



A CAMPAIGN OF THE NATIONAL JUVENILE JUSTICE & DELINQUENCY
PREVENTION COALITION

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Overview of 115th Congress' Bills to Reauthorize the Juvenile Justice and Delinquency Prevention Reauthorization Act

Background:

On April 5, 2017, Senators Grassley and Whitehouse introduced S. 860, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2017. The bill is supported by a bipartisan group of 12 other cosponsors, from states as diverse as Texas, North Carolina, and Missouri. The bill is the same as S. 1169, which was first introduced in 2015, but died at the end of the 114th Congress. S.860 strengthens and updates the Juvenile Justice and Delinquency Prevention Act (JJDP), which has provided States and localities with federal standards and supports for improving juvenile justice and delinquency prevention practices, and contributed to safeguards for youth, families and communities for more than 40 years.

On March 30, 2017, the House Education & Workforce Committee in the U.S. House of Representatives introduced H.R. 1809, the Juvenile Justice Reform Act of 2017. This bill was nearly identical to H.R. 5963, the Supporting Youth Opportunity and Preventing Delinquency Act of 2016, a bill that was very closely aligned to S. 1169 and that was passed in the house by a vote of 382-29 on September 22, 2016. H.R. 1809 was co-sponsored by Rep. Jason Lewis (R-MN) and Rep. Bobby Scott (D-VA), who were joined by 23 bipartisan cosponsors, including Committee chairwoman, Virginia Foxx (R-NC).

On May 23, 2017 H.R. 1809 passed the House by voice vote. On August 1, 2017, S. 860 passed the Senate by voice vote. The lead cosponsors of the bill are now working to reconcile the differences between the two versions of the bill before new language can be introduced and the reauthorization can be signed into law.

Below please find key provisions in the bills with the notable differences highlighted in italics:

Core Protections:

- Strengthens the Deinstitutionalization of Status Offenders (DSO) core protection: Under current law, non-delinquent status offenders, such as children who are truant, runaway, violate curfew, or who violate alcohol and tobacco laws, 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 youth 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. *H.R. 1809 requires states to phase-out the use of the VCO exception within three years, and allows states in need to apply for one-year hardship extensions. A similar provision was removed from S. 860 before final passage.*
- Strengthens core protection requiring states to reduce Racial and Ethnic Disparities: Research has documented that youth of color are disproportionately over-represented and subject to more punitive sanctions than similarly-charged/situated white youth at all levels of the juvenile justice system. The bills gives clear direction to states and localities to plan and implement data-driven approaches to ensure fairness and reduce racial and ethnic disparities, to set measurable objectives for disparity reduction, and to publicly report such efforts.

- Improves the Jail Removal and Sight and Sound core protections: Research shows youth confined in adult jails and lock-ups are more likely to re-offend upon release and that, while confined, are at pronounced high risks for suffering assault and committing suicide. Both bills extend the jail removal and sight and sound core requirements to keep youth awaiting trial in criminal court out of adult lock-ups and to ensure sight and sound separation in the limited circumstances where they are held in adult facilities.

Overall Delinquency Prevention and Juvenile Justice System Improvements:

- Strengthens commitment to educational progress for system-involved youth: Both bills allow for easier transfer and application of education credits earned by system-involved youth across school systems and call for individualized case plans to help youth reenter their communities, including education and job training assistance, among other things.
- Recognizes the impact of exposure to violence and trauma on adolescent behavior and development: Both bills include a definition of ‘trauma-informed’ and encourage states to ensure that programs and practices designed to address the needs of system-involved youth are both evidence-based and trauma-informed.
- Provides comprehensive services and supports for youth: Both bills promote community-based alternatives to detention; encourage family engagement in design and delivery of treatment and services; and improve screening, diversion, assessment, and treatment for mental health and substance abuse needs.
- Strengthens delinquency prevention components under Title V: *H.R. 1809 incentivizes localities to create local PROMISE (Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education) Councils to develop comprehensive prevention plans through competitive grants that must be matched by local dollars. H.R. 1809 also expands uses to include updated evidence-based prevention activities, including mentoring. S. 860 keeps Title V the same as current law.*
- Strengthens incentives for investment in evidence-based practices. Both bills strengthen provisions to promote interventions with a proven impact on reducing recidivism based on research that shows that community-based alternatives can have better outcomes for youth, protect public safety, and cost less.
- Improves conditions of confinement in juvenile facilities: Both bills call for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator to report annually on state data regarding the uses of isolation and restraints in juvenile detention and corrections facilities, and encourage training of facility staff to eliminate dangerous practices. The bills also call 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.
- Ends the use of certain restraints on detained, pregnant juveniles during labor, delivery, and recovery (unless there is an immediate and serious threat of harm to self or others): *H.R. 1809 gives states two years to end the use of restraints on detained, pregnant juveniles; S.860 gives states one year. H.R.1809 also provides an exception to this requirement if “reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method,” while the Senate bill does not..*
- Addresses the needs of system-involved girls: Both bills include significant updates and improvements to address needs and circumstances around girls, including better screening of and alternatives to detention for girls who have been trafficked or experienced sexual violence.
- Adds protections for Tribal youth: Both bills include improvements for Tribal youth, including a requirement with the OJJDP Administrator develop, in consultation with Indian tribes, a policy for collaborating with representatives of tribes on the implementation of the reauthorization not more than one year after the date of enactment; ensure Statewide Advisory Groups include Indian tribal representation; and that OJJDP provides Tribal Delinquency Prevention and Response Programs that promote Indian tribes’ ability to respond to and care for Tribal youth who come in contact with the law.

- Promotes fairness: Both bills support state efforts to expand youth access to counsel and to inform youth of opportunities to seal or expunge juvenile records once they have gotten their lives back on track.
- Juvenile Accountability Block Grant (JABG) program: JABG helps states and localities reduce juvenile offending by providing judges and other juvenile justice officials with a range of age/developmentally appropriate options to both hold youth accountable and get them back on track so they are less likely to reoffend. *H.R. 1809 does not include a provision to reauthorize this program, while S. 860 does. It should be noted that reauthorization of the JABG program falls to the Judiciary Committee, not Education & Workforce in the House, so reauthorization would have to start in the House Judiciary Committee.*

Oversight & Accountability:

- Promotes transparency: Both bills require that state plans be posted on OJJDP's website within 60 days of its approval and that OJJDP annually publicize a plan outlining program goals.
- Non-compliance penalty: Both bills include the same penalty for non-compliance. States found out of compliance with a core protection will lose 20% of its Title II formula grant. Of these monies, 50% will be reallocated to compliant states and 50% will be available to the Administrator to provide technical assistance to states on compliance issues.
- Increases accountability: Both bills include several provisions to ensure effective use of resources, to provide greater oversight of grant programs, and to ensure state compliance with federal standards. *S. 860 has several additional accountability provisions not reflected in H.R. 1809, including a requirement to initiate a rule-making process within 90 days of enactment, a call for the Office of Inspector General in the Department of Justice to conduct performance audits to ensure effective and appropriate use of grants, and a prohibition on grant eligibility for nonprofits that hold money in off-shore accounts.*

Funding Levels:

- Sets overall authorization levels for juvenile justice funding: *The Senate bill provides \$160 million for Fiscal Year 2017 to implement the bill, with a 1.5 percent increase each fiscal year for the five year term of the reauthorization. The House bill authorizes \$91,857,500 for years 2018 & 2019 for Title II (formula grants) and Title V (prevention grants), and adds a 1.5% increase for each additional year through the five year term of the reauthorization.*