



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

# **MICHIGAN JUSTICE FOR KIDS AND COMMUNITIES BILL PACKAGE SUMMARY**

**DECEMBER 15, 2023**

# The Justice for Kids and Communities bill package is the result of the recommendations developed by the Michigan Task Force on Juvenile Justice Reform.

- Task Force established by executive order in July 2021
- Bipartisan group of stakeholders from across the state, chaired by Lt. Governor Gilchrist
- Final report issued in July 2022, with 32 consensus-based recommendations for improvement
- Several recommendations were translated into legislation that were part of this bill package
- Package is a bipartisan effort, and it was signed into law on December 12
- Effective date for all changes is October 1, 2024, with the exception of changes to the Office of the Children's Ombudsman

# Changes to the Child Care Fund will incentivize the use of community-based practices and ensure that there is a research-based framework for juvenile justice practices statewide.

## ✓ Two main policy goals:

- Provide funding to counties to support the development, expansion, and strengthening of community-based services and formal alternatives to detention and incarceration, including diversion.
- Ensure that counties have the resources to adopt, implement, and consistently utilize research-based approaches and that future policies enacted in Michigan reflect these approaches.

## ✓ Changes include:

- Requiring adherence to framework of research-based practices
- Increasing reimbursement rate for community-based services
- Integrating raise the age into the CCF
- Can use funding for pre-court diversion

# The legislation requires that jurisdictions receiving CCF dollars adhere to certain research-based requirements.

- 1) Using validated screening and assessment tools to inform diversion, consent calendar, detention, and dispositional decisions;
- 2) Utilizing research-based juvenile probation standards to be developed by SCAO; and
- 3) Employing a local quality assurance specialist to support the county with implementing research-based practices (except Tribes or counties receiving the basic grant).

The legislation also requires MDHHS, in consultation with SCAO, to develop performance measures to evaluate county adherence to the best practice requirements, evaluate the state's overall goals of the CCF, and submit an annual report to the legislature.

# Changes also expand what the CCF can be used for and increases the reimbursement rate for community-based services.

- Increases the general state reimbursement share from 50% to 75% for in-home expenses including community-based supervision, services, and related practices, and per diem rates for the use of respite care and shelter for less than 30 days.
- The state share would remain at 50% for residential services including detention and long-term residential placements.
- Raise the age costs will be integrated into the CCF - beginning October 1, 2024, the state would no longer pay 100% of the cost of juvenile justice services for juveniles under the jurisdiction of the court who were 17 years old at the time of the offense.
- The CCF may be used for programs and practices starting when a complaint, referral, or petition is generated by the local prosecutor, law enforcement, or authorized school personnel for a youth at risk of juvenile court involvement through residential placement and reentry excluding general prevention services for all youth at risk of juvenile justice system involvement.

# The bill package requires jurisdictions to use research-based screening and assessment tools at different decision points in the juvenile justice continuum.

## **Mental Health Screening Tool & Diversion Screening Tool**

- Conducted by designated individual or agency
- Does not apply to youth accused or charged with a specified juvenile violation or youth already on supervision
- Results are shared with law enforcement official or court intake worker, who must use the results of the tools to inform decisions to divert or recommend for placement on the consent calendar
- Local jurisdictions can select the risk screening and mental health screening tools, as long as the tools are research-based, nationally validated, and comply with to be developed SCAO guidelines

## **Detention Screening Tool**

- Conducted by an individual or agency designated by the court prior to placement in secure detention
- Results must be shared with all parties to the case prior to a detention hearing
- SCAO, in collaboration with local courts, will determine the appropriate detention screening tool to be used

# The bill package also requires jurisdictions to use research-based screening and assessment tools at different decision points in the juvenile justice continuum.

## Risk and Needs Assessment Tool

- Conducted by a designated individual or agency
- Results are shared with all parties to the case prior to a proceeding
- Results are used to inform dispositional decision-making, including the supervision length, level, and conditions, and to inform the use of out-of-home placement
- New assessment must be conducted at least every 6 months, or when changes happen to a case or major life event for the youth
- Local jurisdictions can select the risk and needs assessment tool, if the tool is research-based, nationally validated, and complies with to be developed SCAO guidelines

## **Additional changes were made to expand opportunities for pre-court diversion and consent calendar statewide.**

- As already mentioned, results from a mental health screening tool and a risk screening tool must be used to inform diversion and consent calendar decisions.
- Jurisdictions can no longer use restitution as a factor in considering whether a youth can be offered diversion or consent calendar.
- Juvenile diversion agreements cannot last longer than 3 months, unless there is a determination made that a longer period is needed for the minor to complete a specific treatment program.
- And again, the Child Care Fund can be used to reimburse jurisdictions for pre-court diversion services.



# The bill package eliminates all fines and fees associated with juvenile court involvement except for restitution and the Crime Victims Fund.

- Fees and costs eliminated include:
  - Consent calendar and diversion participation
  - DNA testing for juveniles, or a parent/legal guardian of a juvenile
  - Court late fees/late penalties for juveniles, or a parent/legal guardian of a juvenile
  - Placement in a residential facility
  - Attorney fees for a court-appointed attorney to represent a juvenile
  - Community service.
  - Care, services, or other costs or assessments related to a juvenile's court proceedings
  - Detention stays and for juvenile probation
  - State minimum fees
- Youth cannot be placed outside of their home solely based on nonpayment of restitution or inability to perform community service.
- Beginning October 1, 2024, the court can't collect the balance of any previously assessed fines or fees.

# Legislation renames and expands the role of the Office of the Children's Ombudsman, effective immediately.

- Renamed to the Office of the Child Advocate
- Requires the Office of the Child Advocate to protect the rights and welfare of children under the control of a juvenile justice residential facility in the same manner as it currently provides to children under the control of other agencies.
- Allows a judge for a youth in the juvenile justice system to file a complaint with the Child Advocate on behalf of the youth.
- Adds to the authority of the Child Advocate to mediate issues and educate the public regarding complaints dealing with certain county and private agencies serving children, maltreatment in care investigations, and investigations of lack of or insufficient services regarding a residential facility.
- Requires that residential facilities publicly post a description of the office of child advocate and the contact information for the purpose of filing a complaint.

# The package also expands the State Appellate Defender Office to include appellate services for juveniles, which will include post-dispositional services.

- Adds to the requirements for the appellate defender commission to include individuals who represent the interests of individuals who have been impacted by the youth or adult justice system and someone recommended by the Michigan Indian Judicial Association.
- The appellate defender commission is charged with developing a system of appellate defense services for indigent youth.
- The commission must also keep current a statewide roster of attorneys eligible for, and willing to accept, appointment to serve as appellate defense counsel for indigent youth.
- The bill prescribes a state reimbursement process for local governments that pay for locally appointed private counsel within their indigent defense systems.

# The legislation adds developmental factors that judges must consider in making waiver or designation decisions.

- Adds the following to the criteria a court must consider in making determinations to waive or designate a case:
  1. The adequacy of rehabilitative services and the youth's amenability to treatment;
  2. The youth's developmental maturity, mental and emotional health;
  3. Culturally honoring traditions if the youth is a member of a Tribe; and
  4. The impact on the victim.
- Removes school records as information that can be used as criteria by the court for waiver and designation decisions.
- The legislation codifies practices that are already happening, and it does not alter the flexibility or authority of judges in making these recommendations or decisions.

## **Lastly, the package makes changes to support DHHS to respond more flexibly to residential facility challenges.**

- Bill allows the Department of Health and Human Services the ability to adjust the juvenile justice residential per diem rate as needed.
- There is no fiscal impact as the bill states that they can only do so within the amount appropriated in the annual budget.