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Testimony from:

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In support of House Bill No. 1187, “AN ACT concerning Juvenile Law-Juvenile Justice Reform”

February 25, 2021

House Judiciary Committee

My name is Emily Mooney, and I am a resident criminal justice policy fellow at the R Street Institute, which is a nonprofit, center-right public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government. Given HB 1187’s focus on rethinking and scaling back unproductive juvenile justice interventions in young people’s lives with an eye toward promoting youth wellbeing, public safety and fiscal responsibility, it is of special interest to us.

I want to begin by acknowledging that this bill is the result of a deliberative learning process orchestrated by the Juvenile Justice Reform Council established by lawmakers in 2019. Following their charge, Council members relied on state data, community listening sessions, research and best practices from the field when crafting their recommendations. Improving public safety, the treatment of youth within the system, and limiting or mitigating the factors that promote youth criminal involvement were top of mind.

Ultimately, this bill attempts to do this by: 1) establishing a minimum age of juvenile court jurisdiction at 13 years, except in very serious circumstances in which jurisdiction begins at 10 years; 2) removing traditional school misbehavior from the definition of a delinquent act; 3) expanding opportunities for informal adjustment (i.e. diversion by the Department of Juvenile Services (DJS) and mandating DJS diversion for certain first-time offenses; 4) instituting limits on the length of youth probation; and 5) preventing youth charged with a misdemeanor or technical violation of probation as their most serious offenses from being placed in a juvenile detention or correctional facility, among other things.

Many of these steps have already been successfully taken by other states. As of 2020, states like Arkansas, Pennsylvania, Kansas, Louisiana, Mississippi, Nebraska, Massachusetts, have, at a minimum, set their age of juvenile court jurisdiction at 10 years old, recognizing that holding pre-adolescent children accountable through the justice system is actively harmful to their development and rarely

productive.<sup>1</sup> In fiscal year 2019, nine out of every 10 cases involving Maryland youth under the age of 13 were ultimately dropped or dismissed during processing.<sup>2</sup>

Likewise, a juvenile justice reform package passed in 2017 by Utah legislators removed misbehavior like truancy, disorderly conduct and some low-level misdemeanors occurring on school grounds during school operating hours from juvenile court jurisdiction, instead mandating that behavior be addressed outside of the courts.<sup>3</sup> The package required pre-court diversion for youth referred for infractions, status offenses or misdemeanors with some exceptions. And it limited the ability for youth to be placed in custody or secure confinement and placed a four-to-six-month time limit on terms of formal probation, among other things.<sup>4</sup>

Since these reforms have been passed, court referrals and admissions to detention have continued to drop: from fiscal year 2017 to fiscal year 2019, the rate of juvenile referrals and admissions to detention dropped by about 15 percent and 44 percent, respectively.<sup>5</sup> Meanwhile, the use of nonjudicial diversion increased, with 56 percent of youth referred to the justice system benefiting in fiscal year 2019.<sup>6</sup> The state has been able to close a few facilities and is reinvesting millions of dollars in cost savings in front-end services like family functional therapy.<sup>7</sup>

Kentucky also embraced similar reforms in legislation passed in 2014. Among other things, this legislation required the courts to offer all youth referred to intake with a first-time misdemeanor the opportunity to be diverted. It also allowed diversion at intake for youth referred up to their third misdemeanor and some first-time felonies.<sup>8</sup> A subsequent evaluation of the reforms by the Urban Institute found that they dramatically increased the state's use of diversion but that this expansion did

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<sup>1</sup> "Minimum Age for Delinquency Adjudication-Multi-Jurisdiction Survey," National Juvenile Defender Center, updated Jan. 22, 2020. <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/>.

<sup>2</sup> Maryland Juvenile Justice Reform Council, *Final Report*, Department of Legislative Services, January 2021, p. 18. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC-Final-Report.pdf>.

<sup>3</sup> "Utah's 2017 Juvenile Justice Reforms Shows Early Promise," Pew Charitable Trusts, May 20, 2019. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/05/utahs-2017-juvenile-justice-reform-shows-early-promise>.

<sup>4</sup> *Ibid.*

<sup>5</sup> Juvenile Justice Oversight Committee, *System Trends*, Utah Commission on Criminal and Juvenile Justice, 2020. [https://justice.utah.gov/wp-content/uploads/FY\\_2019\\_Update\\_Van2.html#system-trends](https://justice.utah.gov/wp-content/uploads/FY_2019_Update_Van2.html#system-trends).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Samantha Harvell et al., "Assessing Juvenile Justice Reforms in Kentucky," The Urban Institute, Sept. 17, 2020, pp. 3-4. [https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full\\_report](https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full_report).

not negatively impact their high successful completion or recidivism rates. By mandating and expanding diversion, the reform also began to narrow the racial and ethnic disparities slowly at this point.<sup>9</sup>

South Dakota also passed diversion legislation in 2015. This legislation created fiscal incentives to promote county use of diversion, made pre-court diversion the default response to nonviolent misdemeanors or status offenses within certain circumstances, and instituted a civil citation system for some low-level offenses.<sup>10</sup> Finally, Florida's statewide civil citation and alternatives to arrest framework has been long-heralded as a success. In fiscal year 2016-2017, only five percent of youth provided a civil citation or other alternative to arrest recidivated statewide.<sup>11</sup>

HB 1187 simply follows in the footsteps of what other states have done with bipartisan support, after seeking out data and research to determine what is best for their kids and communities. The R Street Institute urges your support.

Thank you for your time,

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<sup>9</sup> *Ibid.* p. 2. [https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full\\_report](https://www.urban.org/research/publication/assessing-juvenile-diversion-reforms-kentucky/view/full_report).

<sup>10</sup> "South Dakota's 2015 Juvenile Justice Reform," Pew Charitable Trusts, Jan. 29, 2016. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/south-dakotas-2015-juvenile-justice-reform>.

<sup>11</sup> "Civil Citation and Other Alternatives to Arrest Dashboard," Florida Department of Juvenile Justice, Retrieved Jan. 16, 2021. <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/civil-citation-and-other-alternatives-to-arrest/cc-dashboard>.