

## Juvenile Justice Changes in Federal Law

The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) is the central federal law that establishes core requirements for state juvenile justice systems. 34 USC §111. In return for compliance with these core requirements, the statute authorizes federal funding for states to use in their juvenile justice systems. The JJDPA expired in 2007 and was recently reauthorized in the Juvenile Justice Reform Act of 2018. Public Law No 115-385. The reauthorized statute made several significant amendments to the JJDPA. In this blog post I will discuss three of the highlights: a new focus on evidence-based and promising programs and practices, changes in the disproportionate minority contact core requirement, and new requirements regarding identification and treatment of mental health and substance use disorders.

### Evidence-Based and Promising Programs and Practices

The Juvenile Justice Reform Act added the following new purpose to the JJDPA:

“to support a **continuum of evidence-based or promising programs** (including delinquency prevention, intervention, mental health, behavioral health and substance abuse treatment, family services, and services for children exposed to violence) that are trauma informed, reflect the science of adolescent development, and are designed to meet the needs of at risk youth and youth who come into contact with the justice system.” 34 U.S.C. §11102 (4).

The amendments also provide new statutory definitions for the terms evidence-based and promising. According to these definitions, a program or practice is evidence-based if it: is demonstrated to be effective when implemented with fidelity; is based on a clearly articulated and empirically supported theory; has measurable outcomes relevant to juvenile justice, including a detailed description of the outcomes produced in a particular population, whether urban or rural; and has been scientifically tested and proven effective through randomized control studies or comparison group studies and with the ability to replicate and scale. 34 U.S.C. §11103 (34).

A program or practice is promising if it: is demonstrated to be effective based on positive outcomes relevant to juvenile justice from one or more objective, independent, and scientifically valid evaluations, as documented in writing to the Administrator (of the Office of Juvenile Justice and Delinquency Prevention (OJJDP)); and will be evaluated through a well-designed and rigorous study (through randomized control studies or comparison group studies and with the ability to replicate and scale). 34 U.S.C. §11103 (35).

The amendments include additional provisions to require states to focus on the use of evidence-based and promising programs and practices in juvenile justice. Plans that states must submit to OJJDP in order to receive federal funding are now required to include information on how the state

will promote evidence-based programs and practices. 34 U.S.C. §11133 (a)(7)(B)(viii). State plans are now also required to detail how they will provide for the coordination and maximum utilization of evidence-based and promising juvenile delinquency programs (34 U.S.C. §11133 (a)(8)) and they must provide a priority in the use of federal funding to entities meeting criteria as evidence-based or promising. 34 U.S.C. §11133(a)(9).

The National Institute of Justice offers a [web-based resource](#) on the research behind criminal and juvenile justice programs and practices, including delinquency prevention. Programs are rated as effective, promising, and no effects. The site includes information about the methodology that has been used to evaluate each program, evaluation outcomes, and information about program components and cost. This site can be a good place to start if you are wondering whether a juvenile justice program or practice meets the new statutory criteria of evidence-based or promising.

### Disproportionate Minority Contact

The JJDPa has held the need for states to address disproportionate minority contact (DMC) of youth with the juvenile justice system as a core requirement since 1992. The Juvenile Justice Reform Act of 2018 replaced the former core requirement that states address the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system with a new core requirement.

The new requirement mandates that states implement policy, practice, and system improvement strategies at the state, territorial, local, and tribal levels to **identify and reduce racial and ethnic disparities** among youth who come into contact with the juvenile justice system. 34 U.S.C. §11133 (a)(15). The new language provides the following three methods that are to be used in this work:

1. Establishing or designating existing coordinating bodies to advise efforts to reduce racial and ethnic disparities. These bodies can be at the state, local, or tribal levels and should be composed of juvenile justice stakeholders, including education system representatives.
2. Identifying and analyzing data on racial and ethnic disparities at juvenile justice system decision points to determine where racial and ethnic disparities are created within the juvenile justice system.
3. Developing and implementing a work plan. The work plan should include measurable objectives for policy, practice, or other system changes based on the needs identified in the data collection and analysis.

The new construct moves to a focus on racial and ethnic disparities, often referred to as RED. It also centers on engaging key stakeholders to advise RED reduction efforts and emphasizes the use of data to target those efforts. In North Carolina, the Governor's Crime Commission staffs a [DMC subcommittee](#) and that subcommittee makes recommendations to the Juvenile Justice Planning Committee regarding DMC efforts. This body is likely to be the state-level body that

advises state efforts to reduce RED.

There is also a model for a local coordinating body in the 26<sup>th</sup> Judicial District. Convened by the juvenile judges of the 26<sup>th</sup> judicial district, [Race Matters for Juvenile Justice](#) is a collaborative effort focused on reducing the disproportionality and disparate outcomes for children and families of color in the juvenile justice system. Efforts include tracking and analyzing data to inform local RED reduction efforts through a Research, Evaluation, and Data-Based Decision Making Subcommittee. The new RED core requirement language may offer opportunity for these kinds of existing state and local bodies to renew their efforts within the new federal construct. It may also provide opportunity for other local bodies to consider functioning as local coordinating bodies to advise their localities on data-driven RED reduction efforts.

### **Mental Health and Substance Abuse**

The Juvenile Justice Reform Act of 2018 made several changes regarding identification of mental health and substance use disorder needs and the provision of treatment for justice-involved youth. States are now required to provide information in their state plans regarding:

1. The evidence-based methods that will be used to conduct mental health and substance abuse screening, assessment, referral, and treatment for juveniles who request a screening, show signs of needing a screening, or are held for more than 24 hours in a secure facility that provides screening; and
2. How the state will seek, to the extent practicable, to provide or arrange for mental health and substance abuse disorder treatment for juveniles in need of treatment. 34 U.S.C. 11133(a)(30)(A)&(B).

Statutory definitions of screening and assessment were also added to the JJDP. According to these definitions, screening is a brief process to identify youth who may have mental health, behavioral health, substance abuse, or other needs requiring immediate attention, intervention, and further evaluation and to quickly identify youth who may have need for further assessment of any of these needs. 34 U.S.C. §11103(37). Assessment is defined, at a minimum, as an interview and review of available records and other pertinent information by an appropriately trained and licensed or certified professional. 34 U.S.C. §11103(38). The assessment should be designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth's confinement.

The JJDP. allowed federal funding to be used for programs to provide mental health services for "incarcerated" juveniles suspected to be in need of those services prior to the amendments made in the Juvenile Justice Reform Act of 2018. The previous language allowed funding to be used for assessment, development of individualized treatment plans, and discharge plans. This language was amended in the Juvenile Justice Reform Act of 2018 to allow funds to be used to address co-occurring disorders along with mental health needs that occur without a co-occurring substance

use disorder need. 34 U.S.C. §11133(a)(9)(T). The new language also expands the population of youth on whom funding can be spent for these services to include all court-involved youth and not just those who are confined. The actual provision of treatment was also added as an allowable use of this funding.

Finally, the changes made to the JJDPa include a new focus on reducing the number of children who are lingering in secure confinement while waiting for mental health treatment. States are now required to include information in their plans regarding how they will reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs. 34 U.S.C. §11133(a)(7)(B)(v). State law in North Carolina allows for continued secure custody following an adjudication of delinquency pending placement of the juvenile. G.S. 7B-1903(c). Under the new federal law, North Carolina will have to provide a plan regarding reduction of time in secure custody for youth who are pending placement in a residential treatment program.

### **Key Takeaways**

The reauthorized JJDPa includes a wide array of changes, some of which are highlighted in this post. The State is now required to comply with these changes in order to access federal funding for juvenile justice and delinquency prevention efforts. The changes highlighted here will require a new focus on use of evidence-based and promising programs and practices, data-driven efforts to reduce RED, and screening, assessment, and connection to treatment for youth in need of mental health and substance use disorder services.