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Testimony of the Honorable Bernadette Conway
Judiciary Committee Public Hearing
March 23, 2016

H.B. 5642, An Act Concerning the Recommendations of the Juvenile Justice Policy Oversight Committee

Good morning Sen. Coleman, Rep. Tong and distinguished members of the Judiciary Committee. I am Bernadette Conway, the Chief Administrative Judge for Juvenile Matters and a member of the Juvenile Justice Policy and Oversight Committee (JJPOC.). Additionally, I had the privilege to be the co-chair of the Incarceration Work Group of the (JJPOC) with Senator Gary Winfield. Thank you for the opportunity to provide testimony on behalf of the Judicial Branch regarding **H.B. 5642,** ***An Act Concerning the Recommendations of the Juvenile Justice Policy Oversight Committee.***

The Judicial Branch has embraced its membership in JJPOC since its inception. We have been collaborating partners with the other JJPOC members on the various identified issues. The JJPOC has three overarching goals-- decrease the rate at which we incarcerate youth by 30%; increase the rate at which we divert youth from the juvenile justice system by 20%; and decrease juvenile recidivism rate by 10%. The Branch, as always, remains committed to best practices. While this 51 page bill presently before you for review very much remains a work in progress, the hope is, when finalized, its implementation will produce lasting and profound improved outcomes for our state's children.

Yesterday, a working subgroup of the JJPOC had a very productive meeting. Moving forward, we envision many of the suggested changes agreed upon in the work group yesterday will be incorporated into the final bill. For example, the proposal in its present form requires a myriad of reports that would place additional demands on various state agencies and the Branch. By agreement, the work group proposes that the reports be merged into the requirements and responsibilities outlined in Section 37 of the bill.

Included in my testimony are the Judicial Branch's proposed changes. Thank you for the opportunity to testify on this bill. I would be happy to answer any questions.

Judicial Branch suggested changes to H.B. 5642, An Act Concerning the Recommendations of the Juvenile Justice Policy Oversight Committee

1. Section 1.

   a. Lines 17-19: The new language conforms to current practice and we believe is not necessary. However, if the language stays, line 17 should read "*...court shall be the court for the ~~geographical area~~ JUVENILE MATTERS VENUE DISTRICT in which...*"

   b. Lines 27-50 (subsection c): It is not possible to utilize the detention risk assessment instrument at this stage in the process, as neither the police nor the judge will have access to the information necessary to complete the instrument. The instrument can be used at the Detention Center – see lines 104-118.

   We suggest the following in lieu of subsection (c) of the bill:

   (c) Upon the arrest of any child by an officer, such officer may (1) release the child to the custody of the child's parent or parents, guardian or some other suitable person or agency, (2) at the discretion of the officer, release the child to the child's own custody, or (3) seek a court order to detain the child in a juvenile detention center. No child [shall] may be placed in detention unless a judge of the Superior Court determines, [it appears from] based on the available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no less restrictive alternative available and (C) there is: (i) Probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition; (ii) A need to hold the child in order to assure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court; or, (iii) A need to hold the child for another jurisdiction [(A) a strong probability that the child will run away prior to the court hearing or disposition, (B) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or to the community prior to the court disposition, (C) probable cause to believe that the child's continued residence in the child's home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed, (D) a need to hold the child for another jurisdiction, (E) a need to hold the child to assure the child's appearance before the court, in view of the child's previous failure to respond to

the court process, or (F) a finding by the court that the child has violated one or more of the conditions of a suspended detention order]. No child shall be held in any detention center unless an order to detain is issued by a judge of the Superior Court.

c. Lines 74-103: We suggest the following in lieu of subsection (e) of the bill:

(e) [The court or detention supervisor may turn such child over to a youth service program created for such purpose, if such course is practicable, or] When a child is arrested for the commission of a delinquent act and is placed in detention pursuant to subsection (c) of this section, such child may be detained pending a hearing which shall be held on the business day next following the child's arrest. No child [shall] may be detained after such hearing [or held in detention pursuant to a court order] unless the court determines, [it appears from] based on the available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no less restrictive alternative available and, through the use of the detention risk assessment instrument developed pursuant to section 2 of this act, that (C) there is: (i) Probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition; (ii) A need to hold the child in order to assure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court;; or (iii) A need to hold the child for another jurisdiction [(A) a strong probability that the child will run away prior to the court hearing or disposition, (B) a strong probability that the child will commit or attempt to commit other offenses injurious to the child or to the community prior to the court disposition, (C) probable cause to believe that the child's continued residence in the child's home pending disposition poses a risk to the child or the community because of the serious and dangerous nature of the act or acts the child is alleged to have committed, (D) a need to hold the child for another jurisdiction, (E) a need to hold the child to assure the child's appearance before the court, in view of the child's previous failure to respond to the court process, or (F) a finding by the court that the child has violated one or more of the conditions of a suspended detention order]. Such probable cause may be shown by sworn affidavit in lieu of testimony. No child shall be released from detention that [who] is alleged to have committed a serious juvenile offense except by order of a judge of the Superior Court. The court in exercising its discretion under this subsection may consider, as an alternative to detention, a suspended detention order with graduated sanctions to be imposed based on the detention risk assessment instrument developed pursuant to section 2 of this act.

Any child confined in a community correctional center or lockup shall be held in an area separate and apart from any adult detainee, except in the case of a nursing infant, and no child shall at any time be held in solitary confinement. When a female child is held in custody, she shall, as far as possible, be in the charge of a woman attendant.

2. Section 2.

We request that "adjudicated as delinquent" in line 158 (Section 2) be removed, as the programs and services references are not meant to be post-adjudicatory only.

3. Section 4.

We suggest that Section 4 of the bill (lines 161 - 243) be deleted, as this is a Family with Service Needs statute that does not need to be amended.

4. Section 5.

We suggest that Section 5 of the bill (lines 190 - 199) be deleted because statutory authorization of Case Review Team is not necessary.

5. Section 7.

In line 244, after "acts," insert the following: "assure that the child is responsive to the court process."

We are suggesting this change to recognize the court's authority and responsibility to monitor the child's compliance with notices to appear and court orders.

6. Section 9.

The bill mandates that the Judicial Branch produce 10 separate reports and submit them to the JJPOC, some in collaboration with agencies. Producing these reports will place an unreasonable and unnecessary burden on the Judicial Branch. We request that the requirements to produce many of these reports be eliminated. We welcome the opportunity to discuss this issue.

7. Section 10.

When the Diversion Work Group recommended removal of truancy from the FWSN grounds, there was general agreement that such a change shouldn't happen unless

and until there was a sufficient system of community-based resources in place. Eliminating these grounds without providing services to the children who are not attending school could create additional problems.

8. Section 20.

   This recommendation was not evaluated through the work group process. It has a potential fiscal and operational impact.

9. Section 23.

   This recommendation was not evaluated through the work group process. It has a potential fiscal impact and includes another report requirement

10. Section 24.

    This recommendation was not evaluated through the work group process. It has a potential fiscal impact and includes another report requirement.

11. Section 27.

    This recommendation was not evaluated through the work group process. It has a potential fiscal impact and includes another report requirement.

12. Section 30.

    Section 30 requires the Judicial Branch to produce another report.

13. Section 32.

    Section 32 requires the Judicial Branch to produce another report on a recommendation that was not evaluated through the work group process. It also contains an erroneous cross-reference.

14. Section 33.

    Subsection (a) was a recommendation of the Recidivism Reduction Work Group.

    Subsection (b) requires the Judicial Branch to produce an annual report. It seems that this reporting requirement would more appropriately fall under the duties of the agency referenced in section 36.

15. Section 34.

The Judicial Branch already meets the requirements of this section; a statutory mandate is not necessary and it also includes another report requirement.

16. Section 35.

The Judicial Branch already complies with subsection (a) and as such, we believe this language is not necessary. Subsection (b) creates another report requirement.

17. Section 38.

We do not understand why the JJPOC would have 5 representatives on the joint committee when the Children's Behavioral Health Advisory Committee would have 8.