



April 9, 2009

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

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

The Honorable Herbert H. Kohl
United States Senate
Senate Hart Office Building 330
Washington, DC 20510

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

Dear Senators Leahy, Specter, Kohl, and Durbin:

As a national organization that supports effective criminal and juvenile justice strategies, The Sentencing Project would like to offer our strong support for S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009 which was introduced on March 24, 2009. We encourage the Senate Judiciary Committee to continue to strengthen the JJDP core protections for children and youth as this bill moves through the Committee.

The Sentencing Project advocates for fair and equitable treatment of those involved in the criminal and juvenile justice systems. We have produced many publications that demonstrate the extreme and persistent racial disparity which plagues the administration of justice in this country; decades of research reveal that youth of color are overrepresented in the juvenile justice system as well. For instance, while African American youth account for only 16% of adolescents in this country, they comprise 40% of youth in local jails and state correctional facilities. Moreover, racial and ethnic disparities worsen as youth progress through the system. And, research frequently finds that youth of color are treated much more harshly than white youth for committing the same offenses.

The Sentencing Project also strongly advocates for strategies to divert children and youth from secure confinement and toward alternatives to detention. Evidence-based community programs have been demonstrated to effectively lower rates of offending, while incarceration often results in higher rates of recidivism. We are pleased to see a strong emphasis on best practices in this bill; S. 678 promotes alternatives to detention, improves assessments and treatments for mental health and substance abuse, enhances child welfare and juvenile justice integration, supports effective assistance of counsel, and improves case management and transitional care for youth upon reentry.

S. 678 meaningfully updates and improves many of the federal Juvenile Justice and Delinquency Prevention Act (JJDP) core requirements, research and training resources and other key areas of the law. We are pleased to see such positive movement to reauthorize the JJDP, which, for more than 30 years, has provided states and localities with federal standards and supports for improving juvenile justice and delinquency prevention practices and put in place safeguards for youth, families and communities.

514 Tenth St. NW, Suite 1000, Washington, DC 20004

Ph: 202.628.0871

Fax: 202.628.1091

www.sentencingproject.org



We specifically applaud the progress represented by the following amendments in S. 678:

Core Requirements:

Strengthens the Disproportionate Minority Contact (DMC) core requirement: Research has documented that youth of color are disproportionately overrepresented and subject to more punitive sanctions at all levels of the juvenile justice system. S. 678 provides clear direction to States and localities, asking them to plan and implement data-driven approaches to ensure fairness and to reduce racial and ethnic disparities, to set measurable objectives for DMC reduction and to publicly report on progress.

The bill language vastly improves current law regarding DMC, but we are hopeful that the bill can further be amended to provide stronger language around community engagement. Specifically, we support strengthening amendments that include affected communities as stakeholders and calls on them to participate in efforts to reduce racial and ethnic disparities. Too frequently, community members are not included in discussions or activities to identify causes of DMC and assist with reducing it, yet these community members truly have a “stake” in DMC.

A second area where we see room for improvement in the bill lies in reporting DMC-related findings. We are pleased to see that the bill calls for a requirement to report DMC-reduction efforts annually. However, the bill does not include language requiring that States and localities publicly report on an annual basis their *progress* toward reducing racial and ethnic disparities. By requiring such reports States would be asked to go beyond merely describing their efforts and to report on the impact of these efforts .

Improves the Jail Removal and Sight and Sound core requirements: Research shows youth confined in adult jails and lock-ups face increased recidivism and high risks of assault and suicide. S. 678 extends the jail removal and sight and sound core requirements to keep youth awaiting trial in criminal court out of adult lock-ups under certain circumstances. While our ultimate goal is to completely remove these youth from adult facilities, S. 678 takes a good step in this direction and we look forward to further strengthening this section of the bill.

Allows states to continue to place youth convicted in adult court in juvenile facilities without jeopardizing federal funding: S. 678 would permit many states to continue allowing youth convicted in adult court to serve their sentence in juvenile facilities until they reach the extended juvenile jurisdiction age. This reverses current law, which would penalize states that utilize more appropriate and humane placements for youth.

Strengthens the deinstitutionalization of status offenders (DSO) core requirement: Under current law, non-delinquent status offenders (such as children who are truant, runaway or violate curfew, alcohol and tobacco laws) may be held in juvenile lock-ups under the Valid Court Order (VCO) exception. This allows judges to issue detention orders. This practice persists despite evidence that securely detaining status offenders is harmful and costly, especially when compared to more effective responses including shelter care, crisis counseling, family support, and/or evidence-based community and school-based interventions.



S. 678 requires states that still permit the use of the exception to phase-out use of the VCO within three years, and allows states in need to apply for one-year hardship extensions through the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Until VCO elimination, this bill 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 strengthened in terms of limiting length of stay in detention, ensuring that status offenders are not subject to repeat detention orders and that hardship exceptions to the phase-out period are limited.

Overall juvenile justice system improvements:

Improves conditions of confinement in juvenile facilities: S. 678 calls for the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to report annually on state data regarding the uses of isolation and restraints in juvenile detention and corrections facilities, and encourages training of facility staff to eliminate dangerous practices.

Funding levels:

Sets appropriate authorization levels for both Title II and Title V: The authorization levels for both Title II and Title V are set at levels that will help ensure that states comply with the core requirements of the bill as well as take meaningful steps to prevent future crime.

In light of these advancements, we support S. 678 as a significant step toward improving the JJDP and offer ourselves as a resource as the bill moves through the legislative process. Thank you for your efforts on behalf of youth, families and communities across the country.

Sincerely,

Marc Mauer
Executive Director

CC: Senate Judiciary Committee Members

Senator Dianne Feinstein
Senator Russell D. Feingold
Senator Charles E. Schumer
Senator Benjamin L. Cardin
Senator Sheldon Whitehouse
Senator Ron Wyden
Senator Amy Klobuchar
Senator Ted Kaufman

Senator Orrin G. Hatch
Senator Charles Grassley
Senator Jon Kyl
Senator Jeff Sessions
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Senator Tom Coburn