

Regular Session, 2003

HOUSE CONCURRENT RESOLUTION NO. 56

BY REPRESENTATIVES LANDRIEU, HUNTER, MARTINY, WINSTON,
RICHMOND, BRUCE, AND FAUCHEUX AND SENATORS
CRAVINS, BAJOIE, LENTINI, MICHOT, AND MOUNT

A CONCURRENT RESOLUTION

To propose a plan for juvenile justice reform in the state of Louisiana by
establishing a comprehensive strategy and directing action for
implementation.

WHEREAS, the Juvenile Justice Commission was created by House
Concurrent Resolution No. 94 during the 2001 Regular Session as a result of
the Louisiana State Supreme Court's Chief Justice Pascal Calogero's appeal for
"all three branches to examine the issue of the current state of our juvenile
justice system and to take bold steps to improve it"; and

WHEREAS, the Juvenile Justice Commission ("commission"),
originally comprised of six state representatives and six state senators
respectively appointed by the Speaker of the House and President of the
Senate, was charged with recommending meaningful improvement in juvenile
justice at all levels of state government and public involvement; and

WHEREAS, the Advisory Board ("board") was assembled to assist the
commission and was comprised of four representatives of the Louisiana State
Supreme Court, and a representative from each of the following: office of the
governor; office of the attorney general; Caddo Parish Juvenile Court; East
Baton Rouge Parish Juvenile Court; Jefferson Parish Juvenile Court; Orleans
Parish Juvenile Court; Department of Education; Department of Health and

Hospitals; Department of Public Safety and Corrections; Department of Social Services; Louisiana Commission on Law Enforcement, Juvenile Justice Delinquency and Prevention Board; Louisiana Council of Juvenile and Family Court judges; Louisiana District Attorneys Association; Louisiana Sheriff's Association; FINS Association; Capital Area Human Services Program; Casey Family Program of East Baton Rouge; Children's Services Collaborative; Council for a Better Louisiana; Jefferson Parish Community Justice Agency; Jefferson Parish Human Services Authority; Junior League of Caddo/Bossier; Metrovision; National Association of Black Social Workers; Public Affairs Research Council; Victims and Citizens Against Crime; Volunteers for Youth Justice in Caddo; You Who; Urban League; the Mental Health Association; and the executive director of the Governor's Children's Cabinet; and

WHEREAS, the scope of work of the commission and its board consisted of two distinct but interrelated phases of activities: during the first phase of work, the board gathered information on the juvenile justice system from available and specially commissioned research, testimony received at numerous public hearings, other forms of public feedback, and opinions of its members; and in the second phase of the work, the board used the information gleaned from the first phase to develop draft findings and recommendations which were first presented to the commission and, after its preliminary approval, to the general public in a second round of public hearings; and

WHEREAS, and more specifically with respect to the two rounds of public hearings held in Baton Rouge, Lafayette, Lake Charles, Alexandria, Shreveport/Bossier, Monroe, St. Tammany, and the greater New Orleans area on both the east and westbanks of the Mississippi River, over two thousand persons attended and well over four hundred persons testified; and

WHEREAS, the Casey Strategic Consulting Group ("Casey"), affiliated with the Annie E. Casey Foundation, a private charitable organization founded

in 1948 whose primary mission is to foster public policies, human service reforms, and community support that more effectively meet the needs of today's vulnerable children and families, received a request from the Chief Justice and from members of the state legislature seeking assistance in reshaping multiple components of the Louisiana juvenile justice system, narrowed their scope of work to reducing incarceration of children in Louisiana, commenced studying fifty case files of incarcerated youth, and participated and presented findings and recommendations in the aforementioned public hearings, all free of charge; and

WHEREAS, the advisory board has recommended the following juvenile justice goals: prevention, protection, rehabilitation, and restoration; and

WHEREAS, based on these key goals, the recommendations of the board and Casey, including consideration of minority reports, and the benefit of a total of twenty-one public hearings and sixteen months of intensive study, the commission has approved and endorsed a comprehensive package of approximately seventy-nine recommendations for reforming and restructuring the juvenile justice system of Louisiana; and

WHEREAS, there is broad agreement among juvenile justice agencies, relevant associations, involved individuals, and the public regarding the commission's vision, goals, and its general approach to the reform and restructuring of the system and agreement on all but a few of the commission's recommendations, the disagreement being more over means rather than ends and over the timing of implementation; and

WHEREAS, the vision, goals, and general intent of the commission's efforts provide for the prevention and treatment of problems affecting children and juveniles, the protection of children and families from child and domestic abuse, the protection of the public from pre-delinquent and delinquent acts, the

rehabilitation of children and families, and the restoration of normalcy for both the victims and perpetrators of pre-delinquent and delinquent acts; and

WHEREAS, Louisiana has a unique opportunity to initiate immediately the process of reforming and restructuring its juvenile justice system because of the commission's work, the availability of technical support from outside experts, the continued collaboration of the three branches of state government, and the general interest of the public; and

WHEREAS, legislation alone is incapable of creating a true system of juvenile justice and juvenile justice reform also requires: personal involvement in the lives of our children, first in the family and then in the community and schools; continued collaboration and cooperation by the legislative, executive, and judicial branches of government; strategic and cultural change in the delivery of services from isolated to multiservice and age appropriate; and public awareness and commitment; and

WHEREAS, children and families are the state's most precious resource and require the state's highest priority and attention.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby acknowledge and affirm the work of the Juvenile Justice Commission, specifically the following principles:

The current juvenile justice system is "broken" and needs substantial reform and restructuring.

There is inadequate communication, coordination, and collaboration between and among the primary agencies and individuals involved in the system.

The juvenile justice system should be knowledge-based, i.e. based on planning, research, monitoring, and evaluation.

The service delivery system should be restructured to provide adequately for single points of entry, comprehensive case management services, wraparound services, community-based service delivery, and more local governmental and private involvement.

A comprehensive continuum of services, including juvenile justice services, for children and families needs to be defined, funded, and implemented.

The state's correctional policy relies too heavily on juvenile incarceration and more effective and less expensive alternative sanctions are necessary to bring balance to the system.

The savings from reducing juvenile incarceration should be continually reinvested in prevention and early intervention treatment services and alternative sanctions until there is a better balance between incarceration and such services and sanctions.

Both higher and lower educational agencies need to become partners with juvenile justice agencies in efforts to improve the system, particularly with respect to improving student behavior and discipline.

Additional funding is needed in many districts to improve the quality of child welfare protection, law enforcement, prosecution, indigent defense, adjudication, and corrections. The legislature is especially cognizant of the lack of availability, support, and training of indigent defenders in the system.

Changing the juvenile justice system will require technical assistance and the targeted training of law enforcement personnel, child welfare personnel, prosecutors, defenders, judges, social workers, probation officers, and correctional personnel in both the principles and best practices of reform.

Certain changes in law concerning waiver of counsel, mandatory sentencing, the provision of standards and licensing procedures, and other matters are necessary as well.

BE IT FURTHER RESOLVED that all agencies involved in juvenile justice are urged and requested to adopt and actualize the following concepts of an ideal juvenile justice system:

The juvenile justice system must protect children and families when private and other public institutions are unable or fail to meet their obligations.

The protection of society by correcting children who break the law, the preservation and reformation of families, and the protection of children from abuse and neglect are missions of the system.

A juvenile justice system should treat and rehabilitate the dependent or delinquent youth, using an individualized and developmentally appropriate approach and tailor its response to the particular needs of the child and family with goals of: responding to the needs of troubled youth and their families; providing due process while recognizing the rights of the victim; rehabilitating the juvenile offender; and protecting both the juvenile and the interests of public safety.

The juvenile justice system and its youth-serving system partners will embrace the following core principles to accomplish the articulated goals: strengthen the family; support core social institutions (i.e., schools, religious institutions, and community organizations); promote delinquency prevention; intervene immediately and effectively when

delinquent behavior occurs; and identify and control the small group of serious, violent, and chronic juvenile offenders.

The ideal juvenile justice system should, therefore, consist of: a continuum of well-planned, coordinated, comprehensive, developmentally appropriate, and accountable public and private services that includes a range of prevention, immediate and intermediate interventions, and graduated sanctions services provided to children and families who are, are at risk of, or are likely to be involved in the juvenile justice system because of such problems as the abuse, neglect, or abandonment of children, the mental illness of children, substance abuse by children, aspects of the divorce and break-up of families, pre-delinquent, socially irresponsible, or delinquent behavior by youth, or spousal domestic abuse involving children.

BE IT FURTHER RESOLVED that all agencies involved in juvenile justice are urged and requested to adopt and actualize the following juvenile justice goals:

Prevention. Prevent child abuse, neglect, and abandonment, prevent domestic abuse, prevent pre-delinquency and delinquency, and prevent adult crimes against children and youth.

Protection. Protect children and their family members against child and domestic abuse and protect individuals and society against pre-delinquent and delinquent acts.

Rehabilitation. Rehabilitate children who have been abused, neglected, or abandoned, rehabilitate family members who have abused, neglected, or abandoned children or who have been abusive to other family members, and rehabilitate children who have committed pre-delinquent or delinquent acts.

Restoration. Assist children who have been the victims of abuse, neglect, or abandonment by either reuniting them with their families or by finding them other permanent, supportive homes as quickly and as effectively as possible, assist victims of domestic abuse in restoring normalcy in their lives, assist and compensate victims of pre-delinquent and delinquent acts for the harm done to their persons or property, and restore rehabilitated pre-delinquent and delinquent youth as well-adjusted and productive members of society.

BE IT FURTHER RESOLVED, in recognition of these principles, ideals, and goals, that the recommendations of the commission, as more fully set forth in the Juvenile Justice Reform Act, be enacted into law by the passage of House Bill 1683 of the 2003 Regular Legislative Session.

BE IT FURTHER RESOLVED that in recognition of the aforementioned principles, ideals, and goals, all agencies included in juvenile

justice are urged and requested to cooperate in implementing the following recommendations of the commission:

Juvenile Secure Detention Facilities. The executive branch of government discontinue the use of one of the state's juvenile correctional facilities for the housing of juveniles by carefully crafting a transition plan to determine which youth could be safely released or moved to an alternative program and which need to remain in secure custody, including a short-term population reduction program to decrease the number of youth in secure custody over a six to twelve-month time frame from the adoption of this resolution. To free residential beds, Family in Need of Services (FINS) Program should be transferred to an appropriate child welfare services agency.

Alternatives to Incarceration. The legislative, executive, and judicial branches of government greatly expand alternatives to incarceration by providing more state-funded intensive probation supervision and tracker programs, non-secure residential treatment programs, and balanced and restorative justice programs, and nonresidential treatment and counseling services. A new secure custody screening tool should be developed in conjunction with judges, prosecutors, and advocates to assure the proper use of alternatives. Include child welfare, mental health, substance abuse, and other providers in disposition options. Improve quality of probation services. Develop objective disposition decision supports. Establish entry criteria to prevent out-of-home placements so alternatives to incarceration do not become alternatives to probation.

Youth Representation. The judicial branch improve representation of youth at disposition and conduct regular judicial reviews of incarcerated youth.

Funding, generally. The executive and legislative branches of government, including the Joint Legislative Committee on the Budget, make funding the juvenile justice system of this state a priority, including the reinvestment of savings from the closure of one juvenile justice facility in community-based alternatives to prevent the need for more secure facilities in the future and appropriately fund district attorneys and courts for informal adjustment and deferred disposition programs.

Use of 8(g) Funding. The Board of Regents develop ways to promote the use of 8(g) funding for needed research and demonstration programs affecting the development of the state's human resources, especially with respect to school behavioral, child welfare, and juvenile justice issues. The legislature also encourage the Board of Regents to develop, as part of its plan for higher education, the establishment of one or more centers of excellence in child welfare and juvenile justice research and education. The goal of these centers would be to transform Louisiana's total approach to child welfare and juvenile justice into a national model of excellence.

Alternative School Standards. The Board of Elementary and Secondary Education review and revise its standards on alternative schools to ensure that suspension policies are consistent with best

theory and practice, that positive behavioral supports are being used, and that children are learning in these environments.

School Population Census. The Board of Elementary and Secondary Education consider conducting a census of student population in each district at least quarterly instead of the current annual census in the fall. The purpose of the quarterly census would be to ensure a more accurate count of the student population at each school and better monitoring of student dropout and suspension rates.

LCLE Juvenile Funding. The Louisiana Commission on Law Enforcement (LCLE) dedicate in the next five years any available juvenile justice funds not encumbered by prior commitments, or are necessary to meet the mandates of the federal act under which such funds are appropriated, or prohibited by federal law or regulation exclusively to the following purposes: the funding of exemplary juvenile justice alternative sanctions operated by community-based organizations approved by the Children's Cabinet, and the funding of exemplary mental illness and substance abuse treatment programs operated by community-based organizations approved by the Children's Cabinet, in so far as such programs comply with the federal program areas under the authorizing act, and are in compliance with the federally approved plan submitted by LCLE.

Correctional Funding Transition Plan. The Louisiana Council of Juvenile and Family Court Judges, in association with the juvenile correctional authority, develop a specific correctional funding transition plan. The plan should indicate how in the next one to three years the state can begin to reduce its reliance on incarceration and release funding from the appropriate department's budget to the pool maintained by the division of administration for community-based sanctions and treatment programs. The plan should address both fixed and variable costs and should indicate initially the amount of variable costs and eventually the amount of fixed costs saved by the diversion of offenders from juvenile incarceration by juvenile drug courts and other community-based sanctions and other proven effective or promising treatment alternatives.

Disparities in the Disposition of Juvenile Delinquency Cases. The executive branch of government address disparities in the disposition of juvenile detention cases by: developing within the office of youth development and its successor, if applicable, key decisions under its authority, including a regular report on disciplinary actions and release recommendations and promoting a greater understanding and awareness of this issue throughout the office; developing alternative responses to disciplinary problems such as treatment and counseling services that more effectively address the needs of over-represented youth; developing positive behavior management system to replace the disciplinary ticket system; conducting assessments of STOP/LITE youth, either in the community or as part of the ninety-day program; and simplifying release guidelines to focus on public safety risk. The judicial branch of government address disparities by creating a process to provide data on juvenile court decisionmaking patterns by race to each judge in the state. Every quarter, judges should receive a report on their use of detention, incarceration, residential placements, and

probation by the ethnicity, race, and sex of juveniles under their jurisdiction.

Louisiana Endowment of Children. The governor create, by executive order, a committee to investigate the feasibility of getting a private sector organization to establish a Louisiana Endowment for Children as a nonprofit, tax-exempt foundation with the goal of building over the next ten years an endowment of two hundred million dollars. The endowment should be built from the following streams of funding: family foundations, corporations receiving large tax exemptions from the state, entertainment events in the state, and individual contributions. The interest on the yield of the funds should be distributed as follows: the yield on the family foundation funds of the endowment should be restricted to those purposes specified by the family foundations within the framework provided by the Children's Cabinet; and the yield on the unrestricted fund of the endowment should be dedicated to the following: the provision of matching funds to release state general funds for other juvenile justice uses as determined by the board of the endowment; the provision of funds to community-based programs as approved by the Children's Cabinet.

Integrated Juvenile Justice Information System. The Louisiana Technology Innovation Fund and other state technology funding mechanisms consider funding to complete the development of the Integrated Juvenile Justice Information System begun by the state supreme court. Upon completion, the system should provide three levels of integration: (1) integration of all juvenile court functions (forms generation, docketing, scheduling, calendaring, case tracking, subpoena and other notice tracking, tracking of bail and other forms of release, tracking of appellate cases, and reporting); (2) integration of case types through the assigning and use of unique identification numbers to each child and each child's family on a statewide basis; and (3) integration or data sharing on a voluntary basis with other juvenile justice and youth and family-serving agencies, including but not limited to those providing child welfare, mental health, substance abuse, and educational services. The system should be built in the public domain so that it may be used throughout the state by all agencies without licensing costs. The system should be web-based to allow the transfer of data among all users of the system in a user-friendly fashion and to allow the transfer of data from existing systems. The system should be built as an intranet to provide for adequate privacy and confidentiality of data. The system should provide statistical reports to the people and the legislature via the internet based on the system of accounts to be developed by the Louisiana Juvenile Justice Planning and Coordination Council with the assistance of the Children's Cabinet Research Council. The legislature further recommends that, upon completion of the basic system, that funds be legislatively appropriated for three or four demonstration sites for system installation, tailoring the system to meet each district's particular needs, to eliminate bugs, and to provide user training. The legislature recommends that the demonstration sites be selected on a competitive basis from applications indicating the willingness of at least three juvenile justice agencies in the district to share data, willingness of the local district to provide local matching funds of at least ten percent, and willingness of the district to report specified data to the state supreme court, the legislature, and other required entities.

Computerized Information and Resource System. The Louisiana Technology Innovation Fund and other state technology resources consider providing a grant for the development and maintenance of a web-based comprehensive information resource system, including a research-based and updateable taxonomy and service information in terms of type, area, availability, cost, and methods of access. Upon completion, the information system should be accessible via the web and will generate upon request written parish directories updated and disseminated at least on a quarterly basis.

Tandem Pay Supplements and Certification Training. The governor's office, in collaboration with the legislature and the state supreme court, design and recommend a program to provide state warrants for supplementing the salaries of assistant district attorneys and indigent defenders assigned to juvenile jurisdictions upon annual certification of a designated number of continuing legal education (CLE) hours in juvenile law, child welfare, education and special education law, the identification and use of treatment and rehabilitation services, and child and adolescent psychology.

Americorps. The Department of Social Services develop and recommend a program in association with Americorps designed to provide youth transitioning out of foster care with meaningful work experiences, a community service ethos, and opportunities for personal development, all of which would assist in their transition to independent living.

ASFA Compliance. The office of community services, the court improvement program of the state supreme court, and the office of youth development produce a report identifying a comprehensive list of the barriers to full compliance with the Adoption and Safe Families Act of 1997. The report of their findings and recommendations should be provided to the Children's Cabinet, the Joint Legislative Juvenile Justice Policy Priority Committee, and the state supreme court.

Court Appointed Special Advocates (CASA). The legislature, the state supreme court, and all courts having significant child dependency caseloads continue to support Court Appointed Special Advocates (CASA) programs and volunteers throughout the state through funding, technical assistance, and general encouragement.

Study of Specialization of Family and Juvenile Courts. The Judicial Council, or another appropriate judicial agency designated by the state supreme court, study and make recommendations relative to the further specialization of sections or divisions of general jurisdiction district courts to address more effectively family and juvenile cases, e.g., one-family/one-judge policies, dependency divisions or sections, juvenile mental health courts, juvenile drug treatment courts, and unified family courts.

Family and Juvenile Court Rules Committee. The state supreme court create an Ad Hoc Task Force consisting of members of the former advisory board of the Juvenile Justice Commission to develop and present recommendations to the Family and Juvenile Court Rules Committee of the Judicial Council. The Family and Juvenile Court

Rules Committee develop its rules and forms in a manner consistent with the vision and plan of reform advocated by this resolution.

Mandatory Judicial Training. All judges having juvenile jurisdiction be required by the state supreme court to have a specified number of hours of continuing legal education each year in juvenile law or in their specialized subject-matter jurisdiction within juvenile law.

New Judgeships. The following procedures be developed and followed by the Judicial Council and the legislature when creating new judgeships having complete or partial juvenile or domestic jurisdiction: before assuming office and every year after assuming office, the judge-elect or judge shall be required to have eight hours of continuing legal education in his specialized subject-matter jurisdiction and before the new judgeship shall be granted, the relevant appointing authorities shall provide the Judicial Council with the names and current caseloads of the prosecutor and public defender to be assigned to the proposed new section of court. The appointing authorities shall also provide to the Judicial Council a written assurance that, if the new judgeship is created, the designated prosecutor and public defender shall receive, each year, a minimum of eight hours of continuing legal education in the specialized subject-matter jurisdiction of the new judgeship.

Best Practice Standards for Juvenile Courts. Representatives from the Louisiana Council of Juvenile and Family Court Judges, the Louisiana District Attorneys Association, the Louisiana Indigent Defense Assistance Board, the Louisiana State Bar Association, the Juvenile Justice Project of Louisiana, the office of youth development, the Mental Health Advocacy Service, law enforcement, and victim advocates develop and promulgate a set of best practices guidelines to be implemented in courts with formal Family in Need of Services (FINS) and juvenile delinquency jurisdiction. Such guidelines should be similar in scope and intention to the resource guidelines developed by the National Council of Juvenile and Family Court Judges for child dependency cases.

Family-friendly Information Services. The state supreme court develop through one of its agencies, and the Louisiana State Bar Association information regarding the juvenile court process, foster care, adoption, termination of parental rights, voluntary surrender, voluntary custody, mental health commitment, probation services, and children's rights be provided in user-friendly formats (easy-to-read materials, video, websites, etc.) to children, parents and other guardians, and other concerned adults.

Graduated or Progressive Sanctions. Courts, prosecutors, public defenders, and service providers collaborate on the development and application of a system of community-based, graduated sanctions in each juvenile jurisdiction. This system would combine treatment and rehabilitation with reasonable, fair, humane, and appropriate sanctions, and offer a full continuum of care consisting of diverse programs utilizing proven, effective, or promising strategies. The continuum would include: immediate sanctions within the community for first-time, nonviolent offenders; intermediate sanctions within the community for more serious offenders; secure care programs for the most violent offenders; and aftercare programs that provide high levels

of social control and treatment services. Juvenile offenders should move along this continuum through a well-structured system of phases that addresses both their needs and the safety of the community.

Mandatory Sentencing. The Children's Code Committee of the Louisiana State Law Institute study and make recommendations regarding the issue of mandatory sentencing of juveniles pursuant to the provisions of the Children's Code Article 897.1.

Diversification Processes. The courts and the legislature expand the use of informal processes, including by example the use of alternative dispute resolution techniques, use of informal adjustment agreements, prosecutor diversion programs, informal FINS, law enforcement counsel, warn and release programs, and other such programs, in all types of cases within juvenile jurisdiction, especially in child dependency, pre-delinquency, and minor delinquency cases. Such processes shall have a research base that demonstrates effectiveness in promoting settlements, reducing the caseloads that burden judges, prosecutors, and defenders, and reducing costs.

Expanded Use of Hearing Officers. The state supreme court create a task force under the Judicial Council to explore the feasibility and desirability of expanding the use of hearing officers in juvenile courts. Hearing officers currently handle child support cases and serve as traffic referees. However, hearing officers might also be helpful in presiding at all case management hearings and pre-adjudicative hearings not involving detention or custody determinations.

Court Delays and Case Management. Each court develop techniques and strategies for reducing delays in juvenile proceedings and for managing cases more efficiently and effectively and the state supreme court develop a best practices guide for reducing delays in all juvenile proceedings.

Pro Bono Attorney Recruitment Program. The state supreme court, in association with the Louisiana State Bar Association and other bar associations throughout the state, develop a short video and other materials illustrating the benefits and availability of training as part of an overall program of recruiting pro bono attorneys to represent children and other parties in juvenile cases.

Public Awareness Campaign. The governor and the legislature endorse the development and execution of a statewide public awareness campaign designed to increase public understanding of the issues affecting juvenile justice in Louisiana and the adopted recommendations of the Juvenile Justice Commission. The campaign should be organized by one or more private advocacy organizations and would be funded through private contributions.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the governor, the secretary of the Department of Social Services, the secretary of the Department of Public Safety and Corrections, executive director of the Children's Cabinet, the state superintendent of Education and

each member of the State Board of Elementary and Secondary Education, the commissioner of higher education and each member of the Louisiana Board of Regents, the chief justice of the Louisiana State Supreme Court, the Louisiana Judicial Council, the Louisiana Council of Juvenile and Family Court Judges, the Louisiana State Bar Association, the executive director of the Louisiana Commission on Law Enforcement, the executive director of the Louisiana District Attorneys Association, the Louisiana Indigent Defense Assistance Board, the Juvenile Justice Project of Louisiana, Mental Health Advocacy Service, the council members of the Louisiana Technology Innovation Fund, and Louisiana Serve Commission of Americorps for distribution and notice to all persons establishing policy or rendering services, or both, to children, youth, and families.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE