

Five Years of SB 367

Kansas's Landmark Juvenile Justice
Reform and Its Implementation





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The stated vision of Kansas’s youth justice system is “To lead the nation in juvenile justice by strengthening families, empowering youth, and making communities safer.”¹ In 2015, Kansas fell far short of that goal: the state incarcerated more youth than almost every other state, and most youth in placements were considered to be at low or moderate risk of harming others and/or committing future illegal acts. Youth released from Juvenile Correctional Facilities (JCFs) had high recidivism rates, and communities lacked the services they needed to effectively support youth at risk for justice involvement. Young people experienced the justice system differently based on their race, ethnicity, or location within the state. In many cases, practices in Kansas were the opposite of what research shows works for young people to stay out of the juvenile justice system (e.g., keeping low-risk youth incarcerated for long periods).

In light of the need for significant changes at the state level, legislators and justice system stakeholders proposed sweeping reforms to Kansas’s youth justice law with help from national experts and input from youth and families. Senate Bill 367, enacted in 2016, was the result of that work. The reforms, and the process that created them, were unique and laudable: they would address a huge range of issues, including limiting the types of offenses that could result in incarceration and limiting lengths of stay in juvenile facilities, while redirecting the money saved by these changes into community-based services. Kansas legislators considered many hours of testimony regarding the state of juvenile justice in Kansas, and about the research-driven practices that would help youth and communities at risk for justice involvement. Though Senate Bill 367 faced significant scrutiny, many stakeholders who were initially skeptical of the reforms soon became their biggest proponents, and it ultimately passed with wide bipartisan support.

Today, the juvenile justice landscape in Kansas is unquestionably different. Most group homes have closed, only one Juvenile Correctional Facility remains in operation, and the number of incarcerated youth has dropped significantly. Many new community-based services supporting youth at risk for justice involvement have been implemented, and rural parts of the state have far more access to services than previously. Some serious challenges remain: racial and ethnic disparities persist, and Kansas is still missing opportunities to keep youth in their communities rather than incarcerating them. Rather than authorizing juvenile justice savings to be used for youth services across the state as the legislation intended, those savings are being used for general state purposes that are not

1.) KDOC. “Presentation to Joint Corrections and Juvenile Justice Oversight Committee” (January 24, 2019) <https://www.doc.ks.gov/newsroom/legislative/2019/jan-24-2019>

geared towards supporting youth in the system.

Five years after the passage of SB 367, Progeny decided to look back at the circumstances leading to law, the process of its development, and its implementation to date. Progeny is a youth/adult partnership focused on reimagining the juvenile justice system and reinvestment into community-based alternatives. As we reimagine youth justice in Kansas, we recognize that understanding where we were and how we got here can inform where we want to go and how we can get there. To create this report, Progeny partnered with the national Youth First Initiative to interview over two dozen stakeholders including young people personally impacted by SB 367, current and former legislators involved in its passage, advocates, service providers, county-level justice agency staff, national experts, and other stakeholders involved in developing the recommendations that led to SB 367, writing and passing the law, and/or implementing it. We also reviewed hundreds of pages of reports and other documentation detailing Kansas's juvenile justice system before and after SB 367. We hope that this effort will help our organization and others working to improve juvenile justice in Kansas understand why SB 367 was so essential to our state in 2016, all of the ways it has helped youth in Kansas already, as well as what still needs to be accomplished to realize the full promise of this momentous law and the full promise of our youth.

“Incarcerating youth does not address what led to them being incarcerated, it just holds them in a place and does not address their trauma, then pushes them back into the community without changing anything.”

Progeny Youth Leader

“Our juvenile justice system hadn't had any attention to it in 25 years; it had bad outcomes and hurt kids in the process.”

Juvenile Justice Advocate



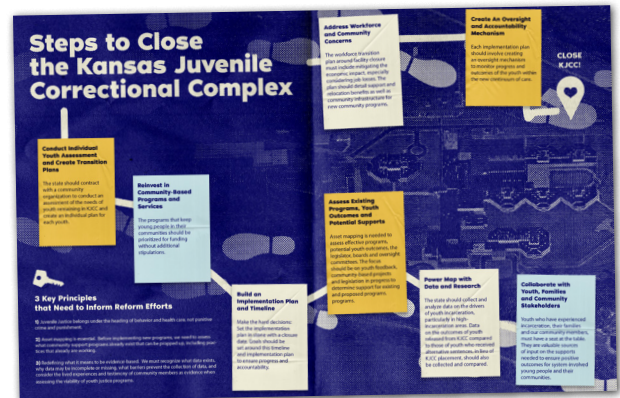
Part I: The Road to SB367

Impetus for Reform

A confluence of different events set the stage for juvenile justice reform in Kansas prior to 2016. One such event was the legislature requesting a KDOC audit of Youth Residential Center II (YRCII) placements, which found that these facilities were overused, extremely expensive, and ineffective. YRCII placements cost \$45,990 per bed, yet the majority of discharges from placement (54%) were unsuccessful and did not lead to positive outcomes for youth.² (That report also referenced other problems with Kansas' youth justice system, and recommended that the state undertake changes beyond addressing the YRCII failures).

At the same time, the Council of State Governments (CSG) was working with the state to improve recidivism and other youth outcomes. As part of their technical assistance, CSG shared eye-opening information regarding the state of juvenile justice with the Kansas legislature:

- Kansas had the 8th highest rate of youth incarceration in the country.
- Only 24% of youth in Juvenile Correctional Facilities (JCFs) were assessed as being “high risk,” meaning that the state was incarcerating overwhelmingly low- or moderate-risk youth.



As a companion to this report, Progeny is releasing *From Harm to Healing: The Blueprint to Healthier Outcomes for Kansas Youth* in collaboration with Kansas Appleseed. Although based on some of the same information shared in this report, the Blueprint shares more detail on the visions of Progeny and its youth leaders for making Kansas a better place for youth and families.

2.) KDOC. "Cost Study of Youth Residential Centers for Juvenile Offenders." (January 15, 2015) <https://www.doc.ks.gov/publications/juvenile/yrcc>

- 23% of admissions to JCFs were based on mere technical violations of conditional release conditions, and 22% of youth released from JCFs were reincarcerated within 3 years for these types of technical violations.
- 42% of youth released from Juvenile Correctional Facilities were re-incarcerated within 3 years.
- Despite these poor results, JCFs cost \$90,000 per youth annually (compared to \$5,000-\$8,000 for evidence-based services offered in communities).
- Low-risk youth had the longest length of stay in both JCFs and Youth Residential Centers.
- Communities in Kansas lacked evidence-based services that could potentially help youth avoid incarceration, and numerous barriers existed to youth accessing needed behavioral health services.
- Youth's needs were not being assessed promptly, or in some cases, at all. (CSG noted that this meant that youth were "placed in facilities that are unaware of their treatment needs and/or not equipped to address them effectively.")
- Youth and their families were not routinely included in planning and decisions around their cases, treatment, and/or re-entry. Additionally, JCFs did not offer family therapy to youth in their care.
- The state also had gaps in data collection and analysis, which led to missed opportunities for quality assurance, need-to-service matching, outcome measurement, and effective and efficient use of resources³

A technical violation is an action that is not allowed under an individual's terms or conditions of probation, but is otherwise not an offense (meaning it is not something the youth could get into legal trouble for if they were not already court-involved).

Kansas uses a tool called the Youth Level of Service/Case Management Inventory (YLS/CMI), classifying youth's risk for future illegal behavior as low, medium or high depending on their score on that inventory. The YLS/CMI focuses on eight domains including past/current offenses, family life, education and employment, peers, substance use, interests, personality, and attitude. (In addition to risk levels, it can identify needs and be used for case planning.)

3.) The Council of State Governments Justice Center. "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections." (March 4, 2015) <https://www.doc.ks.gov/juvenile-services/csg/PPT2015/view>. Note that some information in the CSG presentation was based on 2011 data, the most recent available at the time for some data points.

Media coverage amplified the CSG findings more broadly, resulting in public pressure on the legislature to address these issues. As former Kansas Senator Greg Smith recalled, “the amount of time kids were spending incarcerated was alarming, especially for lower level crimes. Things you wouldn’t have been incarcerated for as an adult, like running away, or smoking marijuana. The inequity of the system in terms of how we treat adults and kids was painfully obvious, [and we] needed to change that.” Regarding the system before SB 367, former Deputy Secretary of Juvenile Services Terri Williams recalls that “there was no rhyme or reason as to why kids ended up where they did in the system...[and] Kansas was spending a lot of money on deeper end placements that didn’t work for kids, and since we were doing that, there was no money left for community services.”

Beyond the reports described above, other events just prior to 2015 helped set the stage for reform. Advocacy group Kansas Appleseed had begun to look at the juvenile justice system and agitate for change. As then-Director Benet Magnuson recalls, people were contacting their legislators about juvenile justice issues, when that had never happened before. The Juvenile Justice Authority had also been merged into KDOC in 2013, under the leadership of a relatively new Juvenile Justice Commissioner, Terri Williams, who had also worked in community corrections and as a provider (and became Deputy Secretary of Juvenile Services for KDOC after the merger).

Kansas also received assistance from The Pew Charitable Trusts’ Public Safety Performance Project (Pew). Pew had been working with several other states to examine their system practices and change their juvenile justice laws to be more consistent with research, and agreed to support Kansas in their efforts. Several local-level initiatives and pilot projects were also launched to reduce incarceration and improve the juvenile justice system, including five Kansas communities who were implementing Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI).

“No kid should be in jail because we’re kids, we’re not adults yet, we’re still growing, still learning. [Some youth] just may not have been in the best environment to learn the things they should know, things everyone should have the chance to learn.”

Progeny Youth Leader

Kansas Juvenile Justice Workgroup⁴

In response to these efforts, state leadership appointed a 17-member, bipartisan, inter-branch Kansas Juvenile Justice Workgroup to study the system and make recommendations. Specifically, the Workgroup was charged with developing recommendations for policy change aimed at ensuring public safety and youth accountability, responsible use of public resources, and better outcomes for Kansas youth, families, and communities. Workgroup member Melody Pappan shared that their goal was “to better serve kids; to find out how to appropriately provide services for our clients that helps them not hinders them,” as well as adding that “the state’s goal was also to save money, [so we needed to] look at the evidence and how to use it to save money.”

The Workgroup began meeting in June 2015 and, over the course of six months, studied the current juvenile justice system in Kansas, learned about relevant national best practices and research, and ultimately issued a report that formed the basis of SB 367. The Workgroup was co-chaired by Sen. Greg Smith and Rep. John Rubin. Other members included additional legislators, judges, court administrators, Kansas Department of Corrections (KDOC) officials, attorneys, and representatives from the Kansas Department for Children and Families and the Kansas Association of Chiefs of Police and Kansas Sheriffs Association. Throughout the process, the Workgroup received technical assistance from Pew and the Crime and Justice Institute at Community Resources for Justice.

“Once youth and families started sharing their stories, when you hear from a kid who was in custody for 5 years on a misdemeanor with no new charges, it’s easy to see that the system was not working.”

Workgroup Member

Many of the stakeholders we interviewed remarked on how well the group worked together, despite their different backgrounds and views. One advocate believed that the Workgroup recognized that this was a crisis moment for Kansas, and stepped up

4.) All information in this section from [Kansas Juvenile Justice Workgroup Final Report](#) (November 2015), or interviews with Workgroup members, unless otherwise noted.

to do what needed to be done to steer the state out of that crisis.

As part of their study, the Workgroup reviewed quantitative data on the number and demographics of youth in Kansas' juvenile justice system, including information on youth arrests and placements, including lengths of stay. They reviewed Kansas juvenile justice statutes, policies, and practices. They also heard from stakeholders across the state, holding roundtables with groups including:

- Diversion and prevention stakeholders (e.g., service providers, juvenile services staff)
- Juvenile intake staff
- Juvenile Correctional Facility (JCF) staff at multiple levels
- Youth incarcerated in a JCF
- Youth living in a Youth Residential Center II
- Community corrections directors
- Court services officers
- Juvenile Detention Center staff
- Staff at two Youth Residential Centers and one Transitional Living Program
- Juvenile justice advocates
- Law enforcement officers
- District Court judges and magistrate judges
- Parents and family members of young people involved in the justice system
- County prosecutors
- Providers
- Victims, survivors, and victim advocates

“For the first four meetings, [the Workgroup] didn’t discuss anything. We just learned about how other states do things, what the research says, about adolescent development. Then we tried to make decisions on the legal side based on that knowledge about youth. We didn’t just take the Minnesota or New York system and try to plug it into Kansas. We spent a lot of time thinking about what Kansas needed, what our situation was, and then compared that to the social science to come up with solutions for Kansas that were Kansas specific.”

Workgroup Member

The information shared by stakeholders during these roundtables helped Workgroup members understand the problems with Kansas’ juvenile justice system in a deeper way than numbers alone. Families shared stories of feeling like their children were trapped in the system indefinitely, and receiving little or no information about what was happening to them.⁵ Young people shared information about the poor conditions in group homes and frequent placement changes, concerns about poor quality legal defense, and disproportionate or unfair sentences (e.g. one Black youth shared that he received the maximum sentence even though it was his first offense, while a White youth who had the same case received the minimum, despite previous justice involvement).⁶

When interviewed for this report, Workgroup members talked at length about the impact of hearing from youth, family members, and victims about their experiences, and how important those personal stories were to the recommendations and report they ultimately produced. Several Workgroup members remarked on how these stories made it very evident what harms the system had caused and was

5.) Kansas Juvenile Justice Workgroup Roundtable Executive Summaries (Provided by Pew and on file with authors).

6.) Ibid.

causing to youth and families. Workgroup members also reviewed research about what works--and what doesn't--for youth and heard from national experts on the issue. Workgroup members identified several key findings to inform future work, including:⁷

- Out-of-home placements do not usually improve outcomes for youth, and can actually increase the likelihood that a young person will commit a subsequent offense.
- Longer lengths of stay in placement have not been shown to lower youth's rates of recidivism.⁸
- Low-risk youth can be at greater risk for recidivism if overly involved in justice systems.
- Diverting youth from the system before court involvement "improves public safety and is cost-efficient relative to traditional juvenile justice processing."⁹
- Communities can achieve better outcomes and lower recidivism rates when risk levels and needs are used to guide treatment, supervision, and placement decisions.¹⁰
- Communities can improve youth outcomes and reduce costs by providing evidence-based interventions in youth's own communities (when quality and appropriateness are ensured).¹¹

7.) In addition to the research citations below, see video of the relevant workgroup meeting at: <https://www.doc.ks.gov/juvenile-services/Workgroup>.

8.) Kansas Juvenile Justice Workgroup Final Report, citing Edward P. Mulvey, et al., "Longitudinal offending trajectories among serious adolescent offenders," *Development & Psychopathology* 22 (2010): 453-475; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and reoffending," in *Crime and justice: A review of research*, ed. Michael Tonry. (Chicago: University of Chicago Press, 2009), 115-200; Patrice Villettaz, Martin Killias, and Isabel Zoder, "The effects of custodial vs. noncustodial sentences on re-offending: A systematic review of the state of knowledge," (Oslo, Norway: The Campbell Collaboration, 2006); Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005); Paula Smith, Claire Goggin, and Paul Gendreau, "The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences," (Ottawa, Ontario, Canada: Solicitor General of Canada, 2002); Loughran, T. A., Mulvey, E. P., Schubert, C. A., Fagan, J., Piquero, A. R., & Losoya, S. H. (2009). Estimating a dose response relationship between length of stay and future recidivism in serious juvenile offenders. *Criminology*, 47, 669-740.

9.) Kansas Juvenile Justice Workgroup Final Report, citing Mark Lipsey and Ed Mulvey, Presentation to the Kansas Juvenile Justice Workgroup, September 8th 2014.

10.) Kansas Juvenile Justice Workgroup Final Report, citing Tracey A. Vieira, Tracey A. Skilling, and Michele Peterson-Badali, "Matching court-ordered services with treatment needs," *Criminal Justice and Behavior* 36, no. 4 (2009): 385-401; D.A. Andrews, James Bonta, and J. Stephen Wormith, "The Recent Past and Near Future of Risk and/or Need Assessment," *Crime & Delinquency* 52, no. 1 (2006): 7-27

11.) Kansas Juvenile Justice Workgroup Final Report, citing Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005).

Some of the research findings weren't what workgroup members expected, while other information seemed completely logical. As one member explained, in addition to dealing with the poor quality of care of many of Kansas's placements, there was a more straightforward issue that often resulted from placing many youth out-of-home: "If you live on the western border of the state, you get uprooted, you are no longer in your same school or community. You can't talk to your parents, and are put with kids who might have committed heinous crimes. It's not the best setting to try to make a change in your life."

Former Senator Greg Smith, co-chair of the Workgroup, recalls that early in the process he was unsure about the effort, thinking, "Oh great, we're going to do a bunch of touchy-feely stuff and I'm stuck chairing it." He also shared that "as a cop, I was very resistant to the sentencing changes, and to some of the changes being proposed...but as we heard about the data, it changed my mind." He also noted that hearing from youth and families really affected him and others on the Workgroup, saying that he was struck by how strongly many parents involved with the juvenile justice system felt that the system had harmed their children. Smith also shared a story that still sticks with him today, of a young person from Western Kansas who had been living in a group home in Johnson County: the young man was nearing the end of a 6 month placement, and the night before he was supposed to be released, he called his parents to give them the details to come pick him up. He was told that he'd violated a rule against making calls so they reset his sentence for another 6 months. Smith believed that the roundtable discussions made it clear that unreasonable decisions like this were happening throughout the system, and that "this was all going on outside the control of the courts."

Former Representative John Rubin, the other Workgroup co-chair, agreed that "clearly something we were doing wasn't working, it was not in the best interest of the [youth], or of public safety." Rubin added that the Workgroup and legislative process were part of moving towards a "right on crime mentality", recognizing that incarcerating youth for minor offenses doesn't help them or the public, but rather that "staying in their community, getting their diploma from the school they were in, having job training and placements, and substance abuse treatment if needed, those are the best avenues to success." Rubin, described by another Workgroup member as "not the prototypical advocate for this issue", said that he thought of the legislation as one of his most significant accomplishments in office,

"When you get to breaking up homes to send kids to jail, that can tend to break the family."

Workgroup Member



Photo: Isadora Kosofsky

and “something very important to the state of Kansas.”

As the group’s efforts continued, several themes and concerns solidified for Workgroup members. These included the fact that the group homes were not effective (the cost to run them was high and outcomes for youth were poor, given high recidivism numbers), and that many young people were being sent to facilities who shouldn’t be there. Another workgroup member, Judge Thomas Foster, recalls that hearing from KDOC leadership on this issue was particularly persuasive, considering that “They are running the state facilities, paying the bills, and they saw kids coming in that they thought didn’t belong there; having Corrections say that was a big deal.”

The Workgroup also recognized that a lack of community-based services was driving youth into placements, and that these gaps in services were particularly prevalent in the more rural areas of the state. Concerned about the lack of services functioning as alternatives to incarceration, the group pivoted to the idea of using savings from reduced incarceration to fund evidence-based services for youth and families. One Workgroup member explained: “The juvenile services budget has only \$60 million or so as an agency, it’s a very small part of a big pie, it gets a little tight for them to just do normal operations, let alone do the programs we need for these kids.”

As a result of this in-depth learning process, the Workgroup issued a final report finding that:

- Although youth arrests had declined 52% over the past decade, the decline in youth placed out of home was less than half that amount (24%). Youth were experiencing more out-of-home placements, and being kept in placement longer than 10 years previously.
- Most youth in the juvenile justice system who were incarcerated or receiving intensive supervision were “lower-level offenders” with little or no past criminal justice involvement, rather than “chronic offenders adjudicated for serious offenses.”
- Out-of-home placements were tremendously expensive, costing KDOC up to \$89,000 per year per youth, or over \$53 million in total (taking up more than 2/3 of KDOC’s total juvenile services budget).
- Communities had few evidence-based services available that could serve as alternatives to incarceration.

- The system lacked both a standardized risk/needs assessment and guidance indicating when out-of-home placements were appropriate, resulting in different responses to youth in different areas of the state.
- Inadequate data collection and analysis prevented system accountability and improved performance.

The Workgroup's report recommended that the state:

- Reduce school referrals to law enforcement or the justice system;
- Provide more pre-arrest, pre-court, and post-file diversion options;
- Reduce use of pre-adjudication detention;
- Target supervision, placement, case planning, and other juvenile justice decisions and responses based on risk assessments and other standardized tools;
- Eliminate the use of YRCIs and Transitional Living Programs for juvenile justice-involved youth;
- Create presumptive limits on lengths of stay and overall case length;
- Standardize when youth will be discharged, including giving "credit" for time spent in confinement before going to a JCF (or adult facility);
- Reinvest cost savings from reduced incarceration in evidence-based services delivered in youth's communities; and
- Improve the quality of legal defense for youth involved in the juvenile justice system.

The report also included recommendations related to the transfer of youth to the adult justice system, data collection and information sharing, professional training, and oversight. The 40 policy recommendations in the report served as a critical starting point for SB367.

(Re)investing in Youth

Multiple interviewees for this report referred to differences of opinion on how the reinvestment funds should be spent, during the workgroup's activities, and continuing through passage and implementation of SB367. Some felt that the definition of what could be included as eligible evidence-based practices was too narrow, while others raised concerns about when in a young person's life services could be offered (e.g., waiting to serve a young person until they are arrested, because before that they are not actually involved in the justice system). One workgroup member who felt a planned and conservative approach was needed said "we didn't spend the money just to spend it, we should spend it for the reason it was given to the program." The same interviewee, however, called the recent sweep of funds "disheartening," and said that "if they keep taking money out of the fund, [SB 367] will never reach its full promise."



From Workgroup Recommendations to Law

Based largely on the Workgroup recommendations, House and Senate versions were introduced, and then amended, into what ultimately would become Senate Bill 367. Senator Smith recalled that the process of getting SB 367 passed was an achievement in itself, saying: "Usually there would be a one and a half hour committee meeting to look at five bills, with two minutes of testimony on each. We had weeks of hearings on this: a couple of days for supporters, a couple for opponents, a couple for neutrals. When it came to the floor, I could answer any question that came up. Only two senators voted against it, it went to the House, they amended it, and when it came back to the Senate for re-vote, that was a unanimous vote. There were Senators from the other party that stood up and said 'this is the way every bill should be treated, everything should have this much time, be vetted this well.' The fact that it passed almost unanimously despite opposition was a big accomplishment." Several other stakeholders commented on how unusual the bill's broad support was, given how divisive politics were at the time, with one

interviewee saying, “When we passed this, people couldn’t agree on if the sky was blue and we passed a massive omnibus reform bill that touched every part of the system with bipartisan nearly unanimous support.”

Several interviewees involved in the development of SB 367 remarked that receiving input from such a broad range of stakeholders early on was critical when it came time to actually pass legislation. For example, because the workgroup heard from crime victims in developing their recommendations (and because Senator Smith was able to bring his own personal perspective)¹², there was less concern about how the legislation would impact that population. That’s not to say that there were no challenges to the proposed changes, however.

During the legislative process (and throughout implementation), some groups expressed opposition to the reforms within SB 367 on different grounds. One workgroup member recalls concerns from residential providers, saying “their lives were going to be impacted in ways they didn’t know or their services would no longer be needed, so there were some holdouts.” Some judges expressed concerns with the bill. Although their reasons varied, one workgroup member believed that “Judges around the state were not supportive because they didn’t believe they would ever see the reinvestment money.” While some district attorneys acknowledged problems with the way the system had been functioning, the biggest opposition still came from prosecutors. Workgroup members and legislators held several meetings with prosecutors to understand their concerns, and while some changes were made to accommodate them, many continued to object while the law was being voted on and even after passage. One other concern raised was that keeping youth out of juvenile justice incarceration might have unintended consequences on the child welfare system.

The drafting process for SB 367 did address potential unintended consequences and made sure that the many different facets of the law would work together to support each other in achieving the law’s larger goals. For example, in addition to eliminating almost all group home beds, the law put clear limits on the eligibility for admission to JCFs to ensure that the closure of group homes did not drive more youth into the JCFs, and then also created limits on charging youth as adults to ensure that more youth did not get sent to the adult system because of the reduced eligibility for the JCFs.

12.) Smith shared in a 2016 op ed that, given his 20-year law enforcement career and the fact that his daughter Kelsey was murdered, he was initially “not supportive of reform,” but “data he reviewed through the Workgroup changed his mind and he supported the changes proposed by SB 367 because “our current system is not aligned with the most effective strategies to keep youths from reoffending.” Wichita Eagle. Sen. Greg Smith: Juvenile justice reform relies on proven methods. (Feb. 23, 2016) <https://www.kansas.com/opinion/opn-columns-blogs/article62046997.html>

Key Provisions of SB 367

SB367 was a sweeping law that made dozens of changes to Kansas's juvenile justice system. Some of the most relevant provisions to this report included the following:

- Prevented the use of group homes and other non-detention/JCF settings for juvenile justice youth in most circumstances, and limited the total number of youth residential facility (non-foster home) beds to 50 statewide.
- Changed rules around which youth could be committed to JCFs (i.e., significantly limited eligibility for these settings), and required a written finding “that the juvenile poses a significant risk of harm to another or damage to property,” as well as limiting length of stay for JCFs.
- Established overall case length limits (up to 12 months for misdemeanors, up to 15 months for low- or moderate-risk offenders adjudicated for felonies, and up to 18 months for high-risk offenders adjudicated for felonies, with several categories of felonies exempted).
- Reduced the circumstances in which detention could be used (by establishing requirements limiting detention to youth who have been found “detention-eligible” based on a risk assessment, with an override option, and some documentation requirements) and limiting the length of time detention could be used (with exceptions for some offenses). This included forbidding the use of detention solely due to “lack of supervision alternatives or service options,” technical violations of probation (with some exceptions), contempt of court, and violation of a valid court order (e.g., for non-criminal “status” offenses such as running away from home and truancy).
- Limited probation length (between up to 6 months and up to six months, depending on the type of offense and youth’s risk level, with some exemptions/extensions available)
- Strengthened requirements on using standardized risk assessment tools to guide responses to youth, including service provision, supervision, and sentencing.
- A requirement that “a statewide system of structured community-based graduated responses for technical probation violations, conditional release violations, and sentence condition violations” be developed and used.

- Established the Kansas Juvenile Justice Oversight Committee to oversee the law's implementation.
- Required training be given to individuals working with juvenile justice youth, and required the development of training for judges and attorneys.
- Renamed the "Juvenile Detention Facilities Fund" the "Juvenile Alternatives to Detention Fund" and changed its purpose to include funding community-based alternatives to detention.
- Created the Kansas Juvenile Justice Improvement Fund, to be used for "development and implementation of evidence-based community programs and practices for juvenile offenders and their families" and to be funded based on the cost savings to the state from reduced use of incarceration.
- Required KDOC to plan for and provide funding to "incentivize the development of immediate intervention programs."
- Required all counties to have immediate intervention programs, and expanded who can access these programs as an alternative to formal court processing.

The full text and legislative history of SB367 are available at http://www.kslegislature.org/li_2016/b2015_16/measures/sb367/



VISITOR CENTER

Part II: Implementation of SB 367; Where Kansas is Today

The stakeholders interviewed for this report overwhelmingly praised SB 367 as it was enacted, and several workgroup members shared that, despite some amendments, they felt that the bill met the vast majority of their goals, including addressing most of the 40 Workgroup recommendations. Benet Magnuson, who led Kansas Appleseed at that time, reflected that “the bill that passed was a strong bill; it included most of the best practices that were [known] at the time.” As another interviewee said, “everything is there, it’s about how committed people are to keeping that up.”

However, interviewees had mixed views on the rollout of SB 367. While they identified many successes, they also identified places where additional measures were necessary to support youth. One Workgroup member shared “In general, implementation went really well around the state, especially in early years. We were able to bring evidence-based practices to parts of the state that never had that programming before. That slowed down after the first year or two.” Generally, the availability of programming in rural areas was widely praised, but concerns were raised that some urban areas (who were thought to have stronger programming at the outset) weren’t getting what they needed to improve offerings for young people and their families.

Stakeholders noted that not all communities responded to SB367 in the same way. Some were excited about--or at least open to--the changes it would bring, and started implementing them before they had to. One Workgroup

“Incarceration is not the place for youth; putting developing minds [in facilities] doesn’t set them up for success in the future. We need to be setting up and funding community programs so youth can be surrounded by people who are different from their at-home environments, and change their influences.”

Progeny Youth Leader

member noted that the judge she worked with “saw the data and went ahead and changed the way he was making judgments before the law was enacted, because it was the right thing to do, not just because it was going to be the law.”

Other communities or stakeholders chose to delay or fight against some of the new requirements. One workgroup member explained that it was hard to get staff who’d been part of the “old system” on board, saying, “What we were doing was wrong. People don’t want to hear that. People have devoted their lives to this, they don’t want to hear it was wrong.” She also noted that many local jurisdictions “were handed the package, so they just reacted to it. The closer to the evidence and the process you were, the more likely you were to make changes based on the best interests of kids, not just writing on the wall.”

Kansas Juvenile Justice Today by the Numbers

Looking at data on Kansas’s juvenile justice system today it is clear that there has been great progress in meeting SB 367’s goals, but also room for growth:

- Between FY2015 and 2020, the annual average number of youth entering the youth justice system (through juvenile intakes) fell more than 24% (from 15,641 to 11,757)¹³
- The average annual number of youth in custody fell nearly 88% between FY2015 and 2020 (from 999 to 121).¹⁴
- 148 youth were placed in the state’s sole remaining JCF in State Fiscal Year (SFY) 2020, a reduction of 37% from SFY 2015 (when there were 236 youth). (The state closed its other JCF in 2017, because of incarceration declines) Ten percent of the SFY 2020 youth were low risk, 45% were moderate risk, and 44% were high risk.¹⁵
- The JJOC allocated \$11 million in SFY 2020 for evidence-based practices and services, and other activities related to SB 367 implementation. Nearly \$2 million was tied to statewide contracts, nearly \$3 million was awarded for

13.) KDOC Annual Report 2020. <https://www.doc.ks.gov/publications/Reports/fy-2020-annual-report>; KDOC Annual Report 2019. <https://www.doc.ks.gov/publications/Reports/Archived/fy-2019-kdoc-annual-report/view>

14.) Ibid.

15.) Kansas Juvenile Justice Oversight Committee Annual Report 2020. <https://www.doc.ks.gov/juvenile-services/committee/2020-annual-report/view> (Numbers do not equal 100% due to rounding.)

judicial districts and counties to implement local programming, and over \$3 million was awarded to Juvenile Correctional Advisory Board (JCAB) requests. (Note that the amounts allocated for judicial districts and JCABs were \$4 million and \$5 million respectively, or approximately \$1 million more than actually awarded--see below for more discussion of this issue.¹⁶)

However, Kansas also has experienced an eroding of support for some of the key tenets of SB367 and continues to fail on some key issues:

- Kansas's legislature recently voted to approve moving \$21 million in juvenile justice reinvestment funds into the state's general fund.¹⁷
- As of 2019, Black youth in Kansas were incarcerated at 5 times the rate of white youth. This is higher than the national rate of 4.4 times as likely, but does represent a 22% decline since 2015 (compared to a national decline of 13%).¹⁸
- Latinx youth were incarcerated at 1.4 times the rate of white youth (compared to a national rate of 1.3), an increase of 51%. (Latinx disparities across the country decreased 19% during this period.)¹⁹

16.) Ibid.

17.) AP. Report: Kansas juvenile justice funds could run out by 2024. (May 22, 2021) <https://apnews.com/article/kansas-business-government-and-politics-9b5a16aabfcc9d35812152b9e26900a>

18.) Josh Rovner. (2021). Black Disparities in Youth Incarceration. The Sentencing Project. <https://www.sentencingproject.org/publications/black-disparities-youth-incarceration/>

19.) Josh Rovner. (2021). Latinx Disparities in Youth Incarceration. The Sentencing Project. <https://www.sentencingproject.org/publications/latino-disparities-youth-incarceration/>

Implementation Successes and Accomplishments

Keeping youth in communities

Conversations with stakeholders involved in both developing and implementing SB 367 illustrate the real-life impact of the bill five years after its passage. Melody Pappan believes that the bill has vastly improved her county's work with higher risk youth, "the ones they said we wouldn't be able to handle in the community. As opposed to before when we sent them from one placement to another, because they failed the program, or they completed a program and went back to a home that hasn't changed, now we have family engagement interventions that give the whole family a chance to be more successful. [It's hard to compare outcomes for] success at out-of-home versus in-home [responses], but it appears to me that we're doing a better job of not just keeping kids home but helping them be more successful and change their lives for the better."

Reduced reliance on incarceration

Nearly all interviewees reported lower incarceration rates in their state, particularly for youth charged with non-criminal offenses or "low level" offenses. The closure of one of the state's Juvenile Correctional Facilities was also perceived as a major success of the law. Terri Williams shared that, when she left state service, she was given a jar with 870 pennies to represent the number of fewer kids in custody. Williams said that looking at it makes her happy "because those are kids who can stay with families, their lives remain intact, they have been given a chance for success." Several people highlighted the lack of other significant issues cropping up as incarceration decreased, with one person saying that this showed "social science was right. Doing very little or doing nothing is often better, since kids outgrow adolescent behaviors" that were leading to incarceration before SB 367.

"Community resources can better address the trauma, the things going on with their family and the things that brought [youth] to be incarcerated in the first place."

Progeny Youth Leader

Service availability

Many also underscored the wider availability of services throughout Kansas. Terri Williams praised the “unprecedented access to evidence-based services,” especially in rural areas that had never had services before, adding that this “was possible because we spent that money in a smarter way, on models that have consistently demonstrated success with kids and families.” (As the lack of services in rural and frontier communities was a particular concern, KDOC used statewide contracts to make sure there was a bare minimum level of services that all kids would have access to no matter where in Kansas they lived, trying to ease the administrative burden for counties and be consistent.) Note that while many stakeholders praised the expansion of services in rural areas, some felt that urban areas did not receive comparable expansions. Some interviewees also praised the fact that the Immediate Intervention Process—a diversion option for youth who commit low level offenses—was more widespread and mandated in some cases.



Institutional Memory and SB 367

An enormous amount of time and effort went into educating legislators, system stakeholders, and others about systemic deficiencies in Kansas’s juvenile justice and how and why improvements should be made. Numerous stakeholders interviewed for this report identified that role turnover, particularly in the legislature, has resulted in key decision-makers not being familiar with why SB367 and its specific provisions were necessary. And as such, they are less motivated to protect them. As one Workgroup member put it: “We are now five years out from passage. The majority of the [current] legislature was not there when we passed 367, so most of them are not aware of the purposes of 367, and don’t know what it’s supposed to do. So when they hear, ‘this money hasn’t been used so we should take it,’ that makes sense to them, when it wouldn’t have 5 years ago. As we get further out, the institutional knowledge fades.”

Communications and cross-agency collaboration

A couple of stakeholders also credited SB 367 with bringing attention to cross-agency communication and collaboration, saying that now systems are asking “how can we make sure agencies are talking to each other?” and that “was something we weren’t actively trying to figure out and now are focused on it.” Tessa Upin of the Crime and Justice Institute, who continues to provide technical assistance to Kansas, highlighted the continuing “level of collaboration and increased trust across agencies,” as a lingering success of the Workgroup, remarking that “often [after a reform law passes] momentum dies down; Kansas has done a really good job with that ongoing collaboration, with an overarching goal of how to make our system better, and make the experience of kids coming into contact with our system better.”

Risk-based responses

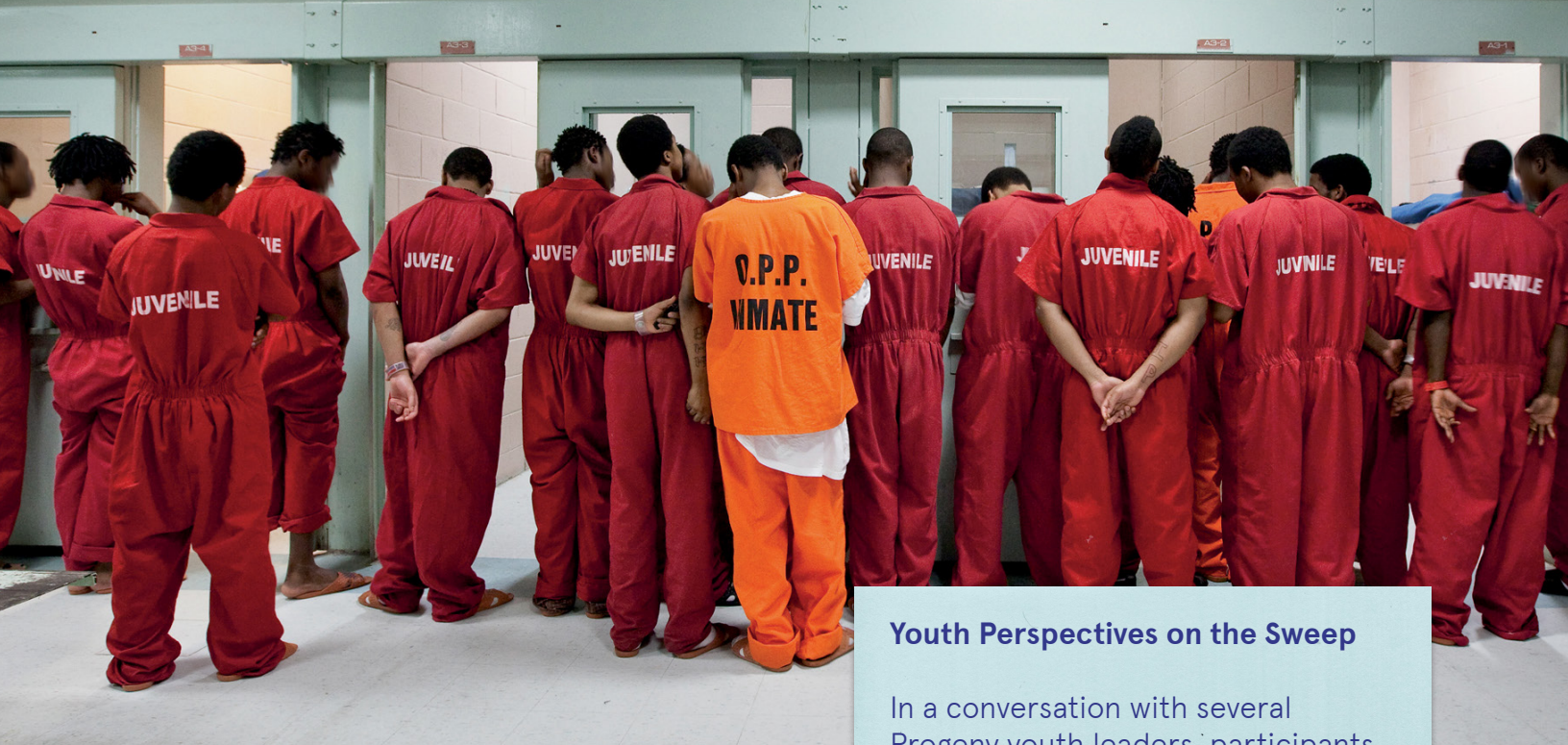
Another success raised by more than one interviewee was the implementation of standardized risk assessments. Interviewees pointed to a major effort undertaken in the first year and a half after the bill was passed that ensured everyone was using the same assessment tools. This effort also included training juvenile justice staff, as well as judges and lawyers, on the Youth Level of Service/Case Management Inventory, which allows youth’s risk level to be uniformly classified (e.g., low, moderate, high), so they can receive consistent responses.

Challenges to SB 367 Implementation

Reinvestment funding

In addition to helping youth stay home with their families, reducing incarceration saved the state tens of millions of dollars. Many interviewees expressed concerns that, despite the “lockbox” provisions that were supposed to ensure those funds were used to support youth and families, Governor Kelly recently requested that the fund’s balance, \$42 million, be transferred to the state’s general fund. The legislature subsequently voted to move \$21 million from the fund. Some interviewees were alarmed that this took place despite an overall projected state budget surplus of \$1 billion.²⁰

20.) AP. Report: Kansas juvenile justice funds could run out by 2024. (May 22, 2021) <https://apnews.com/article/kansas-business-government-and-politics-9b5a16aabffcc9d35812152b9e26900a>



One member of the initial Workgroup talked about the tension between how “Senator Laura Kelly made a long speech about how if the reinvestment money gets swept, 367 won’t work, but now as governor, she’s the one who proposed the sweep. It’s disheartening to see that, but it’s politics.” Another said “juvenile crime is down, which is an indication that SB367 is doing what it’s supposed to do. A lot of good things are happening, but I just hope they can continue now that the budget has been slashed in half.” One interviewee noted, “Covid-19 has made it clear that lots of kids and families need a whole host of services, opportunities, social and economic backstops; doing anything to take resources away from kids and families at any time is bad but especially after Covid-19.”

Some stakeholders praised how much money has “gone out the door” already and/or noted improvements in how the funding has been distributed over the course of implementation. Still others believe that the reinvestment funds should have been spent more quickly, so that they would not have been able to be removed, fearing that it looked like the money wasn’t needed since it remained in the reinvestment

Youth Perspectives on the Sweep

In a conversation with several Progeny youth leaders, participants shared that the sweep made it feel like Kansas doesn’t care about kids. One young person remarked, “this year the Governor took money away [from the reinvestment fund]. That makes it seem like the state would rather focus on spending this money rather than using it for youth. [We] thought the money was safe and then it turned out it wasn’t--when the state budget was set to already be a billion dollars over, they tried to take the money behind closed doors.”

Photo: Richard Ross

fund account. Others defended the unused surplus, pointing to the time necessary for a thorough process of vetting and selecting evidence-based programs, as well as ensuring the sustainability of funded programs. One interviewee (who was not involved in the implementation of the reforms) reported that “in 2017 there was an effort to get everything lined up and not just spend the money; at the time I thought that was good, but now it’s there to raid.”

Numerous interviewees linked the “sweep” of funds to insufficient spending of the reinvestment funds, although others emphasized that the intention of creating a “lockbox” was to have a sustained pot of money to draw from that ensures programming over an extended period. Several individuals interviewed for this report mentioned that some communities have chosen not to apply for funding, identifying numerous reasons for this:

- Some smaller counties may not have the capacity to identify and bring in appropriate evidence-based processes, or to navigate application processes.
- As the overall juvenile justice population shrinks, smaller counties may not even have enough youth to run a group intervention with fidelity to the model.
- Jurisdictions may be reluctant to hire new staff or sign new contracts for needed services because they are concerned that the funding won’t be there in the future (a concern that may have been exacerbated by the recent funds sweep).

A stakeholder from Johnson County explained that because they were already participating in JDAI, they had numerous alternatives to incarceration already in place, but that other counties may not have the capacity to determine what programming they might want to implement, or time to do the work required to set it up, before applying for funding to actually offer it. Melody Pappan explains that “Counties need support and guidance on how to spend the funds. There are standards for programs, but if you are offered money and told to spend it on evidence-based practices, you don’t necessarily know what to do with that. Some districts have asked for a list, some investigate on their own, some don’t know what to do so they don’t apply for the money. Some communities don’t want the money because they fear they will hire someone and then the money will go away next year. There’s no trust, [because people fear] the state changing things.”

Although some areas have chosen not to apply for funds, many jurisdictions that are receiving reinvestment funds are not receiving the full resources required to meet identified needs. Stakeholders in Johnson County shared that for the most recent

round of JCAB grants, their allocation was only half of their requested amount. They also explained that although there are multiple funding streams for justice-involved youth, adding up to large amounts of money, strict and siloed requirements and eligibility criteria make it hard to access them. One example they gave was the narrow criteria for requesting funds from the SB179 fund for mental health crisis services, saying that if the law had used a broader definition of behavioral health needs, “that would allow us to meet almost every need that comes up through our service and assessment process.” Changing those criteria would allow programs to support those who “don’t necessarily need the [justice] system but do need services.”

The collected testimony of our interviewees suggests that Kansas may be stuck in a Catch-22 with regards to the reinvestment funding—many stakeholders are hesitant to apply for or grant funding because they worry that it will no longer be available in the future, but not spending it could make it less likely to be available in the future, either because it is more vulnerable to being “swept” into the general fund, or otherwise re-allocated.

Mike Fonkert of Kansas Appleseed explains “it’s one thing not to actively hurt kids, it’s another to help them.” SB 367 addressed the harms of incarceration in JCFs and group homes, but now the reinvestment funds need to be used “to do better for kids.” He believes that people throughout the state are still confused about how the funds can be used. To respond to this need, KDOC and Kansas Appleseed collaborated to hold online information sessions educating potential applicants about how to access funding and the Crime and Justice Institute also developed a toolkit for communities on how to apply for funding. He added that while the state is doing a good job pushing out large amounts of funding through big statewide contracts, “the portion that should be going to innovative community solutions...

“Being incarcerated causes a lot of trauma in your life. It makes it hard to come back into society and get your life together because you’ve lost everything. It disconnects you from resources, when you are inside of there you lose family members and friends; you lose touch because they are so far away, you feel like they don’t care about you.”

Progeny Youth Leader

is the most difficult nut to crack,” and requires a better, more collaborative process for distribution. He also observed that, now the Governor has begun to focus on sweeping the funds, “they’ve stopped talking about how to get the money out.”

Racial and ethnic disparities

Although interviewees shared many ways SB 367 has improved the juvenile justice system, many raised concerns that, as one advocate put it, it’s “not equitable in terms of who is benefitting.” Another stakeholder explained that the issue of racial and ethnic disparities (RED) “has not evaporated, and may have worsened,” adding that stakeholders “need to continue to look at and monitor this.” The KAG has been studying and analyzing these disparities in Kansas, and plans to issue recommendations; the JJOC has indicated that it will collaborate on these efforts.²¹ Additionally, some jurisdictions, such as Johnson County, are working to address racial and ethnic disparities locally.²²

Diversion and other services

While several people praised the increased opportunities for diverting youth away from the juvenile justice system in many parts of the state, some interviewees noted that some jurisdictions still do not offer diversion to enough youth, or offer diversion opportunities equitably. For example, one interviewee shared that in their jurisdiction, prosecutors controlled which youth were offered diversion, and these opportunities were almost only offered to white youth. The same interviewee also shared concerns about overly broad or vague conditions for diversion, e.g., “you will speak respectfully to all adults.” Also, although the wider use of the Immediate Intervention Process for diversion was praised, it was noted that some jurisdictions are still not using it (even though it was mandated by SB 367).

Data sharing and analysis

Several interviewees pointed to data quality and the lack of data sharing between youth-serving agencies as some of the biggest remaining gaps. Although the state is making efforts to rectify this, one Workgroup member said that it was still “going to be a while before you get data you can trust.” In addition to

21.) Kansas Juvenile Justice Oversight Committee Annual Report 2020. <https://www.doc.ks.gov/juvenile-services/committee/2020-annual-report/view>

22.) Kansans United for Youth Justice. Making the Case: Community-Based Alternatives to Youth Incarceration. (August 2018). https://www.kuyj.org/uploads/2/1/9/2/21929892/makingthecase_final_interactive.pdf.



Photo: Richard Ross

quantitative data, one interviewee pointed out communication issues between agencies, explaining that “one kid might have to report to multiple agencies, and those didn’t talk to each other. [So the youth or family] might have conflicting orders.”

Sentencing and probation

Some felt that the sentencing guidelines didn’t quite get it right; many felt they were still too long, while others thought there needed to be discretion to sentence some youth for longer. Similarly, some praised the probation time limits as a major success of the law but thought they should be even shorter, while others feel that the probation period is not long enough for some youth. A Johnson County stakeholder said “it’s really hard to bring about behavior change and make a difference with families in nine months,” though he did note that they are able to extend the time if a child needs to complete an evidence-based program that their risk assessment indicates that they need. (When asked, he suggested that the availability of additional voluntary services might help, giving the example of a parent peer support program in which many parents continue to meet and support each other long after the system involvement has ended.) Stakeholders who favor less probation involvement point to national trends and research,²³ arguing that further investing in diversion and meeting community needs should be prioritized.

Crossover

Interviewees also had different thoughts on SB 367’s impacts on youth crossing over from the child welfare system into the juvenile justice system. A Johnson County stakeholder observed that a positive difference after 367 was that it “stopped the practice of placing Children in Need of Care in juvenile detention, which [previously] was problematic because there was no way of keeping offenders and non-offenders separate, so that sometimes caused crossover.” Another stakeholder said that “there was a feeling that JCF youth were being indirectly diverted into child welfare [but] there wasn’t data to support this.” (In fact, a legislatively appointed Crossover Youth Working Group stated “KVC, a DCF contractor, reported an increase in the number of youth entering into the child

23.) See, e.g., Samantha Harvell, Hanna Love, Elizabeth Pelletier, Chloe Warnberg. (October 2018). Bridging Research and Practice in Juvenile Probation: Rethinking Strategies to Promote Long-term Change. Urban Institute. https://www.urban.org/research/publication/bridging-research-and-practice-juvenile-probation/view/full_report; Annie E. Casey Foundation. (May 22, 2018). Transforming Juvenile Probation: A Vision for Getting It Right. <https://www.aecf.org/resources/transforming-juvenile-probation>

welfare system due to child behavior challenges and not due to abuse or neglect. This assumption is, however, contrary to DCF referral data presented to this group.”)

Enforcement

Some people also thought that the law, as currently enforced, still allows too many young people to be incarcerated for very minor offenses; for example, “imminent danger to property” is often a justification for detention, but that charge is so subjective that it is routinely overused. As one young person put it, “A lot of times kids [who end up incarcerated] are reacting to their environments, and reacting to a situation an adult put them in, and there’s no accountability for the adults.”



Part III: Going Beyond SB 367

What would it look like for the state to keep fulfilling the promise of SB 367? Many interviewees felt that additional preventative services were needed before youth and families ever come into contact with the justice system (although at least one felt that such additional services needed to be accomplished outside of SB367 to preserve reinvestment funding for youth and families who were involved in the current system already). Progeny youth leaders were particularly vocal about the state needing to invest more in prevention, saying that our state should help youth avoid becoming involved with the juvenile justice system in the first place, rather than just offering community-based services to youth who are at the point of potential incarceration.

Progeny youth leaders also emphasize that although services like mentoring and family strengthening programs are essential to supporting youth in their communities, the evidence-based framework can leave out things that all youth need to be successful, including having their basic needs met (e.g., food, shelter), and having healthy ways to spend time, such as a rec center or Y. Many young people shared that having sports opportunities without fees (which limit participation for many families), and help with transportation would make an enormous difference. Young people and advocates also stressed that it wasn't enough for programs to exist or have funding, they need to be accessible to young people. Several interviewees shared stories of funding streams (beyond just the evidence-based reinvestment fund) that were impossible to access because there were so many "hoops to jump through" that youth couldn't successfully apply for them even with adult support, or basic needs that should have been easily attainable (such as an identification document) but in practice took "forever" to actually access. Others mentioned trying to access existing programs that, due to inadequate funding, were short-staffed and/or had significant waitlists.

Numerous people discussed the need for improved juvenile defense (The National Juvenile Defender Center also published an assessment in December 2020 outlining numerous areas of improvement for access to and quality of juvenile defense in Kansas.)²⁴ Other issues raised included expanding youth's due process rights, addressing shackling of youth, and increasing the capacity of the juvenile justice system to serve more youth who otherwise would end up in the adult criminal

24.) Amy Borrer. Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas (2020). National Juvenile Defender Center <https://njdc.info/wp-content/uploads/Kansas-Assessment-Web.pdf>

justice system. Reducing or eliminating fines and fees were also raised as an issue, as lack of financial resources compounds the involvement of many young Kansans involved in the youth justice systems. Progeny youth leaders were also concerned with youth who had been charged with offenses excluded from the reforms, saying we need to make sure we are not leaving behind or forgetting about kids still incarcerated or labeled as “serious offenders.”

Part IV: Recommendations for Achieving the Full Promise of SB 367

SB 367 has made an enormous difference in Kansas’s juvenile justice system, and in the lives of its youth and families. Reflecting back on the five years since SB367’s passage emphasizes how much has been accomplished, but also suggests some ways in which Kansas can do even more to help all Kansans avoid harm and flourish. The following recommendations, based on the stakeholder interviews for this report and input from Progeny’s youth leaders, are in that vein:

Fully engage youth:

Several interviewees remarked that hearing from youth and families directly about what was wrong with Kansas’ juvenile justice system before SB 367 was what ultimately convinced them and their colleagues that they needed to do better. Although SB 367 has made many improvements, there is still much more work to be done, both to sustain those gains, and to address the problems that still exist. Young people directly impacted by the youth justice

“We need more mentorship, life coaches, and personal development opportunities that invest in youth instead of locking them up and punishing them. If you speak to the youth and are willing to walk alongside them and mentor them, that works better [than incarceration].”

Progeny Youth Leader



system are in the best position to guide policymakers and other decision-makers on what will work best.

Recommit to SB 367's core tenets:

SB 367 was passed because the legislature at that time recognized that Kansas should be operating its juvenile justice system according to the principles that research showed to be true: keeping kids in their communities and providing needed services in their natural environments works better for young people and the public than over-reliance on incarceration. Kansas must stay the course on pursuing alternatives to incarceration for youth who are not high risk, and should look to science to improve its response to even those youth who commit serious offenses and are classified as higher risk. Policymaking going forward must be informed by an understanding of adolescent development. Policymakers must also recommit to the fiscally responsibility of reducing exorbitant youth incarceration—currently estimated at \$134,000 annually per youth in Kansas²⁵—and investing in the preventative and supportive services that we know save taxpayers more money than they cost.²⁶ All “swept” funds should be restored to Kansas’s reinvestment fund, and the fund should be protected in the future.

What Kansans Think about Youth Justice Reform

A recent survey of 500 adults in Kansas conducted by the national research firm GBAO on behalf of the Youth First Initiative found that:

85% believe that the youth justice system should focus on prevention and rehabilitation, rather than punishment and incarceration.

86% favor “providing financial incentives for states and municipalities to invest in alternatives to youth incarceration.”

83% favor “chang[ing] the system so that incarceration is not the automatic or default response for youth in the justice system.”

Additional survey information available at:

https://60308246-8e17-48f3-b486-3caed5278808.filesusr.com/ugd/fe31ba_

25.) Colette Marcellin, Samantha Harvell, and Hanna Love. (2020). Data Snapshot of Youth Incarceration in Kansas: 2020 Update. <https://www.urban.org/sites/default/files/publication/102130/data-snapshot-of-youth-incarceration-in-kansas-2020-update.pdf>

26.) See Washington State Institute for Public Policy’s website for cost-benefit analysis of both evidence-based and “generic” interventions relevant to the youth justice system: <https://www.wsipp.wa.gov/BenefitCost>

Achieve equity:

Kansas has improved some of the differences in youth experience based on where in the state they live, but the data clearly shows that youth of color experience incarceration and system involvement at higher rates. Experience from other jurisdictions shows that simply lowering incarceration or system contact rates overall is not enough to achieve equity; states must undertake intentional efforts to disrupt the biases and systemic gaps that lead to racial and ethnic disparities. Several of the steps that Kansas is already undertaking or considering, such as improved juvenile defense and better responses to crossover youth, could potentially improve disparities if deployed in ways that intentionally ensure that youth of color are able to benefit from them as much as white youth.

Expand prevention efforts:

Although many of the newly implemented evidence-based services are helping youth and families and preventing incarceration, Kansas must take a broader approach to prevention and meeting youth and family needs. This includes deploying services and supports that families can access before youth come into contact with law enforcement or other justice system actors, as well as supporting interventions Kansas communities recognize are working for their youth, even if they have not undergone the type of studies needed to be recognized nationally as “evidence-based programs.” Kansas should also commit to addressing the circumstances that lead to justice involvement by ensuring that all Kansans can meet their basic needs (e.g., housing, food, health care) and that all youth have access to healthy ways to spend their time and develop positive relationships as they transition to adulthood.

Conclusion:

SB 367 was a great achievement for Kansas and an enormous improvement over Kansas’s 2015 juvenile justice system. It represented a significant effort, both in synthesizing the research available and navigating the political realities of the time. However, as our understanding of what youth, families, and communities need to thrive continues to develop, we must also continue to evaluate our current use of incarceration and probation, and proceed towards even deeper systematic transformation. It is clear that moving beyond incarceration and probation, bringing our focus on strengthening communities and meeting the needs of youth and families, will ultimately benefit all Kansans, and make us a model for other states. Progeny looks forward to working with communities, advocates, legislators, and other stakeholders to accomplish this.

Key Resources and References

Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections Analyses and Recommendations
(Council of State Governments Justice Center, 2015)

Kansas Juvenile Justice Workgroup Final Report
(November 2015)

Kansas' 2016 Juvenile Justice Reform
and *Juvenile Justice Reforms in Kansas Show Early Signs of Success*
(Pew, 2017)

Key Changes to the Kansas Juvenile Code: A Practical Guide
(National Juvenile Defender Center, 2018)

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