

## Do No Harm...Less Crime for Less Money

### *An Act to promote child well-being, community supervision and efficient use of state resources (S.29 and H.755)*

*Lead Sponsors Senator Cynthia Creem and Representative Claire Cronin*

#### *Massachusetts should reduce unnecessary and harmful court processing for children and teens*

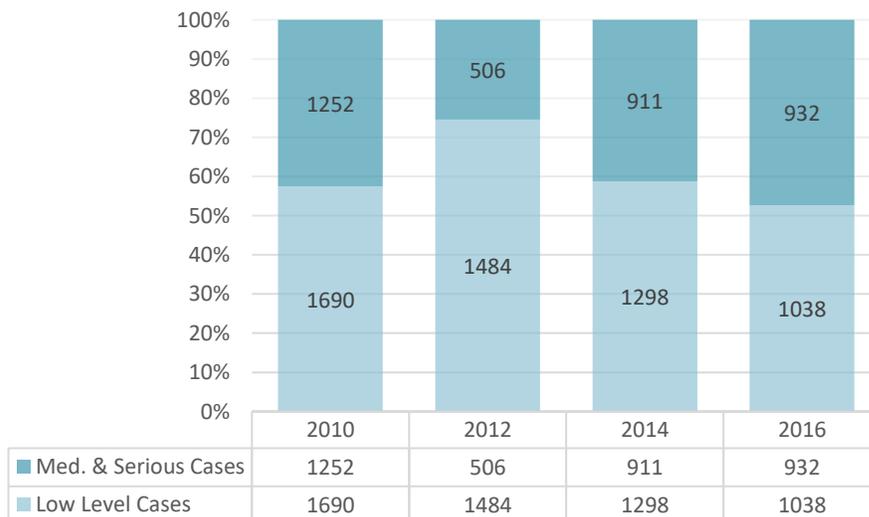
Unlike most states, Massachusetts does not currently provide funding for or require juvenile diversion of any kind. Instead, police, district attorneys, and court personnel offer a discretionary and disparate array of programs and practices, with no requirements to follow best practices or track what they do. The result is that children across the Commonwealth receive starkly different opportunities to avoid court involvement depending on where they live. Given the lack of statutory mandate or other support, efforts to offer these programs, which are voluntary and paid for out of existing funds, are laudable. However, it is critical to assess whether the programs we pay for are offered fairly or are effective.

*Massachusetts taxpayers spend roughly \$50 million each year to confine youth with low-level offenses.*

#### *The Majority of Cases in Massachusetts' Juvenile Courts are Low-level*

The vast majority of cases that end up in the Juvenile Court today involve low-level offenses, things like disorderly conduct, theft, or minor fights that could be addressed through restitution or restorative approaches. Few young people charged in Juvenile Court are ever found delinquent let alone "committed" to the Department of Youth Services (DYS).<sup>1</sup> However, **a troublingly large number of these youth, who pose almost no risk to the safety of the community, are "detained" once they become involved with the courts, often because of a technical**

#### LOW-LEVEL CASES IN DETENTION



**violation of probation (breaking curfew or not attending school "without incident") or because a judge is worried they won't appear at a future court hearing.** Serious or chronic offenders who are eligible to be indicted as "youthful offenders"<sup>2</sup> are exceptionally rare: in FY2015 these cases made up only 2% of youth arraigned in Juvenile Court.<sup>3</sup>

Court processing also increases the risk of further delinquency when compared to diversion from formal processing.<sup>4</sup> A comprehensive systemic meta-analysis found that,

*[There is] no evidence that formally moving juveniles through the juvenile justice system has a crime control effect. In fact, all analyses showed an average main effect that was negative: i.e., **processing increased delinquency**. ... A moderating analysis examining the type of diversionary alternative indicated that processing was not as effective as “doing nothing” (i.e., diversion without services) and was even more negative when [compared to] diversion [] coupled with some type of service or intervention (i.e., diversion with services).<sup>5</sup>*

### *Diversion programs produce less crime and better outcomes for less money*

Pre-arraignment juvenile diversion allows youths to avoid formal processing in the court system and concentrates on rehabilitation, directing them to services, treatment, and opportunities for community involvement and learning.

This bill authorizes judges, in partnership with the Office of Probation, to divert low-level youth pre-arraignment. This would result in fewer youth being unnecessarily charged or incarcerated, while also ensuring greater consistency between counties and courts. Probation would be directed to implement a risk assessment tool to guide diversion decisions along with guidelines for how to treat youth at each level of risk. Diverting “low risk” youth, would free probation officers to provide more intensive services to youth who actually need it.

Effective diversion programs can hold youth accountable and direct them to services, treatment, and opportunities for community involvement while avoiding the creation of a court (or arrest) record. *Diversion programs are less costly than formal system processing and the benefits for individuals and communities are significant. Researchers conducting cost-benefit analyses of six leading diversion program models found that every \$1 spent on diversion produced benefits of \$10.60 - \$25.60 for the community.*<sup>6</sup>

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<sup>1</sup> See Massachusetts JDAI: Decision-Specific Relative Rate Index (RRI) Dashboard available at [https://public.tableau.com/shared/SPFJD7C2W?:display\\_count=yes&:showVizHome=no](https://public.tableau.com/shared/SPFJD7C2W?:display_count=yes&:showVizHome=no).

<sup>2</sup> A “youthful offender” is a child between the ages of 14 - 18 who is subject to an adult or juvenile sentence because of a weapons charge, threatening to cause “serious bodily injury,” or being previously committed to DYS (M.G.L. ch. 119 §52)

<sup>3</sup> *Juvenile Court Statistics FY2015*, available at <http://www.mass.gov/courts/docs/courts-and-judges/courts/juvenile-court/2015-stats.pdf>. In FY2015, there were 216 Youthful Offender cases indicted and 10,293 Delinquency cases filed.

<sup>4</sup>Anthony Petrosino, Carolyn Turpin-Petrosino, and Sarah Guckenburg. *Formal System Processing of Juveniles: Effects on Delinquency*. No. 9 of CRIME PREVENTION RESEARCH REVIEW (2013), Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services. Available at <http://www.ric-zai-inc.com/Publications/cops-w0692-pub.pdf>;

<sup>5</sup> Ibid.

<sup>6</sup> *Reforming Juvenile Justice*.