

Juvenile Justice Diversion Workgroup

(FY 2021 Appropriation Act - Public Act 166 of 2020)

April 15, 2021

Sec. 710. (1) The department shall create and participate in a workgroup to make recommendations to ensure the use of juvenile justice diversion programs in this state. The workgroup shall include a representative from the department, the state court administrative office, members of the house of representatives and the senate, and other individuals or organizations as determined appropriate by the department.

(2) *By April 15 of the current fiscal year, the department shall provide a report to the house and senate appropriations subcommittees on the department budget, the senate and house fiscal agencies, the house and senate policy offices, and the state budget office. The report produced by the workgroup shall include, but not be limited to, all of the following:*

- (a) *Best practices established for juvenile justice diversion programs.***
- (b) *Outcomes for juveniles from juvenile justice diversion programs.***
- (c) *Types of diversion programs currently being used in this state.***
- (d) *Recommendations to promote consistency in juvenile justice screening programs across this state.***
- (e) *Recommendations for training standards for juvenile justice screening programs to be developed by the department.***

Juvenile Justice Diversion Workgroup

On March 1, 2021, the Michigan Department of Health and Human Services (MDHHS) convened a workgroup on juvenile justice diversion, including the new juvenile justice director – Derrick McCree, the manager of juvenile justice programs – Soleil Campbell, a representative from the State Court Administrative Office – Tanya Morrow, Senator Santana, Senator Bizon, Representative Kahle, Representative Yancey and the director of the Michigan Center for Youth Justice – Jason Smith. The group reviewed information, legal requirements, and research on juvenile justice diversion to develop recommendations in the following areas:

- (a) Best practices established for juvenile justice diversion programs.
- (b) Outcomes for juveniles from juvenile justice diversion programs.
- (c) Types of diversion programs currently being used in this state.
- (d) Juvenile justice screening tools for statewide use.
- (e) Training standards for juvenile justice screening tools.

Michigan has 83 counties, and each county court operates juvenile justice programming differently. In addition, the MDHHS provides a state level juvenile justice system for youth referred under MCL 400.55(h) or committed under 1974 PA 150. Diversion programming is typically carried out within each local jurisdiction at the county level and is dependent on the resources and philosophical beliefs guiding practice within the jurisdiction.

However, all jurisdictions have the legal ability to provide for diversion of youth under the Juvenile Diversion Act, 1988 PA 13. The act defines diversion as “the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor that if a petition were filed with the court would bring that minor within section 2(a) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, and instead of petitioning the court or authorizing a petition, either of the following occurs:

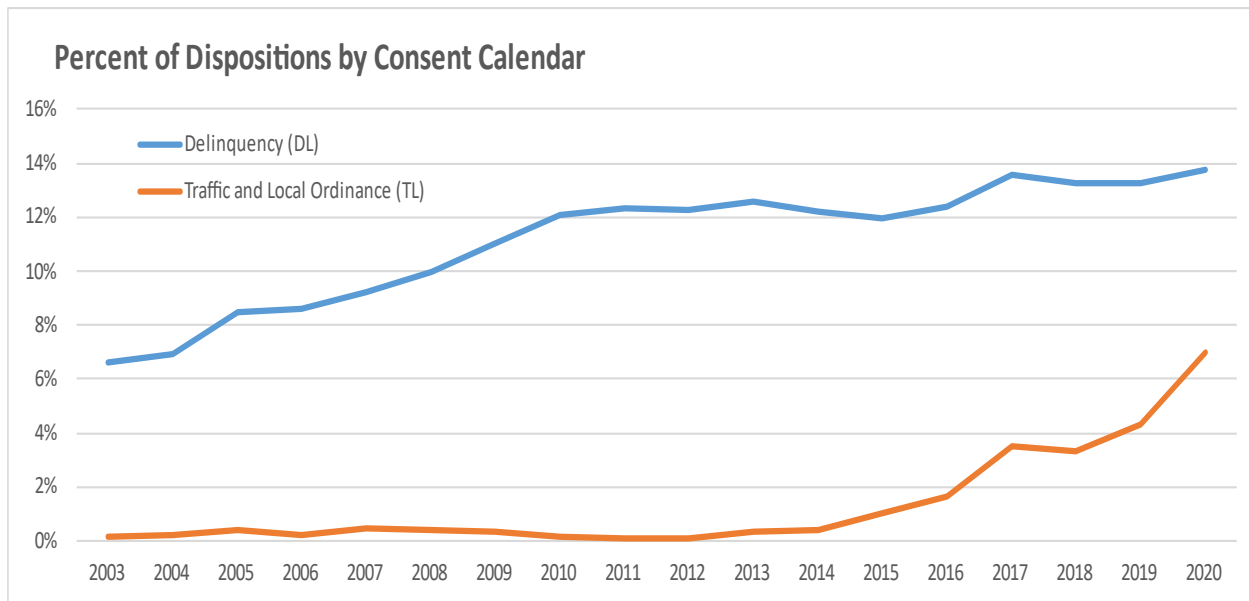
- (i) The minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued.
- (ii) The minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.”

The Diversion Act requires that consideration be given to the nature of the alleged offense, the youth’s age and problems leading to the alleged offense, the youth’s behaviors, character and conduct and any prior decisions made related to the youth’s diversion. No reliable data is currently available at a statewide level to determine the overall use or trends in diversion implementation. A survey has been sent to county courts to ascertain current programming for diversion and the funding sources used for those programs. In 2017, the Michigan Council on Crime and Delinquency (now Michigan Center for Youth Justice), conducted a survey; the fact sheet is attached to this report. The four major findings included that state funding guidelines incentivize juvenile court-managed diversion, eligibility for diversion differs across jurisdictions, most diversion programs do not include family treatment and some levy fines and fees, and a lack of data and inconsistent use of evaluations make success of diversion programs unclear.

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In addition, the Probate Code, 1939 PA 288, MCL 712A.2f provides all courts the authority to implement a consent calendar, which allows a court to determine that formal jurisdiction should not be taken over a youth when a youth, parent or legal guardian and the prosecutor all agree to informal probation with the opportunity for dismissal of the case upon successful completion. The court may transfer a case to the formal calendar for processing if it is later determined that the consent calendar is no longer in the best interest of the youth or the public.

The use of the consent calendar in Michigan has been increasing over time as demonstrated by the following chart from the State Court Administrative Office data warehouse:



Populations for Targeted Diversion

There are three characteristics of youth that can be targeted for diversion and consent calendar due to data showing that there is overrepresentation of these groups in the formal juvenile justice system when compared to the general population:

- Young people of color.
- Youth with diagnosable mental health disorders.
- Youth that identify as lesbian, gay, bisexual, transgender, and intersex.

Minority juveniles, youth of color, in Michigan (and nationwide) are more likely to enter the juvenile justice system than the youth population as a whole, and they are over-represented at nearly every point of contact within the system. (MCJJ, Michigan Disproportionate Minority Contact Data). Michigan data is consistent with national data showing that young people of color are more likely to enter the juvenile justice system than their white peers.

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Mental health disorders are prevalent among youths in the juvenile justice system. A meta-analysis by Vincent and colleagues (2008) suggested that at some juvenile justice contact points, as many as 70 percent of youths have a diagnosable mental health problem.

Lesbian, gay, bisexual, transgender, and intersex youth are overrepresented in the juvenile justice system, and are more likely to be arrested, charged, detained, and incarcerated than straight and/or cisgender youth (Irvine, Wilbur, & Canfield, 2017). Recent research has shown that up to 20% of the youth confined in America's juvenile detention facilities identify as lesbian, gay, bisexual, transgender or gender nonconforming, which is almost three times their estimated number in the general population.

In addition to paying attention to the targeted populations, best practice for diversion includes providing the opportunity for youth that are at low risk of reoffending or that can receive services in the community safely that will lower the risk level of reoffending.

Current Diversion Initiatives

At a state level, the Mental Health Diversion Council Juvenile Justice Subcommittee has provided funding support for several diversion initiatives:

- Juvenile Urgent Response Teams – supplemental juvenile justice mobile crisis response teams that are otherwise funded by Medicaid to provide extended crisis response coverage for youth with delinquent behaviors in crisis during hours outside of normal working hours.
 - Summit Pointe in Calhoun County.
 - Saginaw County Community Mental Health Authority.
- Trauma Focused – Cognitive Behavioral Therapy (TF-CBT) and Strengthening Families Program (SFP) – evidence-based treatment modalities to allow at risk or diverted youth to be served in the community with a particular focus on the targeted populations mentioned earlier in this report.
 - Bethany Christian Services in Ottawa and Allegan counties (TF-CBT only).
 - Child and Family Charities in Ingham and Eaton counties.
- To be released in 2021 – Multisystemic Therapy (MST), Multisystemic Therapy for Problematic Sexual Behavior (MST-PSB), Functional Family Therapy (FFT) – evidence based, family-focused treatment modalities that are successful for juvenile justice diversion.

Also, at the state level, the MDHHS Division of Mental Health Services to Children and Families has provided funding through the federal Mental Health Block Grant for Mental Health Access/Juvenile Justice Diversion Project. The project first launched in fiscal year 2017, with 7 Community Mental Health Service Providers (CMHSP) being selected to be part of the initiative. The overarching goals are to promote early identification of children and youth with serious emotional disturbance (SED), provide service and support linkage to meet the individual needs of the youth/families to assist with underlying needs that may be contributing behaviors to juvenile justice involvement, and promote diversion from formal juvenile justice processing. The project utilizes 3 age appropriate, validated screening tools, and an assessment tool as needed for subsequent service linkage.

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Youth and families served include a youth that is new to the juvenile justice system (pre-adjudication) or at risk for involvement in the juvenile justice system due to truancy, behavior problems at school or in the community, prior contacts with law enforcement, having a sibling or parent/caregiver that is involved in the juvenile justice system, etc. This project is strongly rooted in cross system partnership and collaboration at the local level, with primary partners currently including juvenile courts, law enforcement, schools, intermediate school districts, Prosecutor's offices, local MDHHS, community members (e.g., youth/families referring themselves) and other child service partners. Services provided through this initiative are completely voluntary for the youth and families referred, with services being provided at no cost to the youth, family, or community partner regardless of insurance.

Currently, there are 13 CMHSP sites receiving funding, four of which have a multi-county catchment area. The current project sites are as follows:

- Community Mental Health (CMH) for Clinton, Eaton, and Ingham Counties.
- CMH for Central Michigan-serving Mecosta and Osceola Counties
- CMH for Central Michigan-serving Midland County.
- Genesee Health System-serving Genesee County.
- Gogebic County CMH.
- Lenawee County CMH.
- North Country CMH.
- Northern Lakes CMH.
- Oakland Community Health Network-serving Oakland County.
- Ottawa County CMH.
- Shiawassee Health and Wellness-serving Shiawassee County.
- CMH of St. Joseph County.
- Van Buren County CMH.

Best Practices - Community Collaboration

For diversion programming to be successful, community collaboration is vital to early identification of youth at risk for juvenile justice system involvement. Diversion programming across the community spectrum is necessary at several different points of contact with youth and their families. Best practice includes developing processes to identify and service youth at school, in community mental health settings, through mobile crisis response teams, during law enforcement contacts, when prosecutors are reviewing cases and making decisions to issue charges, and at court intake.

Best Practices - Screening Tools

Several screening tools are available to assist with making informed decisions on appropriateness of diversion for individual youth and their families, however, MDHHS uses and supports the following screening tools for statewide use:

- Massachusetts Youth Screening Instrument—Version 2 (MAYSI-2; Grisso & Barnum, 2006): a 52-question self-report screening instrument that measures symptoms on seven scales pertaining to areas of emotional, behavioral, or psychological disturbance, including suicide ideation. This tool has been examined in more than 50 research studies and is possibly the only tool with national norms.

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- Michigan Juvenile Justice Assessment System Diversion Tool (OYAS; Latessa, Lovins & Ostrowski, 2009) - designed to assess youth at the time of intake to determine if the youth should be formally processed into juvenile court or if the youth is eligible for diversion. The pre-adjudication questionnaire considers predictors of new arrest based on responses and establishes a level of risk.

Training for both tools is set in standards by the developers of the tools and any jurisdiction using the tool would need to maintain fidelity to the required training models.

Evidence Based Programs and Outcomes

Functional Family Therapy (FFT)- <https://www.ftllc.com/>

- Ratio: 1 therapist to 10-12 youth.
- Training cost:
 - Phase 1: \$39,000 annual.
 - Phase 2: \$20,000 annual (plan includes the development of onsite clinical supervision).
 - Phase 3: \$8,000 annual ongoing.
- Benefits minus cost: \$7197.
- Benefit to cost ratio: \$2.76.

Family intervention for dysfunctional youth with disruptive, externalizing problems. *FFT* has been applied to a wide range of problem youth and their families in various multi-ethnic, multicultural contexts. Target populations range from at-risk pre-adolescents to youth with moderate to severe problems such as conduct disorder, violent acting-out, and substance abuse. While *FFT* targets youth aged 11-18, younger siblings of referred adolescents often become part of the intervention process. Intervention ranges from 12 to 14 one-hour sessions. The sessions may be as few as 8 sessions for mild cases and up to 30 sessions for more difficult situations. Most sessions are spread over a three-month period. *FFT* has been conducted both in clinic settings as an outpatient therapy and as a home-based model. The *FFT* clinical model offers clear identification of specific phases which organizes the intervention in a coherent manner, thereby allowing clinicians to maintain focus in the context of considerable family and individual disruption. Each phase includes specific goals, assessment foci, specific techniques of intervention, and therapist skills necessary for success.

Multisystemic Therapy (MST)- <https://www.mstservices.com/>

- Ratios: 1 therapist to 4-6 youth.
- Training cost: \$40,000 annual plus travel expenses.
- Benefits minus cost: \$17,083.
- Benefit to cost ratio: \$3.02.

MST is an intensive family and community-based treatment for serious juvenile offenders with possible substance abuse issues and their families. The primary goals of *MST* are to decrease youth criminal behavior and out-of-home placements. Critical features of *MST* include: (a) integration of empirically based treatment approaches to address a comprehensive range of risk factors across family, peer, school, and community contexts; (b) promotion of behavior change in the youth's natural environment, with the overriding

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goal of empowering caregivers; and (c) rigorous quality assurance mechanisms that focus on achieving outcomes through maintaining treatment fidelity and developing strategies to overcome barriers to behavior change.

Multisystemic Therapy for youth with Problem Sexual Behaviors (MST-PSB)- <https://www.mstpsb.com/>

- Ratio: 1 therapist to 3-5 youth.
- Training cost: \$40,000 annual plus travel expenses.
- Benefits minus cost: \$8197.
- Benefit to cost ratio: \$1.55.

MST-PSB is a clinical adaptation of [Multisystemic Therapy \(MST\)](#) that has been specifically designed and developed to treat youth (and their families) for problematic sexual behavior. Building upon the research and dissemination foundation of standard MST, the *MST-PSB* model represents a practice uniquely developed to address the multiple determinants underlying problematic juvenile sexual behavior.

MST-PSB is delivered in the community, occurs with a high level of intensity and frequency, incorporates treatment interventions from *MST*, and places high premium on each client and family as unique entities. Treatment incorporates intensive family therapy, parent training, cognitive-behavioral therapy, skills building, school and other community system interventions, and clarification work. Ensuring client, victim, and community safety is a paramount mission of the model.

Each youth/family has uniquely and collaboratively designed individual treatment plans, and each treatment site is encouraged to conjointly develop locally defined outcomes that suit community needs.

Summary Recommendations

Based on the workgroup meeting and the information and research collected thus far, it is noted that follow-up work is necessary for obtaining information from local courts on diversion programming at the local level. Additionally, it is recommended that the current workgroup be expanded beyond current membership to include representatives from the following stakeholders/groups:

- Michigan Association of Family Court Administrators.
- Judicial representative.
- Defense attorney representation.
- Prosecuting Attorneys Association.
- Juvenile Justice Association of Michigan.
- Association for Children's Mental Health.
- Michigan Protection and Advocacy Services.
- Juvenile Justice Association of Michigan.
- Youth and/or family representation.
- Tribal Government.