

CAMPAIGN FOR
YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

April 20, 2009

The Honorable Patrick Leahy
Chairman
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Arlen Specter
Ranking Member
Senate Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Herb Kohl
United States Senate
330 Hart Senate Office Building
Washington, DC 20510

The Honorable Richard Durbin
United States Senate
309 Hart Senate Office Building
Washington, DC 20510

Dear Senators Leahy, Specter, Kohl, and Durbin,

On behalf of the Campaign for Youth Justice, a non-profit organization dedicated to ending the practice of trying, sentencing and incarcerating youth under the age of 18 in the adult criminal justice system, I am writing to support S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009.

We strongly support S. 678 for the following reasons:

(1) The bill adds critical additions to the JJPDA to keep youth out of adult jails and prisons:

S. 678 updates federal law in light of extensive research that shows that youth in adult facilities are at a great risk of assault, abuse, and suicide compared to youth in juvenile facilities.

For example, in November, 2007, the Campaign for Youth Justice released “Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America,” documenting the negative impact on youth of placing them in adult jails.

Youth placed in adult jails with adults are at risk of physical and sexual assault. According to the U.S. Department of Justice’s Bureau of Justice Statistics (BJS), 21% and 13% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005 and 2006 respectively, were youth under the age of 18. These numbers are surprisingly high given that only 1% of jail inmates are juveniles.

Separating children from adults in adult jails helps reduce some of the physical or emotional harm to children, but children are then often placed in isolation which can also produce harmful consequences. Youth are frequently locked down 23 hours a day in small cells with no natural light. These conditions can cause anxiety, paranoia, and exacerbate existing mental disorders and put youth at risk of suicide. Youth have the highest suicide rates of all inmates in jails. Youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility, and 20 times more likely to commit suicide in an adult jail than youth in the general population.

S. 678 substantially improves the “Jail Removal” and “Sight and Sound” core requirements by extending federal protections to all youth – whether they are prosecuted in juvenile or adult court – and resolves the “adult inmate” issue by allowing States to continue to place youth convicted in adult court in juvenile facilities without jeopardizing federal funding. In sum, the bill rewards States for placing youth in more appropriate placements in the juvenile justice system rather than adult jails and prisons.

Given the information and data above, the Campaign is hopeful that the Senate can continue to work toward three additional policy goals. First, the Campaign strongly urges the Senate to completely remove youth from adult jails in all circumstances. Second, if youth are placed in adult jails under any circumstances, the Campaign asks that these youth be sight and sound separated from adults while housed in these facilities in all cases. Finally, the expansion of the jail removal and sight and sound core requirements must be included as part of the JJDP’s core requirements. We look forward to working with the Senate on these important changes.

(2) The bill focuses on reducing racial and ethnic disparities:

S. 678 makes important improvements to the Disproportionate Minority Contact (DMC) core requirement by providing clear guidance to States on how to move toward reducing DMC. S. 678 outlines specific steps States must take toward reducing racial and ethnic disparities, including identifying and analyzing key decision points to determine where disparities exist, collecting data, developing a work plan, and publicly reporting on progress toward reducing disparities. This is a critical change because at every level of the juvenile justice system, youth of color are disproportionately represented.

According to research by the National Council on Crime and Delinquency, youth of color receive different and harsher treatment for offenses and are disproportionately represented throughout the juvenile system. For example, although African American youth are 16% of the adolescent population in the United States, they are 38% of the almost 100,000 youth confined in local detention and state correctional systems. In addition, African American youth are more likely than White youth to be formally charged in juvenile court, even when referred for the same type of offense. Although just over half of drug cases involving White youth resulted in formal processing, over three-quarters of drug cases involving African American youth result in formal processing.

The overrepresentation of youth of color is also apparent in the incarceration of youth as well. When White youth and African American youth are charged with the same offenses, African American youth with no prior admissions were six times more likely to be incarcerated in public facilities than White youth with the same background. Moreover, Latino youth were three times more likely than White youth to be incarcerated.

(3) The bill strengthens the deinstitutionalization of status offenders (DSO) core protection:

Under current law, non-delinquent status offenders, such as children who are truant, runaway or violate curfew, may be held in juvenile lock-ups under the Valid Court Order (VCO) exception, which allows judges to issue detention orders.

The practice persists despite evidence that securely detaining status offenders is harmful to pro-social development and is costly, especially when compared to more effective responses including shelter care, crisis counseling, family support, and/or community and school based interventions. S. 678 requires States that still permit the use of the VCO exception to phase-out use of the VCO within three years, and allows States who will not meet this deadline to apply for hardship extensions through the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

In the three-year phase-out period S. 678 provides extra safeguards for status offenders in locked facilities, including limits on how long status offenders may be detained. We would like to see the status offender provisions become stronger in terms of limiting length of stay in detention, ensuring that the status offenders are not subject to repeat detention orders, and limiting hardship exceptions to the phase-out period are limited.

(4) This legislation makes overall juvenile justice system improvements:

S. 678 improves conditions of confinement in juvenile facilities by calling for the OJJDP Administrator to report annually on State data regarding the uses of isolation and restraints in juvenile detention and corrections facilities and encouraging training of facility staff to eliminate dangerous practices. The bill also calls for States to develop policies and procedures to eliminate the use of dangerous practices and unreasonable use of restraints and isolation through the use of alternative behavior management techniques.

Additionally, S. 678 provides comprehensive services and supports for youth. S. 678 promotes alternatives to detention, improves screening, diversion, assessment, and treatment for youth with mental health and substance abuse needs, enhances child welfare and juvenile justice system integration, supports effective assistance of juvenile counsel, and improves case management and transitional services for youth upon re-entry. We would like to see further emphasis placed on provision of services to girls.

(5) S. 678 assists States in their capacity to comply with the federal law:

The bill ensures that States will receive technical assistance to comply with the law, and for States not in compliance, JJDP funds that would otherwise have been withheld for non-compliance will be reinvested by the States as improvement grants to regain compliance in that specific area.

S. 678 also restores and strengthens the role of OJJDP. S. 678 provides guidance about specific research, technical assistance, and training efforts to be conducted in a manner that benefits States and communities, nationwide. The bill also includes important provisions to improve program and financial oversight and accountability at OJJDP, and restores the statutory authority given to a national association of State Advisory Groups.

Additionally, the bill creates a new incentive grant program for States that wish to employ empirically-sound prevention and intervention approaches and improve their work in the areas of

workforce development, and diversion for youth with mental health and substance abuse needs. We would like to see even greater emphasis on use of evidence-based or promising approaches.

S. 678 sets more appropriate authorization levels for Title II and Title V. S. 678 provides States with the resources needed to achieve and sustain compliance with the core requirements of the JJDPa and take meaningful steps to improve juvenile justice systems and prevent delinquency and violence. We are very pleased to see that the Senate has cited authorization levels in the legislation.

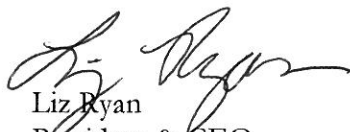
In conclusion, the Campaign for Youth Justice supports S. 678, the Juvenile Justice & Delinquency Prevention Reauthorization Act of 2009. This important legislation and our recommendations to improve the bill are based on the latest scientific research in the field and the public's strong support for investing in rehabilitation and treatment of youth. Public opinion polls indicate that 72% of Americans feel that incarcerating youth in adult correctional facilities led to subsequent crime after release, and 89% agreed or strongly agreed that rehabilitative services and treatment would help reduce crime.

Finally, we urge you to vote against 1) any amendments to weaken the core requirements in the bill or 2) any unrelated or punitive amendments, such as amendments that would increase the number of youth tried as adults or that would remove a judge's discretion to determine whether to prosecute a youth in adult court, from being incorporated into the bill. If such punitive and counter-productive amendments are added, we would urge you to oppose the bill as these amendments would undermine the overall goals of the bill and run counter to the research on which the provisions currently in S. 678 are based.

Thank you again for your leadership on this bill. Your support is greatly appreciated and please do not hesitate to contact me at (202) 558-3580 if you have questions or need additional information.

Thank you for your efforts on behalf of our nation's youth.

Sincerely,



Liz Ryan
President & CEO
Campaign for Youth Justice