



SERVING CHILDREN TOO YOUNG TO ENTER THE JUVENILE JUSTICE SYSTEM



RAISE THE LOWER AGE FROM 10 TO 13

When children who have not yet become teenagers act out, their families, schools, and communities should be involved in age-appropriate responses that avoid arrest and formal court processes. Raising the lower age of juvenile court jurisdiction to 13 is the best way to ensure that young children do not end up in court, in jail, or with a criminal record for behavior that would be better addressed in a more developmentally appropriate and effective manner.

Though Texas is often a leader when it comes to juvenile justice reforms, the State and the United States as a whole are outliers with regard to the practice of prosecuting young children in court; 14 is the most common minimum age of criminal responsibility internationally.¹

Young children need responses that address the root causes of their behavior. They do not need to be subject to the juvenile justice system, which research has shown is harmful to children's health and development, with devastating consequences on children's futures.²

CURRENT REFERRALS TO JUVENILE PROBATION

In 2019, there were 4,542 referrals of 10-, 11-, and 12-year-olds to juvenile probation.³ At approximately 80 percent, most of those charges were for a misdemeanor offense, such as school fights where someone sustained a minor injury or no injury, underage possession or substance use, or misdemeanor theft. It is rare for youth to be referred to the juvenile justice system for homicide or other capital crimes. From 2015-2019, five youth under the age of 13 were referred to juvenile probation for homicide offenses.⁴ However, it is unclear if those five cases were all adjudicated, if they were referrals as part of a law of parties case, or if any cases were dismissed.



\$10,728,190

Saved over the biennium,
by raising the lower age to 13

¹ National Juvenile Justice Network, Raising the Minimum Age for Trying Children in Juvenile Court (2021), available at https://www.njjn.org/uploads/digital-library/NJJN%20Policy%20Platform_RaiseTheMinimumAge_UPDATEDFebruary%202021_1.pdf.

² *Id.*

³ Texas Juvenile Justice Department, The State of Juvenile Probation Activity in Texas (2019), available at <https://www.tjjd.texas.gov/index.php/jpdforms-aeu/send/334-state-of-juvenile-probation-activity/2479-the-state-of-juvenile-probation-activity-in-texas-2019>.

⁴ Texas Juvenile Justice Department, The State of Juvenile Probation Activity in Texas reports for 2019, 2018, 2017, 2016, and 2015, available at <http://www.tjjd.texas.gov/index.php/probation-services>

SUPPORTING CHILDREN OUTSIDE THE JUVENILE SYSTEM

Youth confined in state secure facilities, instead of being supervised in the community, are 21% more likely to be rearrested and three times more likely to commit a felony when recidivating.⁵ It is important to note: families, schools, and other community members can refer a child with behavioral challenges to the same community resources a juvenile probation department refers children and youth. The only exception to this is juvenile lock-ups (detention facilities and kid prisons), environments that we know are harmful to all youth, but particularly for this young, vulnerable population.

FAMILIES

Few things can provide the support, guidance, and accountability of a family. This is especially true for children making mistakes or engaging in misbehavior. As long as family support and guidance is a safe option, this should be the primary resource for children under 13 years old. If families are in crisis or have conflict that is leading to a child's misbehavior, they can also receive community-based supports to help them through the conflict and receive the tools to help support their child. By keeping 10, 11 and 12-year-olds out of the juvenile justice system, parents can be a part of the decision-making process regarding all of the services available to their child.

SCHOOLS

In 2015, at least 46% of referrals to juvenile probation for this age group were for school-based misbehavior.⁶ Behaviors that occur at school can and should be addressed by the school – as they are in many instances, currently – through guidance counselors, positive behavior supports, and restorative justice programs that help children find healthy ways to deal with trauma and address conflicts with their fellow students and teachers. Where the school cannot meet the behavioral health needs of the student, they may refer the student and their family to other community-based services that can assess the student and meet their behavioral needs.

CHILD PROTECTIVE SERVICES

Per national data, youth in foster care are disproportionately involved in the juvenile justice system, and when they do enter the juvenile system they enter, on average, for the first time at a younger age than youth not in care.⁷ For youth already in care, there is a mechanism to get them the supports they need through the foster care system. This is the more cost effective way to provide services and supports to children rather than having them go back and forth between CPS and juvenile probation for duplicate assessments, counseling, and services.

While the Department of Family & Protective Services (DFPS) distributes funds for Prevention and Early Intervention programs, like the Family and Youth Success Program ("FAYS"), their involvement

⁵ Council of State Governments, *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms* (2015), available at <https://csgjusticecenter.org/publications/closer-to-home/>.

⁶ Texas Appleseed and Texans Care for Children, *Dangerous Discipline* (2016), available at <http://stories.texasappleseed.org/dangerous-discipline>. *2015 data is the most recent data available to breakdown offense location.

⁷ RFK National Resource Center for Juvenile Justice, *Building a Brighter Future for Youth with Dual Status: A Policy Roadmap Forward* (2018), available at <https://rfknrcjj.org/wp-content/uploads/2018/11/Building-a-Brighter-Future-For-Youth-with-Dual-Status-A-Policy-Roadmap.pdf>.



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is limited to contracting with community-based providers to provide services. Unless a stakeholder trying to determine the underlying cause of the child's behavior hears an outcry or suspects abuse in the child's home, Child Protective Services (CPS) or investigations would not become involved with the child or their family due to a child's behavioral challenges. Without this legislation, stakeholders would still need to make a report to CPS, if the youth made an abuse outcry.

FAMILY AND YOUTH SUCCESS PROGRAM

Texas' FAYS program (formerly Services to At-Risk Youth ("STAR")) was designed to serve at-risk youth and their families, which includes youth who might have received a juvenile justice referral. The program serves families for free and can help with a wide variety of individual and family issues, including but not limited to:

- Develop Family Communication Skills
- Increase Social & Emotional Health
- Confidence Building
- School Attendance
- Family Conflict
- Online Safety
- Coping Skills
- Bullying
- Anger
- Grief

This program exists in all 254 Texas counties and is one of the most consistently successful programs funded by DFPS. The FAYS program reports on average, over the last 10 years, 94.8% of youth served by the program remain out of the juvenile justice system after being served.⁸ These programs also tend to be underutilized.

LOCAL MENTAL HEALTH AUTHORITIES

Texas Health and Human Services contracts with 37 LMHAs and two local behavioral health authorities to deliver mental health services in all communities across Texas. Community mental and behavioral health services focused on children and youth support families to make positive changes that help children recover from mental illness and foster resilience. Mental health services start with a thorough assessment and the development of a plan to address goals identified by the child and family. Services to the child and family may include:

- Crisis intervention
- Skills training and development
- Counseling
- Supportive employment
- Medication training and support
- Case management
- Peer services
- Substance use and addiction services
- Wraparound Service

All LMHA's also administer the **Youth Empowerment Services (YES) Waiver**, a Medicaid waiver program to support children and youth with serious mental, emotional, and behavioral challenges. The waiver provides for intensive community-based wraparound supports, with a goal of keeping youth out of state hospitals.

⁸ Texas Department of Family & Protective Services, PEI Outcomes, Outputs & Efficiencies, available at https://www.dfps.state.tx.us/About_DFPS/Data_Book/Prevention_and_Early_Intervention/Outcomes_Outputs_Efficiencies.asp.



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YOUTH SUBSTANCE USE TREATMENT & RECOVERY SERVICES

State funded substance use providers serve children 13-17 years of age. However, if the screening process indicates the individual's needs, experiences, and behavior are similar to those of adolescent clients they may admit a 12-year old. The severity of the substance use disorder determines treatment. Available programs include Youth Intensive Residential Treatment Services, Youth Supportive Residential Treatment Services, Youth Outpatient Services, and Youth Recovery Communities.⁹

TEXAS SYSTEMS OF CARE

Texas Systems of Care's mission is "[t]o strengthen the collaboration of state and local efforts to weave mental health supports and services into seamless systems of care for children, youth, and their families."¹⁰ The systems of care framework is currently being implemented in many communities – both rural and urban – across Texas through local LMHAs or the CRCGs.

COMMUNITY RESOURCE COORDINATION GROUPS

Community Resource Coordination Groups (CRCG) are groups of local partners and community members that work with parents, caregivers, youth, and adults to make a service plan that helps a person with specific needs get benefits and services. CRCGs provide a coordinated approach to service delivery for people with multi-agency needs. They include local representatives from schools, the LMHA, FAYS, public and private sector health and human services agencies, faith and community-based organizations, and local criminal justice organizations.¹¹ When local service providers such as schools, LMHA or FAYS cannot fully meet the needs of a youth, they can refer the child to the CRCG for staffing.

RESIDENTIAL TREATMENT CENTERS AND STATE HOSPITALS

Supporting children and youth at home and in the community should always be the goal; however, sometimes, treatment outside of the home is the best and necessary option. There are options to do this outside of the juvenile justice system.

HHSC operates the RTC Relinquishment Avoidance Project that allows for placement in a residential treatment center when parents can no longer meet the child's needs.¹² Before placement, the LMHA will assess the child to ensure eligibility. CRCGs, when necessary and appropriate, can develop a service plan with a child's family that includes placement outside of the home, including residential treatment centers and state hospitals. Providers on the CRCG will work to identify appropriate funding resources for placement, which can include a parent's private insurance.

⁹ Texas Health & Human Services, Youth Substance Use Treatment & Recovery Services, available at <https://hhs.texas.gov/services/mental-health-substance-use/youth-substance-use/youth-substance-use-treatment-recovery-services>

¹⁰ Texas Systems of Care, About Us, available at <https://txsystemofcare.org/about/>.

¹¹ Texas Health and Human Services Commission, Community Resource Coordination Groups of Texas Report (2020), available at <https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2020/crcg-tx-biennial-report-nov-2020.pdf>.

¹² Texas Health and Human Services Commission, Children's Mental Health Residential Treatment Center Relinquishment Avoidance Project, available at <https://hhs.texas.gov/services/mental-health-substance-use/childrens-mental-health/childrens-mental-health-residential-treatment-center-relinquishment-avoidance-project>



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