inmates shall be kept IN A separate SECTION from adult inmates.

B. The director shall require minors who are committed to the department to participate in the following intensive programs:

1. The functional literacy program established pursuant to section 31-229.
2. An organized recreation and physical training program.
3. A citizenship training program.
4. A labor program pursuant to section 31-251.

41-1964. Day care homes; child care personnel; registration; fingerprints; definition

A. Child care personnel shall register with the department in order to work in a certified day care home.

B. Child care personnel shall be fingerprinted and submit the form prescribed in subsection E of this section to the department within twenty days after beginning work at a certified day care home. Registration is conditioned on the results of the fingerprint check.

C. For the purpose of screening child care personnel, the department of public safety shall provide information from its records relating to convictions for public offenses to the department of economic security. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

D. The department shall charge child care personnel for the costs of their fingerprint checks.

E. Child care personnel shall certify on forms that are provided by the department and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

- (a) Sexual abuse of a minor.
- (b) Incest.
- (c) First or second degree murder.
- (d) Kidnapping.
- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

F. The department shall make documented, good faith efforts to contact previous employers of certified day care home personnel to obtain information or recommendations which may be relevant to an individual's fitness for work in a certified day care home.

G. The notarized forms and fingerprint checks are confidential.

H. For the purposes of this section, "child care personnel" means all employees of and persons residing in a day care home which is certified by the department pursuant to section 41-1954, subsection A, paragraph 1, subdivision (b) AND who are eighteen years of age or older.

41-2801. Definitions

In this chapter, unless the context otherwise requires:

1. "Committed youth" or "youth" means a person who is eight years of age or older but who has not yet attained the age of eighteen years and who has been committed according to law to the department of juvenile corrections for supervision, rehabilitation, treatment and education.

2. "Department" means the department of juvenile corrections.

3. "Director" means the director of the department of juvenile corrections.

4. "Educational system" means the state educational system for committed youth.

5. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

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3. "Director" means the director of the department of juvenile corrections.

4. "Educational system" means the state educational system for committed youth.

5. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

41-2822. Education and work requirement for committed youth; classification; compensation; restitution; terms of conditional liberty

A. Notwithstanding title 23, chapter 2, article 3, each youth under commitment to the department and confined in a secure care facility under the department's jurisdiction shall engage in not fewer than forty hours per week of work unless exempted under subsection D of this section, except that if the youth regularly attends and is making satisfactory progress in educational classes as prescribed in this section the youth shall be required to work not fewer than twenty hours per week with up to ten hours of homework per week counting toward this requirement.

B. A committed youth who has not received a high school diploma, a high school certificate of equivalency or an exception from the director shall attend school full time and make satisfactory progress in educational classes.

C. The director shall establish a committed youth work classification system to ensure that:

1. A committed youth receives work assignments commensurate and compatible with the condition and limitations of ~~his~~ THE YOUTH'S physical and mental health.

2. No committed youth participates in a work assignment that threatens the safety and security of the public, the secure care facility or the committed youth.

D. Each committed youth placed by the department in a secure care facility shall be classified pursuant to the committed youth work classification system established by the director. A committed youth may be exempted from the work requirement if the staff of the secure care facility determines that the exemption is necessary for the health, safety or treatment of the youth. The director or the director's authorized designee shall review and approve each classification that results in exempting a committed youth from engaging in the work requirements of subsection A of this section.

E. Each committed youth who is engaged in productive work while confined in a secure care facility under the jurisdiction of the department shall receive such compensation for ~~his~~ THE YOUTH'S work as the director shall determine. The compensation shall be in accordance with a graduated schedule based on quality and quantity of work performed and skill required for its performance, but ~~in no event shall~~ the compensation SHALL NOT exceed one dollar per hour unless the director enters into a contract with a private person, firm, corporation or association, in which case the compensation shall be as prescribed by the person, firm, corporation or association.

F. The compensation of committed youth shall be paid out of monies established pursuant to section 41-2807, monies received pursuant to section 8-243 or monies appropriated by the legislature.

G. Two-thirds of any compensation earned pursuant to this section by a committed youth shall be paid to the clerk of the superior court to satisfy any juvenile court restitution OR MONETARY ASSESSMENT order made pursuant to section 8-241, subsection D or ~~E~~ F.

H. If a committed youth is not subject to a restitution order, two-thirds of any compensation earned pursuant to this section shall be used to defer the costs of room and board for maintaining the committed youth at the secure care facility.

I. The department shall require the payment of court ordered monetary reimbursements or assessments as a term of conditional liberty. While a youth is on conditional liberty the department shall determine the portion of wages to be credited to restitution and the nature of the work program.

46-321. Fingerprinting; affidavit

A. Sponsors except military bases and federally recognized Indian tribes receiving federal child care food program monies from the department of education shall register with the department of education in order to receive those monies, unless they are public schools, day care centers licensed by the department of health services or day care homes certified by the department of economic security.

B. Sponsors except military bases and federally recognized Indian tribes receiving federal child care food program monies as provided in subsection A of this section shall require all child care personnel to be fingerprinted and shall require all child care personnel to submit the form prescribed in subsection G of this section to the department of education before they receive any of those monies.

C. Sponsors that are federally recognized Indian tribes or military bases may submit and the department shall accept certifications which state that no child care personnel employed or who will be employed during the contract term has been convicted of, has admitted to or is awaiting trial on any of the offenses listed in subsection G, paragraph 1 of this section or is the parent or guardian of a child adjudicated to be a dependent child as defined in section 8-201, paragraph 11 or the parent or guardian of a child adjudicated a dependent child under similar provisions in another state or jurisdiction.

D. Sponsors that are federally recognized Indian tribes or military bases may submit and the department shall accept certifications which state that good faith efforts have been made to contact previous employers of tribal and military child care personnel.

E. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

F. The department of education shall charge sponsors receiving federal child care food program monies as provided in subsection A of this section for the costs of their fingerprint checks.

G. Sponsors receiving federal child care food program monies as provided in subsection A of this section shall require all child care personnel to certify on forms that are provided by the department of education and notarized that:

1. They are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

- (a) Sexual abuse of a minor.
- (b) Incest.
- (c) First or second degree murder.
- (d) Kidnapping.

- (e) Arson.
- (f) Sexual assault.
- (g) Sexual exploitation of a minor.
- (h) Contributing to the delinquency of a minor.
- (i) Commercial sexual exploitation of a minor.
- (j) Felony offenses involving distribution of marijuana or dangerous or narcotic drugs.
- (k) Burglary.
- (l) Robbery.
- (m) A dangerous crime against children as defined in section 13-604.01.
- (n) Child abuse.
- (o) Sexual conduct with a minor.
- (p) Molestation of a child.
- (q) Manslaughter.
- (r) Aggravated assault.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201, ~~paragraph 11~~.

3. They have not been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

H. Sponsors shall make documented, good faith efforts to contact previous employers of child care personnel who receive federal child care food program monies as provided in subsection A of this section to obtain information or recommendations which may be relevant to an individual's fitness for child care.

I. The notarized forms, fingerprint checks and certifications are confidential.

DOCUMENT #2

8-202. Jurisdiction of juvenile court

A. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this chapter.

B. The juvenile court also has exclusive original jurisdiction of proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law.

C. The juvenile court has ~~exclusive~~ original jurisdiction over civil traffic violations committed within the county by persons under eighteen years of age unless the presiding judge of the county declines jurisdiction of such cases. The presiding judge of the county may decline jurisdiction of civil traffic violations committed within the county by juveniles if ~~he~~ THE PRESIDING JUDGE finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

D. THE JUVENILE COURT MAY HEAR MATTERS INVOLVING JUVENILES WHO ARE ACCUSED OF CRIME.

~~D.~~ E. The orders of the juvenile court under the authority of this chapter shall, to the extent that they are inconsistent ~~therewith~~ WITH THIS CHAPTER, take precedence over any order of any other court of this state excepting the court of appeals and the supreme court.

~~E.~~ F. Jurisdiction of a ~~child~~ JUVENILE obtained by the juvenile court in a proceeding under this chapter shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court prior thereto.

~~F.~~ G. In counties having more than one judge of the superior court the ~~judges~~ PRESIDING JUDGE of ~~such~~ THE county shall annually, ~~between November 15 and December 31~~, designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year. The presiding judge shall from time to time designate ~~such~~ additional judges as may be necessary for the prompt disposition of judicial business before the juvenile court. In all counties where more than one judge is designated as a judge of the juvenile court the judges of such county shall also designate one such judge as the presiding judge of the juvenile court.

8-222. Transfer to and from other courts

A. If, during the pendency of a criminal charge in any court of this state, it ~~shall be~~ IS ascertained that the defendant is a ~~child~~ JUVENILE, ~~that~~ ON MOTION OF THE COUNTY ATTORNEY, THE court shall ~~forthwith~~ SUSPEND THE CRIMINAL PROSECUTION OF A JUVENILE ACCUSED OF A CRIME AND SHALL transfer the case to the juvenile court, together with all the original accusatory

pleadings and other papers, documents, and transcripts of any testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the juvenile court or to that court itself, or shall release ~~him~~ THE DEFENDANT to the custody of ~~his~~ THE DEFENDANT'S parent or guardian or ANY other person legally responsible for ~~him~~ THE DEFENDANT, to be brought before the juvenile court at a time designated by that court. The juvenile court shall then proceed WITH ALL OTHER PROCEEDINGS as if a petition alleging delinquency had been filed with the juvenile court under section 8-221 on the effective date of such transfer. The court shall enter a determination of delinquency that is consistent with any determination of guilty that was made before the suspension.

B. On motion of the prosecutor, prior to the adjudication hearing, the court may dismiss the petition without prejudice to allow criminal charges to be filed.

8-233. County attorney

A. The county attorney shall:

1. Direct such investigation ~~he~~ THE COUNTY ATTORNEY deems necessary of acts of alleged delinquent behavior~~—~~.

2. ~~Cause~~ FILE CRIMINAL COMPLAINTS WITH THE SUPERIOR COURT AGAINST JUVENILES ACCUSED OF CRIME OR petitions alleging delinquent behavior ~~to be drafted and filed~~ with the juvenile court as ~~he~~ THE COUNTY ATTORNEY deems necessary in the public interest~~—and~~.

3. Attend the juvenile court within ~~his~~ THE COUNTY ATTORNEY'S county and conduct on behalf of the state all contested hearings involving allegations of delinquent acts or incorrigibility.

B. In a juvenile court hearing where the ~~child~~ JUVENILE who is the subject of the petition not alleging a delinquent act or incorrigibility is represented by counsel in a contested matter, the county attorney shall, when requested by the juvenile court judge, appear and participate in the hearing to assist in the ascertaining and presenting of evidence.

8-241. Disposition and commitment; definition

A. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

1. It may award a dependent child:

(a) To the care of the child's parents, subject to the supervision of the department of economic security.

(b) To a suitable institution.

(c) To an association willing to receive the child.

(d) To a reputable citizen of good moral character.

(e) To an appropriate public or private agency licensed to care for children.

(f) To a suitable school.

(g) To maternal or paternal relatives, as guardian of the person, provided they are physically and financially able to provide proper care.

(h) To the protective supervision of a probation department subject to such conditions as the court may impose.

(i) To supervision under the independent living program established pursuant to section 8-521.

(j) To any adult as a permanent guardian pursuant to chapter 5, article 1 of this title.

2. It may award a delinquent ~~child~~ JUVENILE:

(a) To the care of the ~~child's~~ JUVENILE'S parents, subject to supervision of a probation department.

(b) To a probation department, subject to such conditions as the court may impose.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a private agency or institution, subject to the supervision of a probation officer.

(e) To the department of juvenile corrections ~~without further directions as to placement by that department. From and after September 30, 1995,~~ AND the court may make further directions as to placement by the department concerning the child's length of stay in secure care.

(f) To maternal or paternal relatives, subject to the supervision of a probation department.

(g) TO AN APPROPRIATE OFFICIAL OF A FOREIGN COUNTRY OF WHICH THE JUVENILE IS A FOREIGN NATIONAL WHO IS UNACCOMPANIED BY A PARENT OR GUARDIAN IN THIS STATE TO REMAIN ON UNSUPERVISED PROBATION FOR ONE YEAR ON THE CONDITION THAT THE JUVENILE COOPERATE WITH THAT OFFICIAL.

3. It may award an incorrigible child:

(a) To the care of the child's parents, subject to the supervision of a probation department.

(b) To the protective supervision of a probation department, subject to such conditions as the court may impose.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a public or private agency, subject to the supervision of a probation department.

(e) To maternal or paternal relatives, subject to the supervision of a probation department.

B. If a ~~child~~ JUVENILE is placed on probation pursuant to this section, the period of probation shall be a maximum of one year unless:

1. The ~~child~~ JUVENILE is charged with a subsequent offense.

2. The ~~child~~ JUVENILE violates a condition of probation.

3. The court determines that it is in the best interests of the ~~child~~ JUVENILE or the public to require continued supervision. ~~The court shall state by minute entry or written order its reasons for finding that continued supervision is required.~~

4. ~~The person has not made the~~ Restitution ~~required~~ ORDERED pursuant to subsection D OR E of this section HAS NOT BEEN MADE.

5. THE JUVENILE IS ADJUDICATED DELINQUENT FOR A SERIOUS OFFENSE AS

DEFINED IN SECTION 13-604 OR AN OFFENSE INVOLVING PHYSICAL INJURY OR THE THREAT OF PHYSICAL INJURY.

C. Notwithstanding section 8-243, the juvenile court shall order the parent of a ~~child~~ JUVENILE to pay a fee of not less than ~~thirty~~ FORTY dollars per month for the supervision of the ~~child~~ JUVENILE unless, after determining the inability of the parent to pay the fee, the court orders payment of a lesser amount. If the department of economic security is the supervising agency, monies assessed pursuant to this subsection shall be ordered to be paid and utilized as provided in section 8-243.01. If the juvenile probation office is the supervising agency, monies assessed pursuant to this subsection shall be ordered to be paid to the clerk of the superior court. The clerk of the superior court shall pay all monies collected from this fee to the county treasurer for deposit in the juvenile probation services fund to be utilized as provided in section 12-268. If the department of juvenile corrections is the supervising agency, monies assessed pursuant to this subsection shall be ordered paid to the department of juvenile corrections and used to fund work restitution programs for juveniles. If a person or another state agency or state institution is responsible for supervision, the monies assessed pursuant to this subsection shall be ordered paid to the state treasurer to be deposited in the state general fund.

D. The court shall, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the ~~child~~ JUVENILE, order the following dispositions for a delinquent ~~child~~ JUVENILE, either as exclusive dispositions or in addition to the dispositions provided by subsection A, paragraph 2 of this section:

1. To make full or partial restitution to the victim of the offense for which the ~~child~~ JUVENILE was adjudicated delinquent. The court shall notify the victim of the dispositional hearing. The court may consider a ~~verified~~ statement from the victim concerning damages for lost wages, reasonable damages for injury to or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering.

2. To pay a reasonable monetary assessment if the court determines that an assessment is in aid of rehabilitation. If the director of the department of juvenile corrections determines that enforcement of an order for monetary assessment as a term and condition of parole is not cost-effective, the director may require the youth to perform an equivalent amount of community service in lieu of the payment ordered as a condition of parole.

E. IF AFTER ORDERING RESTITUTION PURSUANT TO SUBSECTION D OF THIS SECTION THE COURT SUBSEQUENTLY FINDS THAT THE EARNING CAPACITY OF THE JUVENILE IS INSUFFICIENT TO PAY RESTITUTION TO THE VICTIM, THE COURT MAY ORDER ONE OR BOTH OF THE JUVENILE'S CUSTODIAL PARENTS OR GUARDIANS TO MAKE RESTITUTION TO THE VICTIM OF THE OFFENSE FOR WHICH THE JUVENILE WAS ADJUDICATED DELINQUENT. THE AMOUNT OF RESTITUTION SHALL NOT EXCEED THE LIABILITY LIMIT ESTABLISHED PURSUANT TO SECTION 12-661. IF THE COURT ORDERS THE JUVENILE'S PARENTS OR GUARDIANS TO MAKE RESTITUTION PURSUANT TO THIS SUBSECTION, THE COURT SHALL ORDER THE JUVENILE TO MAKE PARTIAL RESTITUTION, REGARDLESS OF THE JUVENILE'S INSUFFICIENT EARNING CAPACITY. THE COURT SHALL NOT CONSIDER THE ABILITY OF

THE JUVENILE'S PARENTS OR GUARDIANS TO PAY RESTITUTION BEFORE MAKING A RESTITUTION ORDER. THE COURT MAY CONSIDER A STATEMENT FROM THE VICTIM CONCERNING DAMAGES FOR LOST WAGES, REASONABLE DAMAGES FOR INJURY TO OR LOSS OF PROPERTY AND ACTUAL EXPENSES OF MEDICAL TREATMENT FOR PERSONAL INJURY, EXCLUDING PAIN AND SUFFERING.

~~E~~ F. If a youth is adjudicated incorrigible, the court may impose a monetary assessment on the youth of not more than one hundred fifty dollars.

~~F~~ G. A juvenile who is charged with unlawful purchase, possession or consumption of spirituous liquor is subject to section 8-232. The monetary assessment for a conviction of unlawful possession or consumption of spirituous liquor by a minor shall not exceed five hundred dollars. The court of competent jurisdiction may order a monetary assessment or equivalent community service.

~~G~~ H. The court shall require the restitution or monetary assessment imposed under subsection D, ~~or~~ E OR F of this section on a youth who is not committed to the department of juvenile corrections to be satisfied in one or both of the following forms:

1. Monetary reimbursement by the youth in a lump sum or installment payments through the clerk of the superior court for appropriate distribution.

2. A program of work, not in conflict with regular schooling, to repair damage to the victim's property, to provide community service or to provide the youth with a job for wages. The court order for restitution or monetary assessment shall specify, according to the dispositional program, the amount of reimbursement and the portion of wages of either existing or provided work that is to be credited toward satisfaction of the restitution or assessment, or the nature of the work to be performed and the number of hours to be spent working. The number of hours to be spent working shall be set by the court based on the severity of the offense but shall not be less than sixteen hours.

I. A PARENT, GUARDIAN OF A JUVENILE WHO IS ORDERED TO MAKE RESTITUTION PURSUANT TO SUBSECTION E OF THIS SECTION SHALL SATISFY THE ORDER THROUGH A MONETARY REIMBURSEMENT IN A LUMP SUM OR INSTALLMENT PAYMENTS THROUGH THE CLERK OF THE SUPERIOR COURT FOR APPROPRIATE DISTRIBUTION.

~~H~~ J. If a youth is committed to the department of juvenile corrections the court shall specify the amount of monetary restitution or assessment imposed pursuant to subsection D, ~~or~~ E OR F of this section.

~~I~~ K. ~~From and after September 30, 1995,~~ After considering the length of stay guidelines developed pursuant to section 41-2816, subsection C, the court may set forth in the order of commitment the minimum period during which the ~~child~~ JUVENILE shall remain in secure care while in the custody of the department of juvenile corrections. When the court awards a ~~child~~ JUVENILE to the department of juvenile corrections or an institution or agency, it shall transmit with the order of commitment copies of a diagnostic psychological evaluation and educational assessment if one has been administered, copies of the case report, all other psychological and medical reports, restitution orders and other documents or records pertaining to the case requested by the department of juvenile corrections, institution or agency. ~~From and after September 30, 1995 and~~ Except pursuant to subsection ~~J~~ L of this section, the

department shall not release a ~~child~~ JUVENILE from secure care before the ~~child~~ JUVENILE completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The department may release the ~~child~~ JUVENILE from secure care without a further court order after the ~~child~~ JUVENILE completes the length of stay determined by the court or may retain the ~~child~~ JUVENILE in secure care for any period subsequent to the completion of the length of stay in accordance with the law.

~~J. L. From and after September 30, 1995,~~ If a secure care facility operates at ninety-eight per cent or more of capacity, the director of the department of juvenile corrections may declare that there is a shortage of beds available for youths committed to the department. After a shortage of beds is declared, the director may order the conditional release of those youths from secure care that do not pose any undue risk to the community prior to completion of the minimum stay ordered by the court without a prior court order. A youth shall not be released pursuant to this subsection prior to completion of the minimum stay ordered by the court and without a prior court order if any of the following apply:

1. The offense for which the youth was committed involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or the intentional or knowing infliction of serious physical injury.
2. The offense for which the youth was committed constitutes a serious offense as defined by section 13-604.
3. The prior offense and referral history of the youth includes an adjudication for an offense described in ~~paragraphs~~ PARAGRAPH 1 or 2 of this subsection, or is an offense which would be a felony offense if committed by an adult.

~~K. M. From and after September 30, 1995,~~ Written notice of the release of any youth pursuant to subsection ~~I~~ K of this section shall be made to any victim requesting notice, the juvenile court that committed the youth and the county attorney of the county from which the youth was committed.

~~L. N.~~ The juvenile court may permit removal from the state of a dependent child or ward of the court by the person to whom the child's or ward's care may be temporarily awarded, upon such recognizance, with or without sureties, as may satisfy the court, obligating the person to produce the child OR WARD when required by the court.

~~M. O.~~ Notwithstanding any law to the contrary, if a person is under the supervision of the court as an adjudicated delinquent ~~child~~ JUVENILE at the time the person reaches eighteen years of age, treatment services may be provided until the person reaches twenty-one years of age if THE JUVENILE AND THE STATE AGREE TO THE EXTENDED TREATMENT AND the court, ~~the person and the state agree to the provision of the treatment and a motion to waive jurisdiction and transfer the person has not been filed or has been withdrawn~~ ORDERS CONTINUED TREATMENT. The court may terminate the provision of treatment services after the person reaches eighteen years of age if the court determines that any of the following apply:

1. The person is not progressing toward treatment goals.

2. The person terminates treatment.
3. The person commits a new offense after reaching eighteen years of age.
4. Continued treatment is not required or is not in the best interests of the state or the person.

P. THE COURT MAY ORDER A JUVENILE AGAINST WHOM A PETITION HAS BEEN FILED AND WHO IS ALLEGED TO HAVE COMMITTED A SEXUAL OFFENSE OR AN OFFENSE THAT INVOLVED SIGNIFICANT EXPOSURE AS DEFINED IN SECTION 13-1415 TO SUBMIT TO A TEST FOR THE HUMAN IMMUNODEFICIENCY VIRUS AND TO CONSENT TO THE RELEASE OF THE TEST RESULTS TO THE VICTIM.

~~N.~~ Q. On the request of a victim of a ~~delinquent~~ AN act that may have involved significant exposure as defined in section 13-1415 or that if committed by an adult would be a sexual offense, the prosecuting attorney shall petition the adjudicating court to require that the ~~delinquent child~~ JUVENILE be tested for the presence of the human immunodeficiency virus. If the victim is a ~~child~~ JUVENILE the prosecuting attorney shall file this petition at the request of the victim's parent or guardian. WITHIN TEN DAYS AFTER RECEIVING THE PETITION, THE COURT SHALL DETERMINE IF SUFFICIENT EVIDENCE EXISTS THAT INDICATES THAT SIGNIFICANT EXPOSURE OCCURRED. If the act committed against a victim is an act that if committed by an adult would be a sexual offense or the court determines that sufficient evidence exists to indicate that significant exposure occurred, it shall order the department of juvenile corrections or the department of health services to test the ~~child~~ JUVENILE pursuant to section 13-1415. Notwithstanding any law to the contrary, the department of juvenile corrections and the department of health services shall release the test results only to the victim, the delinquent ~~child~~ JUVENILE, the delinquent ~~child's~~ JUVENILE'S parent or guardian and a minor victim's parent or guardian and shall counsel them regarding the meaning and health implications of the results.

~~Q.~~ R. For the purposes of SUBSECTIONS P AND Q OF this section, "sexual offense" means oral sexual contact, sexual contact or sexual intercourse as defined in section 13-1401.

8-247. Destruction of records

A. On application of a person who has been adjudicated delinquent FOR AN OFFENSE OTHER THAN AN OFFENSE LISTED UNDER SECTION 13-3113 or incorrigible or on the court's own motion, and after a hearing, the juvenile court may order the destruction of the files and records, including arrest records, in the proceeding, if the court finds ALL OF THE FOLLOWING:

1. The person has attained ~~his eighteenth birthday~~ EIGHTEEN YEARS OF AGE.
2. No proceeding is pending seeking the person's conviction of a crime.
3. The person has been rehabilitated to the satisfaction of the juvenile court.
4. The person is not under the jurisdiction of the juvenile court, nor under commitment to the department of juvenile corrections from the juvenile court.

B. Reasonable notice of the hearing shall be given to:
1. The county attorney who may oppose the order.
2. The authority granting the discharge if the final discharge was from an institution, ~~or from parole~~ CONDITIONAL LIBERTY OR FROM COMMUNITY SUPERVISION.

C. ~~When~~ IF a juvenile ~~who has been adjudicated delinquent or incorrigible has attained the juvenile's twenty third birthday~~ ATTAINS TWENTY-THREE YEARS OF AGE AND WAS ADJUDICATED DELINQUENT FOR AN OFFENSE OTHER THAN AN OFFENSE LISTED UNDER SECTION 13-3113, the juvenile court may order destruction of files and records, including arrest records, if the court finds:

1. There is no pending criminal complaint.
2. The state department of corrections has no current jurisdiction.
3. There is no adult criminal record.

8-283.01. Victim reconciliation services

The presiding judge of the juvenile court in each county shall establish and provide voluntary victim reconciliation and restitution services to assist victims of juvenile crimes.

ARTICLE 8. COMMUNITY JUSTICE

8-291. Community justice boards; members; jurisdiction

A. Community justice boards may be established in designated geographical areas in each county as part of a diversion program for juvenile offenders who are eligible for diversion pursuant to section 8-230.01.

B. The juvenile division of the superior court in the county in which the board is located shall administer the board.

C. The community justice board has jurisdiction to hear all matters involving juveniles who are referred to the board pursuant to section 8-230.01 and who live within the geographical area served by the board.

D. The presiding judge of the juvenile court shall appoint members to the board. The board shall consist of at least three members. To the extent feasible, board members shall represent the various socioeconomic, racial and ethnic groups in the geographical area in which the board serves.

E. The board shall determine all actions by a majority vote.

F. Through the juvenile court the community justice board shall notify a juvenile within the board's jurisdiction, the juvenile's parents or guardians and the victim of the alleged offense of a meeting of the board. The juvenile, the juvenile's parents or guardians and the victim have the right to appear and participate in any meeting that is conducted by the board.

G. The community justice board shall convene a meeting within thirty days after receiving the referral.

H. The community justice board shall require the parent or legal guardian of a juvenile who is referred to appear with the juvenile at the time set.

I. All meetings of the community justice board are open to the public and all records are public.

J. While the juvenile offender is under the jurisdiction of the

community justice board, the juvenile offender is under the supervision of the juvenile probation department.

SB 1363 sought to repeal the existing section 13-501 and add the following:
13-501. Persons under the age of eighteen years; felony charging

A person under eighteen years of age may be charged with a felony by the filing of a complaint, information or indictment.

13-608. Persons under eighteen years of age; conviction; sentence; transfer to juvenile court; disposition; definitions

A. If a juvenile is convicted of any of the following offenses the juvenile shall be sentenced as provided by law:

1. first degree murder pursuant to section 13-1105, subsection A, paragraph 1.
2. Second degree murder pursuant to section 13-1104, subsection A, paragraph 1 or 2.
3. Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.
4. Sexual assault pursuant to section 13-1406 involving the use or threatening exhibition of a deadly weapon or dangerous instrument or serious physical injury as defined in section 13-105.
5. Armed robbery pursuant to section 13-1904, subsection A, paragraph 2.
6. Drive by shooting pursuant to section 13-1209.

B. Subsection A of this section does not apply to a juvenile who is found by the court to be solely an accomplice as defined in section 13-301.

C. If a juvenile is convicted of a second or subsequent felony offense, which is an historical prior felony conviction the juvenile shall be sentenced as provided by law.

D. If a juvenile is convicted of a felony offense and does not fall within the provisions of subsection A of this section, the judge may, but is not required to apply any law that mandates a term of imprisonment. In lieu of imposing a term of imprisonment otherwise required by law, the judge may either:

1. Impose a term of imprisonment pursuant to chapter 7 of this title.
2. Place the juvenile on probation pursuant to chapter 9 of this title.

E. If the judge is imposing a sentence for a class 1 felony pursuant to subsection D of this section, the judge may, but is not required to, impose a sentence authorized by chapter 6 or 7 of this title for a class 2 felony.

F. If a juvenile is charged with a class 4, 5 or 6 felony, the juvenile may, after a finding of guilt or acceptance of a plea, and prior to the entry of judgment of guilt and sentencing, petition the court to designate the offense a delinquent act pursuant to title 8 and transfer the case to juvenile court for all further proceedings pursuant to section 8-222. In deciding whether to transfer the case to the juvenile court the judge shall determine if the public interest or safety would be served by the transfer. In making this determination, the judge shall consider the following:

1. The seriousness of the offense involved.
2. The record and previous history of the juvenile, including the juvenile's previous contacts with law enforcement and the courts, if the juvenile participated in any prior court ordered probation and the results of that probation and if the juvenile was previously committed to a juvenile residential facility or secure care facility.
3. If the juvenile was previously committed to the department of juvenile corrections on conviction of a felony offense and if the juvenile committed another felony offense while the juvenile was in the custody of the department of juvenile corrections.
4. The views of the victim of the offense.
5. The degree of the juvenile's participation in the offense and if the juvenile's participation was relatively minor, except that the juvenile's participation shall not have been so minor as to constitute a defense to prosecution.
6. Any other relevant factors.
- G. The judge shall not transfer the case to juvenile court unless the judge finds by the preponderance of the evidence that the public safety and interest would be served by the transfer.
- H. An offense may not be designated a delinquent act and a case may not be transferred to juvenile court if any of the following apply:
 1. The juvenile is convicted of an offense involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
 2. The juvenile has previously been convicted of a felony offense which would be a historical prior felony conviction.
 3. The juvenile is convicted in the same indictment or information of a class 1, 2 or 3 felony.
 4. The juvenile has previously been adjudicated in juvenile court on three separate occasions for acts, not committed on the same occasion, that if committed by an adult would constitute three or more felony offenses.
 5. The juvenile has previously been convicted of a class 4, 5 or 6 felony and the offense was designated a delinquent act.
- I. If the offense is designated a delinquent act, the juvenile is deemed not to have been convicted of the offense and the offense is not admissible pursuant to section 13-604 and cannot be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant. However, the delinquent act is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446.
- J. On motion of the prosecutor, prior to the entry of judgment and guilt and sentencing, the judge may designate the offense a juvenile act and transfer the case to juvenile court for all further proceedings pursuant to section 8-222.
- K. For the purposes of this section:
 1. "Juvenile" means a person under eighteen years of age.
 2. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over juveniles in any proceeding relating to

delinquency.

13-921. Probation for persons under eighteen years of age; dual adult juvenile probation

A. The court may enter a judgment of guilt and place the defendant on probation pursuant to this section if all of the following apply:

1. The defendant is under eighteen years of age.
2. The defendant is convicted of a felony offense.
3. The defendant is not sentenced to a term of imprisonment.

B. If the court places a defendant on probation pursuant to this section, the court may discharge the defendant and expunge the defendant's conviction or designate the offense a delinquent act as permitted by subsection C or D of this section.

C. If the court places a defendant on probation pursuant to this section, the following apply:

1. If the defendant successfully completes the terms and conditions of probation, the court may set aside the judgment of guilt, dismiss the information or indictment and order the person be released from all penalties and disabilities resulting from the conviction other than those in paragraphs 2 through 4 of this subsection. The clerk of the court where the conviction occurred shall notify each agency to which the original conviction was reported of the discharge and expungement.

2. Notwithstanding paragraph 1 of this subsection, the conviction may be used as a conviction if the conviction would be admissible pursuant to section 13-604 if it had not been set aside and the conviction may be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant.

3. Notwithstanding paragraph 1 of this subsection, the conviction is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446.

4. Notwithstanding paragraph 1 of this subsection, the defendant shall comply with sections 13-3821 and 13-3822.

D. Notwithstanding subsection C of this section, if the court places a defendant on probation for a class 4, 5 or 6 felony and the defendant successfully completes the terms and conditions of probation, the court may designate the offense as a delinquent act pursuant to title 8.

E. In deciding whether to designate the offense as a delinquent act the judge shall determine whether the public and safety would be served by the designation as a juvenile act. In making this determination, the judge shall consider the following:

1. The seriousness of the offense involved.
2. The record and previous history of the juvenile including the juvenile's previous contacts with law enforcement and the courts, if the juvenile participated in any previous court ordered probation and the results of that probation and if the juvenile was previously committed to a juvenile residential facility or secure care facility.

3. If the juvenile was previously committed to the department of

juvenile corrections on conviction of a felony offense and if the juvenile committed another felony offense while the juvenile was in the custody of the department of corrections.

4. The views of the victim of the offense.

5. The degree of the juvenile's participation in the offense and if the juvenile's participation was relatively minor, except that the juvenile's participation shall not have been so minor as to constitute a defense to the prosecution.

6. The juvenile's performance on probation.

7. Any other relevant factor.

F. The judge shall not designate the offense a delinquent act unless the judge finds by the preponderance of the evidence that the public safety and interest would best be served by the designation.

G. If the offense is designated a delinquent act, the defendant is deemed not to have been convicted of the offense and the offense is not admissible pursuant to section 13-604 and cannot be pleaded and proved as a prior conviction in any subsequent prosecution of the defendant. However, the delinquent act is deemed to be a conviction for the purposes of the department of transportation in enforcing sections 28-444, 28-445 and 28-446. The clerk of the court where the conviction occurred shall notify each agency to which the original conviction was reported that the offense has been designated a juvenile act.

H. The court may not designate the offense as a delinquent act if any of the following apply:

1. The juvenile was convicted in the same indictment or information of a class 1, 2 or 3 felony.

2. The juvenile has previously been adjudicated in juvenile court on three separate occasions for acts not committed on the same occasion that if committed by an adult would constitute three or more felony offenses.

3. The juvenile was previously convicted of a class 4, 5 or 6 felony and the offense was designated a delinquent act.

I. A defendant who has previously been convicted of a felony or had an offense designated a delinquent act pursuant to section 13-608 or this section is not eligible for probation pursuant to this section.

J. A defendant who is placed on probation pursuant to this section is deemed to be on adult probation.

K. If a defendant is placed on probation pursuant to this section, the court as a condition of probation may order the defendant to participate in services that are available to the juvenile court.

L. The court may order that a defendant who is placed on probation pursuant to this section be incarcerated in a juvenile detention facility while the defendant remains under eighteen years of age at whatever time or intervals, consecutive or nonconsecutive, the court determines. The incarceration shall not extend beyond the period of court ordered probation, and the length of time the defendant actually spends in a juvenile detention facility shall not exceed one year.

M. The court may order that a defendant who is placed on probation

pursuant to this section be incarcerated in a county jail while the defendant remains under eighteen years of age at whatever time or intervals, consecutive or nonconsecutive, the court determines. The incarceration shall not extend beyond the period of court ordered probation, and the length of time the defendant actually spends in a county jail shall not exceed one year.

N. The court may order the defendant to be incarcerated in both a juvenile detention facility and a county jail as long as the period actually spent in the juvenile detention facility and the county jail does not exceed one year.

O. If the court grants probation pursuant to this section, the court may require that the defendant be committed to the department of juvenile corrections for a period of time up to the defendant's eighteenth birthday.

P. The court, in addition to the provisions of this section, may apply any of the provisions of section 13-901.

DOCUMENT #3

8-227.01. Juvenile detention system enhancement fund

A. The local detention system enhancement fund is established in the state treasury consisting of funds appropriated by the legislature. Monies in the fund are exempt from the provisions of section 35-190, relating to the lapsing of appropriations.

B. The supreme court shall administer the fund. Monies shall be used to fund the development and maintenance of a coordinated statewide local detention system and to expand existing local detention center capacity.

C. On notice from the supreme court the state treasurer shall invest and divest monies in the fund as provided by section 35-313 and monies earned from investment shall be credited to the fund. Monies from the fund that are provided to local courts shall be used to supplement not supplant local funding that would otherwise be available for providing and maintaining local detention centers.

Appropriation; purpose

The sum of \$2,000,000 is appropriated from the state general fund to the department of administration for fiscal year 1996-1997. Subject to review by the joint committee on capital review, the department of administration shall use the appropriated monies for acquiring and completing architectural and engineering and site plans to expand secure care facilities to a total capacity of one thousand five hundred beds by July 1, 2001. This plan shall be submitted to the president of the senate and the speaker of the house of representatives by January 1, 1997.

Appropriation; purpose

The sum of \$4,000,000 is appropriated from the state general fund to the juvenile detention system enhancement fund established pursuant to section 8-227.01, Arizona Revised Statutes, for fiscal year 1996-1997 to provide for the expanded capacity of local detention centers and local detention center alternatives for preadjudicated and adjudicated juveniles. The supreme court shall develop a plan for providing a coordinated statewide system for each county and submit the plan to the president of the senate, the speaker of the house of representatives and the governor by January 1, 1997.

Appropriation; purpose

The sum of \$2,500,000 is appropriated from the state general fund to the department of education for fiscal year 1996-1997 for the purpose of funding the placement of juvenile probation and police officers in public schools during the 1996-1997 academic year.

Appropriation; purpose

The sum of \$500,000 is appropriated from the state general fund to the supreme court for fiscal year 1996-1997 for the purpose of establishing,

expanding and operating victims reconciliation and restitution services pursuant to section 8-283.01, Arizona Revised Statutes, as added by this act.

Appropriation: purpose

The sum of \$1,000,000 is appropriated from the state general fund to the supreme court for fiscal year 1996-1997 for the purpose of providing the systems and facilities necessary for jury trials and related hearings for processing the cases of juveniles charged with a crime.

Appropriation: purpose

The sum of \$1,000,000 is appropriated from the state general fund to the juvenile probation fund established by section 8-230.02, Arizona Revised Statutes, for fiscal year 1996-1997 for the purpose of providing additional community based treatment services and programs.

Section 13-501 is repealed.

13-501. Persons under the age of eighteen years; felony charging

A. A CRIMINAL PROSECUTION SHALL BE BROUGHT AGAINST A PERSON WHO IS 15 YEARS OF AGE OR OLDER AND UNDER EIGHTEEN YEARS OF AGE IN THE ADULT DIVISION OF THE SUPERIOR COURT OR A JUSTICE OF THE PEACE COURT BY THE FILING OF A COMPLAINT, INFORMATION OR INDICTMENT IF THAT PERSON IS ACCUSED OF ANY OF THE FOLLOWING:

1. SECOND DEGREE MURDER IN VIOLATION OF SECTION 13-1104, OR
2. FIRST DEGREE MURDER IN VIOLATION OF SECTION 13-1105, OR
3. FORCIBLE SEXUAL ASSAULT IN VIOLATION OF SECTION 13-1406, OR
4. ARMED ROBBERY IN VIOLATION OF SECTION 13-1904, OR
5. ANY VIOLENT FELONY, OR
6. ANY FELONY COMMITTED BY A PERSON WHO HAS AN HISTORICAL PRIOR CONVICTION, OR
7. ANY FELONY OFFENSE COMMITTED BY A CHRONIC FELONY OFFENDER, OR
8. ANY OFFENSE WHICH IS PROPERLY JOINED TO ANY OFFENSE LISTED IN PARAGRAPHS ~~1-6~~ OF THIS SUBSECTION.

B. A CRIMINAL PROSECUTION MAY BE BROUGHT AGAINST A PERSON UNDER THE AGE OF EIGHTEEN YEARS OF AGE IN THE ADULT DIVISION OF THE SUPERIOR COURT, OR A JUSTICE OF THE PEACE COURT BY THE FILING OF A COMPLAINT, INFORMATION OR INDICTMENT IF THAT PERSON IS CHARGED WITH ANY OF THE FOLLOWING:

1. A CLASS 1, OR 2 FELONY, OR
2. A CLASS 3 FELONY IN VIOLATION OF ANY OFFENSE IN TITLE 13, CHAPTERS 10-17, 19 AND 23, OR
3. A CLASS 3, 4, 5 OR 6 FELONY INVOLVING THE INTENTIONAL OR KNOWING INFLECTION OF SERIOUS PHYSICAL INJURY OR THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT; OR
4. ANY FELONY OFFENSE COMMITTED BY A CHRONIC OFFENDER, OR
6. ANY OFFENSE WHICH IS PROPERLY JOINED TO ANY OFFENSE LISTED IN PARAGRAPHS 1-5 OF THIS SUBSECTION .

C. FOR THE PURPOSES OF THIS SECTION,

1. "ACCUSED", MEANS A PERSON WHO HAS BEEN ARRESTED FOR COMMITTING A CRIMINAL OFFENSE AND WHO IS HELD FOR INITIAL APPEARANCE OR OTHER PROCEEDING BEFORE TRIAL.
2. "CHRONIC OFFENDER", MEANS A PERSON WHO HAS PREVIOUSLY BEEN ADJUDICATED ON THREE SEPARATE OCCASIONS FOR ACTS, NOT COMMITTED ON THE SAME OCCASION, THAT IF COMMITTED BY AN ADULT WOULD CONSTITUTE THREE OR MORE FELONY OFFENSES.

3. "FORCIBLE", MEANS WITHOUT CONSENT AS DEFINED IN SECTION 13-1401.

4. "VIOLENT OFFENSE", MEANS AN OFFENSE INVOLVING THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

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13-921. Probation for persons under eighteen years of age; dual adult juvenile probation

A. THE COURT MAY ENTER A JUDGMENT OF GUILT AND PLACE THE DEFENDANT ON PROBATION PURSUANT TO THIS SECTION IF ALL OF THE FOLLOWING APPLY:

- 1. THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE OFFENSE IS COMMITTED.**
- 2. THE DEFENDANT IS CONVICTED OF A FELONY OFFENSE.**
- 3. THE DEFENDANT IS NOT SENTENCED TO A TERM OF IMPRISONMENT.**
- 4. THE DEFENDANT DOES NOT HAVE A HISTORICAL PRIOR CONVICTION.**

B. IF THE COURT PLACES A DEFENDANT ON PROBATION PURSUANT TO THIS SECTION, THE FOLLOWING APPLY:

1. IF THE DEFENDANT SUCCESSFULLY COMPLETES THE TERMS AND CONDITIONS OF PROBATION, THE COURT MAY SET ASIDE THE JUDGMENT OF GUILT, DISMISS THE INFORMATION OR INDICTMENT, EXPUNGE THE DEFENDANT'S RECORD AND ORDER THE PERSON BE RELEASED FROM ALL PENALTIES AND DISABILITIES RESULTING FROM THE CONVICTION OTHER THAN THOSE IN PARAGRAPHS 2 THROUGH 4 OF THIS SUBSECTION. THE CLERK OF THE COURT WHERE THE CONVICTION OCCURRED SHALL NOTIFY EACH AGENCY TO WHICH THE ORIGINAL CONVICTION WAS REPORTED OF THE DISCHARGE AND EXPUNGEMENT.

2. NOTWITHSTANDING PARAGRAPH 1 OF THIS SUBSECTION, THE CONVICTION MAY BE USED AS A CONVICTION IF THE CONVICTION WOULD BE ADMISSIBLE PURSUANT TO SECTION 13-604 IF IT HAD NOT BEEN SET ASIDE AND THE CONVICTION MAY BE PLEADED AND PROVED AS A PRIOR CONVICTION IN ANY SUBSEQUENT PROSECUTION OF THE DEFENDANT.

3. NOTWITHSTANDING PARAGRAPH 1 OF THIS SUBSECTION, THE CONVICTION IS DEEMED TO BE A CONVICTION FOR THE PURPOSES OF THE DEPARTMENT OF TRANSPORTATION IN ENFORCING SECTIONS 28-444, 28-445 28-445.01, AND 28-446.

4. NOTWITHSTANDING PARAGRAPH 1 OF THIS SUBSECTION, THE DEFENDANT SHALL COMPLY WITH SECTIONS 8-230.02, 13-3821, 13-3822, 15-512 AND 15-534.

C. A DEFENDANT WHO IS PLACED ON PROBATION PURSUANT TO THIS SECTION IS DEEMED TO BE ON ADULT PROBATION.

D. IF A DEFENDANT IS PLACED ON PROBATION PURSUANT TO THIS SECTION, THE COURT AS A CONDITION OF PROBATION MAY ORDER THE DEFENDANT TO PARTICIPATE IN SERVICES THAT ARE AVAILABLE TO THE JUVENILE COURT.

E. THE COURT MAY ORDER THAT A DEFENDANT WHO IS PLACED ON PROBATION PURSUANT TO THIS SECTION BE INCARCERATED IN A JUVENILE DETENTION FACILITY WHILE THE DEFENDANT REMAINS UNDER EIGHTEEN YEARS OF AGE AT WHATEVER TIME OR INTERVALS, CONSECUTIVE OR NONCONSECUTIVE, THE COURT DETERMINES. THE INCARCERATION SHALL NOT EXTEND BEYOND THE PERIOD OF COURT ORDERED PROBATION, AND THE LENGTH OF TIME THE DEFENDANT ACTUALLY SPENDS IN A JUVENILE DETENTION FACILITY SHALL NOT EXCEED ONE YEAR.

F. THE COURT MAY ORDER THAT A DEFENDANT WHO IS PLACED ON PROBATION PURSUANT TO THIS SECTION BE INCARCERATED IN A COUNTY JAIL WHILE THE DEFENDANT REMAINS UNDER EIGHTEEN YEARS OF AGE AT WHATEVER TIME OR INTERVALS, CONSECUTIVE OR NONCONSECUTIVE, THE COURT DETERMINES. THE INCARCERATION SHALL NOT EXTEND BEYOND THE PERIOD OF COURT ORDERED PROBATION, AND THE LENGTH OF TIME THE DEFENDANT ACTUALLY SPENDS IN A COUNTY JAIL SHALL NOT EXCEED ONE YEAR.

G. THE COURT MAY ORDER THE DEFENDANT TO BE INCARCERATED IN BOTH A JUVENILE DETENTION FACILITY AND A COUNTY JAIL AS LONG AS THE COMBINED PERIOD ACTUALLY SPENT IN THE JUVENILE DETENTION FACILITY AND THE COUNTY JAIL DOES NOT EXCEED ONE YEAR.

H. IF THE COURT GRANTS PROBATION PURSUANT TO THIS SECTION, THE COURT MAY REQUIRE THAT THE DEFENDANT BE COMMITTED TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR A PERIOD OF TIME UP TO THE DEFENDANT'S EIGHTEENTH BIRTHDAY. THE COURT MAY SET FORTH IN THE ORDER OF COMMITMENT THE PERIOD DURING WHICH THE DEFENDANT SHALL REMAIN IN SECURE CARE WHILE IN THE CUSTODY OF THE DEPARTMENT OF JUVENILE CORRECTIONS.

I. THE COURT, IN ADDITION TO THE PROVISIONS OF THIS SECTION, MAY APPLY ANY OF THE PROVISIONS OF SECTION 13-901.

§ 13-608. PERSONS UNDER EIGHTEEN YEARS OF AGE; DISPOSITIONS OF OFFENDERS

A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF A PERSON UNDER THE AGE OF 18 YEARS AT THE TIME OF THE OFFENSE IS CONVICTED OF AN OFFENSE, MANDATING A TERM OF IMPRISONMENT THE COURT IS NOT REQUIRED TO APPLY THE LAW THAT MANDATES A TERM OF IMPRISONMENT UNLESS :

- 1. THE PERSON IS CONVICTED OF A CLASS ONE FELONY, OR**
- 2. THE PERSON IS CONVICTED OF A CLASS TWO FELONY INVOLVING THE INTENTIONAL OR KNOWING INFLICTION OF SERIOUS PHYSICAL INJURY OR THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT, IN WHICH CASE THE JUDGE MAY SENTENCE THE DEFENDANT PURSUANT TO CHAPTER 7 OF THIS TITLE IN LIEU OF CHAPTER 6 OF THIS TITLE OR ANY OTHER APPLICABLE SENTENCING PROVISION, OR**
- 3. THE PERSON HAS A HISTORICAL PRIOR CONVICTION.**

B. IF A PERSON UNDER THE AGE OF 18 YEARS AT THE TIME OF THE OFFENSE IS CONVICTED OF AN OFFENSE LISTED IN SUBSECTION A, PARAGRAPH 2 AND IS FOUND BY THE TRIER OF FACT TO BE AN ACCOMPLICE AS DEFINED IN SECTION 13-301, PARAGRAPH 3, THE COURT IS NOT REQUIRED TO APPLY THE LAW THAT MANDATES A TERM OF IMPRISONMENT.

C. IF A PERSON UNDER EIGHTEEN YEARS OF AGE IS CHARGED BY INDICTMENT OR INFORMATION WITH AN OFFENSE DEFINED IN SECTION 13-501, SUBSECTION B, THE COURT UPON MOTION OF THE PROSECUTOR MADE AT ANY TIME PRIOR TO SENTENCING, OR IF THE PERSON IS PLACED ON PROBATION, PRIOR TO THE COMPLETION OF PROBATION MAY TRANSFER ALL FURTHER PROCEEDINGS TO JUVENILE COURT PURSUANT TO SECTION 8-222.

D. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION, IN LIEU OF IMPOSING A MANDATORY PRISON SENTENCE WHEN SUCH A SENTENCE WOULD OTHERWISE BE APPLICABLE THE COURT MAY EITHER:

- 1. IMPOSE A TERM OF IMPRISONMENT PURSUANT TO CHAPTER 7 OF THIS TITLE, OR**
- 2. PLACE THE JUVENILE ON PROBATION PURSUANT TO CHAPTER 9 OF THIS TITLE.**

E. WHEN A JUVENILE IS SENTENCED TO A TERM OF IMPRISONMENT, THE JUDGE MAY SENTENCE THE JUVENILE TO SERVE THE SENTENCE IN A FACILITY UNDER THE CONTROL OF THE DEPARTMENT OF JUVENILE CORRECTIONS UNTIL THE PERSON'S EIGHTEENTH BIRTHDAY, AT WHICH TIME THE PERSON SHALL BE TRANSFERRED TO A FACILITY UNDER THE CONTROL

OF THE DEPARTMENT OF CORRECTIONS TO SERVE THE REMAINDER OF ANY SENTENCE.

F. FOR THE PURPOSES OF THIS SECTION, "JUVENILE COURT" MEANS THE JUVENILE DIVISION OF THE SUPERIOR COURT WHEN EXERCISING ITS JURISDICTION OVER CHILDREN IN ANY PROCEEDING RELATING TO DELINQUENCY.

rev. 11/27/96

Sec. 8-222. Transfer from other courts

A. If, during the pendency of a criminal charge in any court of this state it shall be ascertained that the defendant is a ~~child~~, **JUVENILE WHO IS NOT SUBJECT TO PROSECUTION AS AN ADULT PURSUANT TO SECTION 13-501, THE**, court shall ~~forthwith~~ transfer the case to the juvenile court, together with all the original accusatory pleadings and other papers, documents, and transcripts of any testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the juvenile court or to that court itself, or shall release ~~him~~ **THE DEFENDANT** to the custody of ~~his~~ **THE DEFENDANT'S** parent or guardian or other person legally responsible for ~~him~~, **THE DEFENDANT** to be brought before the juvenile court at a time designated by that court. The juvenile court shall then proceed **WITH ALL FURTHER PROCEEDINGS** as if a petition alleging delinquency had been filed with the juvenile court under Sec. 8-221 on the effective date of such transfer. **IF APPLICABLE, THE COURT SHALL ENTER A DETERMINATION OF DELINQUENCY CONSISTENT WITH ANY DETERMINATION OF GUILT MADE PRIOR TO THE SUSPENSION OF CRIMINAL PROSECUTION.**

B. **DURING THE PENDENCY OF A DELINQUENCY ACTION IN ANY COURT OF THIS STATE, ON MOTION OF THE PROSECUTOR, PRIOR TO THE ADJUDICATION HEARING, THE COURT SHALL DISMISS THE PETITION CHARGING AN OFFENSE ON WHICH THE JUVENILE IS SUBJECT TO PROSECUTION AS AN ADULT PURSUANT TO SECTION 13-501 WITHOUT PREJUDICE TO ALLOW CRIMINAL CHARGES TO BE FILED.**

rev. 11/27/96

§ 8-228 Subpoena, issuance, duty of clerk

THE CLERK MAY ISSUE SUBPOENAS AND OTHER PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AT A HEARING INVOLVING A CHILD. A PARTY WHO WILL PRESENT EVIDENCE AT A HEARING INVOLVING A CHILD, MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AT A HEARING INVOLVING A CHILD. THE SUBPOENA MAY BE SERVED BY ANY PERSON. ANY OTHER PROCESS MAY BE SERVED BY AN OFFICER OF THE JUVENILE COURT OR AN OFFICER AUTHORIZED TO SERVE PROCESS IN A CIVIL ACTION.

§ 8-239. Transfer Hearing.

A. THE STATE MAY REQUEST AN ORDER OF THE JUVENILE COURT TRANSFERRING JURISDICTION OF THE CRIMINAL PROSECUTION OF ANY FELONY FILED IN THE JUVENILE COURT TO THE ADULT DIVISION OF THE SUPERIOR COURT.

B. THE COURT PRIOR TO THE ADJUDICATION HEARING SHALL, IF REQUESTED BY THE STATE, HOLD A TRANSFER HEARING.

C. IF THE JUDGE FINDS BY A PREPONDERANCE OF THE EVIDENCE PROBABLE CAUSE THAT THE OFFENSE WAS COMMITTED AND THE JUVENILE COMMITTED THE OFFENSE, AND THAT THE PUBLIC SAFETY OR INTEREST WOULD BEST BE SERVED BY THE TRANSFER OF THE JUVENILE FOR CRIMINAL PROSECUTION, THE JUDGE SHALL ORDER THE JUVENILE BE TRANSFERRED FOR CRIMINAL PROSECUTION TO THE APPROPRIATE COURT HAVING JURISDICTION OF THE OFFENSE. THE JUDGE SHALL ON THE RECORD STATE THE REASONS FOR TRANSFERRING THE JUVENILE FOR CRIMINAL PROSECUTION.

D. IN DETERMINING WHETHER THE PUBLIC INTEREST OR SAFETY WOULD BE SERVED, THE COURT SHALL CONSIDER THE FOLLOWING FACTORS:

- 1. THE SERIOUSNESS OF THE OFFENSE INVOLVED,**
- 2. THE RECORD AND PREVIOUS HISTORY OF THE JUVENILE, INCLUDING PREVIOUS CONTACTS WITH THE COURTS AND LAW ENFORCEMENT, PRIOR PERIODS OF PROBATION IN ANY COURT AND THE RESULTS AND ANY PRIOR COMMITMENTS TO JUVENILE RESIDENTIAL PLACEMENTS AND SECURE INSTITUTIONS,**
- 3. WHETHER THE JUVENILE HAS PREVIOUSLY BEEN COMMITTED TO THE ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS FOR A FELONY OFFENSE AND HAS COMMITTED ANOTHER FELONY OFFENSE WHILE A WARD OF THAT DEPARTMENT,**
- 4. WHETHER THE CHILD COMMITTED THE ALLEGED OFFENSE WHILE PARTICIPATING IN, ASSISTING, PROMOTING OR FURTHERING THE INTERESTS OF A CRIMINAL STREET GANG, A CRIMINAL SYNDICATE OR A RACKETEERING ENTERPRISE,**
- 5. THE VIEWS OF THE VICTIM OF THE OFFENSE, AND**
- 6. WHETHER THE DEGREE OF PARTICIPATION OF THE JUVENILE IN THE CRIME WAS RELATIVELY MINOR, ALTHOUGH NOT SO MINOR AS TO CONSTITUTE A DEFENSE TO PROSECUTION.**

7. THE CHILD'S MENTAL AND EMOTIONAL CONDITION
8. THE LIKELIHOOD OF REASONABLE REHABILITATION OF THE JUVENILE BY THE USE OF SERVICES AND FACILITIES CURRENTLY AVAILABLE TO JUVENILE COURT, AND
9. ANY OTHER RELEVANT FACTOR.

rev. 11/27/96

Sec. 8-202. Jurisdiction of juvenile court

A. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this ~~chapter~~ **TITLE**.

B. The juvenile court also has exclusive original jurisdiction of proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law.

C. The juvenile court has ~~exclusive~~ original jurisdiction over civil traffic violations committed within the county by persons under eighteen years of age unless the presiding judge of the county declines jurisdiction of such cases. The presiding judge of the county may decline jurisdiction of civil traffic violations committed within the county by juveniles if ~~he~~ **THE PRESIDING JUDGE** finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

D. The orders of the juvenile court under the authority of this chapter shall, to the extent that they are inconsistent ~~therewith~~, take precedence over any order of any other court of this state excepting the court of appeals and the supreme court.

E. Jurisdiction of a child obtained by the juvenile court in a proceeding under this chapter shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court prior thereto.

F. In counties having more than one judge of the superior court the **PRESIDING JUDGE** of such county shall annually, ~~between November 15 and December 31~~, designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year. The presiding judge shall from time to time designate such additional judges as may be necessary for the prompt disposition of judicial business before the juvenile court. In all counties where more than one judge is designated as a judge of the juvenile court the ~~judges~~ **PRESIDING JUDGE OF** such county shall also designate one such judge as the presiding judge of the juvenile court.

G. PROSECUTIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS MAY BE BROUGHT IN THE ADULT DIVISION OF THE SUPERIOR COURT OR A JUSTICE OF THE PEACE COURT WHEN EITHER,

- 1. THE JUVENILE COURT HAS TRANSFERRED JURISDICTION PURSUANT TO SECTION 8-239, OR**
- 2. THE JUVENILE IS CHARGED WITH AN OFFENSE LISTED IN SECTION 13-501.**

~~14-16.~~ "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

~~15-17.~~ "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

~~16-18.~~ "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by such governing body to act for the director. The term includes the superintendent of the state hospital.

~~17-19.~~ "Mental health agency" means any private or public facility licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children which utilizes secure settings or mechanical restraints.

20. "PETITION" MEANS A WRITTEN STATEMENT OF ESSENTIAL FACTS THAT ALLEGES DELINQUENCY, INCORRIGIBILITY OR DEPENDENCY.

~~18-21.~~ "Protective supervision" means supervision ordered by the juvenile court of children found to be dependent or incorrigible.

22. "REFERRAL" MEANS A REPORT THAT IS SUBMITTED TO THE JUVENILE COURT AND THAT ALLEGES THAT A CHILD IS DEPENDENT OR HAS COMMITTED A CRIMINAL, DELINQUENT OR INCORRIGIBLE ACT.

~~19-23.~~ "Shelter care" means the temporary care of a child in any public or private facility or home licensed by this state offering a physically non-secure environment, which is characterized by the absence of physically restricting construction or hardware and provides the child access to the surrounding community.

8-10. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a child has committed a specific delinquent act as set forth in a petition.

9-11. "Delinquent act" ~~includes~~ **MEANS** an act by a ~~child~~ **JUVENILE**, which if committed by an adult would be a criminal offense **OR PETTY** offense including a violation of Sec. 4-244, paragraph 9, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law which can only be violated by a minor and which has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime, except that any ~~child~~ **JUVENILE PROSECUTED AS AN ADULT OR** remanded for prosecution as an adult shall not be adjudicated as a delinquent child for the same offense ~~for which the child was remanded.~~

~~10-12.~~ "Delinquent child" means a child who is adjudicated to have committed a delinquent act.

~~11-13.~~ "Dependent child" means a child who is adjudicated to be:

(a) In need of proper and effective parental care and control and has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(b) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, guardian, or any other person having custody or care of the child.

(c) Under the age of eight years who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.

~~12-14.~~ "Detention" means the temporary care of a child who requires secure custody in physically restricting facilities for the protection of the child or the community pending court disposition.

~~13-15.~~ "Incorrigible child" means a child adjudicated as one who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian, and who is beyond the control of such person, or any child who is habitually truant from school as provided in Sec. 15-803, subsection C, or who is a runaway from home or parent, guardian or custodian, or who habitually behaves in such a manner as to injure or endanger the morals or health of self or others, or who commits any act constituting an offense which can only be committed by a minor and which is not designated as a delinquent offense, or who fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

Sec. 8-201. Definitions

In this chapter, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including the providing of normal supervision. Failure to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to Sec. 8-223 and which is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to Sec. 13-1404, sexual conduct with a minor pursuant to Sec. 13-1405, sexual assault pursuant to Sec. 13-1406, molestation of a child pursuant to Sec. 13-1410, commercial sexual exploitation of a minor pursuant to Sec. 13-3552, sexual exploitation of a minor pursuant to Sec. 13-3553, incest pursuant to Sec. 13-3608 or child prostitution pursuant to Sec. 13-3212.

3. "ADJUST" MEANS TO DISPOSE OF A DELINQUENCY OR INCORRIGIBILITY REFERRAL OR CITATION IN A MANNER WHICH DOES NOT REQUIRE THE FILING OF A PETITION.

~~3:~~ 4. "Adult" means a person eighteen years of age or older.

~~4:~~ 5. "Alcohol offense" means the purchase, possession or consumption by a juvenile of spirituous liquors in violation of Sec. 4-244.

~~5:~~ 6. "Award" or "commit" means to assign legal custody.

~~6:~~ 7. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

8. "COMPLAINT" MEANS A WRITTEN STATEMENT OF THE ESSENTIAL FACTS CONSTITUTING A PUBLIC OFFENSE, MADE UPON OATH BEFORE A JUDGE OR COMMISSIONER OF THE SUPERIOR COURT OR AN AUTHORIZED JUVENILE HEARING OFFICER, OR THAT IS MADE PURSUANT TO A.R.S. § 13-3903.

~~7:~~ 9. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

...

F. When a criminal prosecution is initiated as authorized by 13-501 and a determination of guilt is made to an offense that could not be initiated in the adult division of the superior court consistent with 13-501, the court may enter an adjudication of delinquency and transfer the matter to the juvenile court as set forth in 8-222. In determining whether to transfer the matter to juvenile court the court shall take into to consideration the factors set forth in 8-239. A determination of guilt resulting from a transfer authorized by 8-239 may not be returned to juvenile court.