



Decriminalize Runaway & End Ineffective Institutionalization for Youth Accused of a Status Offense

SUPPORT HB 1709 & SB 404 TO ENSURE YOUTH NEEDS ARE MET OUTSIDE OF THE JUVENILE JUSTICE SYSTEM

When young people run away, or are reported as missing and later found, they may be returned to a parent or guardian by law enforcement. But in some cases, rather than returning the child to parents or guardians, law enforcement brings the child to a juvenile processing center, and the local juvenile probation department then determines what step to take next. Research shows that the response to runaways varies from county to county, but throughout Texas some status offenders are detained in juvenile facilities. Most youth remain detained for hours, but some stay for days or even weeks. Of the approximately 2,444 children who were referred to juvenile probation for running away in 2019, 560 had their cases dismissed outright, and another 1,577 received only a supervisory caution, leaving only approximately 300 youth who received some services through the juvenile system.¹

Even minimal involvement with the juvenile justice system can be harmful to youth and Texas should ensure runaway and other status offender needs are met outside of the juvenile justice system.

DETAINING RUNAWAY YOUTH & OTHER STATUS OFFENDERS IS HARMFUL & INEFFECTIVE

Texas law defines a “status offender” as “a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult.”² The first iteration of the Runaway & Homeless Youth Act (RHY) was passed in 1974 as part of the Juvenile Justice and Delinquency Prevention Act (JJDP).³ The legislation requires the deinstitutionalization of status offenders, mandating states find alternatives to secure detention. It also created a funding stream for programs aimed at runaway youth and other status offenders, which was later expanded to include youth experiencing homelessness.⁴ The RHY was meant to “decriminalize” runaways by ensuring that their needs were met outside the juvenile justice system for three overarching reasons:

1. Institutionalization does not decrease rates of reoffending and may increase anti-social attitudes and affiliations;
2. Youth can face re-entry barriers; and
3. Detention of a status offender does not address the root causes of the behavior.⁵

559

Youth detained for runaway

86

Youth detained for > 2 days

¹ Texas Juvenile Justice Department, The State of Juvenile Probation Activity in Texas (2019), available at <https://www.tjjd.texas.gov/index.php/jpdforms-aeu/send/334-state-of-juvenile-probation-activity/2479-the-state-of-juvenile-probation-activity-in-texas-2019>.

² Tex. Family Code § 51.02(15).

³ Cong. Research Service, Runaway and Homeless Youth: Demographics and Programs 1 (2019)

⁴ *Id.*

⁵ Office of Juvenile Justice and Delinquency Prevention (OJJDP), “Literature Review: Status Offenders” (2015), available at https://www.ojjdp.gov/mpg/litreviews/Status_Offenders.pdf.

In 1980, the JJDPa was amended to add the “Valid Court Order” (VCO) exception, which allows courts to punish status offenders who violate a court order related to a status offense with a term of secure confinement.⁶ Under “Contempt of Magistrate,” in Justice of the Peace Courts, or Texas’ VCO exception, in juvenile court, a status offender who violates a court order (which could be something as simple as “stop missing school”) can be accused of contempt and securely detained for up to 72 hours; which can be extended to 10 days or more under certain circumstances.⁷

WE CAN BETTER SERVE & SUPPORT YOUTH WITHOUT DETENTION

RHY authorizes and supports community-based runaway and homeless youth projects to provide temporary shelter and care to runaway or otherwise homeless youth who are in need of temporary shelter, counseling, and aftercare services.⁸ Many programs that serve youth experiencing homelessness or youth in the child welfare system must also reserve space for youth who have run away.

Texas’ Family Youth and Success Program (“FAYS”) (formerly Services to At-Risk Youth (“STAR”)) was designed to serve at-risk youth and their families, which includes youth who have, or are likely to, run away. The program serves families for free and can help with a wide variety of individual and family issues, including but not limited to:

- Develop Family Communication Skills
- Increase Social & Emotional Health
- Confidence Building
- School Attendance
- Family Conflict
- Online Safety
- Coping Skills
- Bullying
- Anger
- Grief

This program exists statewide and is one of the most consistently successful Department of Family & Protective Services Programs. The FAYS program reports year-over-year that youth served by FAYS remain safe more than 97% of the time.⁹ Moreover, on average over the last 10 years, 94.8% of youth served by the FAYS program remain out of the juvenile justice system.¹⁰

SUPPORT HB 1709 & SB 404 TO:

- ✔ Completely decriminalize the status offense of running away, including eliminating the VCO exception.
- ✔ Limit the detention of youth for status offenses, better addressed and served by community-based services.
- ✔ Ensure vulnerable youth are not further harmed by juvenile justice detention.

⁶ Marc Levin & Derek Cohen, “Kids Doing Time for What’s Not a Crime: The Over-Incarceration of Status Offenders,” Texas Public Policy Foundation (March 2014): 4, <http://www.modelsforchange.net/publications/521>.

⁷ See Tex. Fam. Code § 54.011.

⁸ Family and Youth Services Bureau, Runaway & Homeless Youth Fact Sheet, *available at* <https://www.acf.hhs.gov/fysb/fact-sheet/runaway-and-homeless-youth-program-fact-sheet>.

⁹ Texas Department of Family & Protective Services, PEI Outcomes, Outputs & Efficiencies, *available at* https://www.dfps.state.tx.us/About_DFPS/Data_Book/Prevention_and_Early_Intervention/Outcomes_Outputs_Efficiencies.asp.

¹⁰ *Id.*



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