

# Youth Justice Policies to End Girls' Incarceration

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Over the last decade, as a direct result of focused efforts by youth advocates and a growing body of research on developmentally appropriate practices, many states have succeeded in passing youth justice reform bills to reduce youth incarceration. These reforms range from policies that explicitly ban, prohibit, or limit the use of incarceration, such as misdemeanor bans, to policies that shrink the number of youth in the system at any given time, such as probation supervision limits.

Although many of these reforms positively impact youth across the board, the impact on girls and gender expansive youth—and girls of color specifically—has not been extensively documented. Since 2017, the Vera Institute of Justice (Vera) has been working directly with jurisdictions to end the incarceration of girls. As a result of these efforts, California, Hawaii, Maine, New York City, and North Dakota have successfully reduced the incarceration of girls and gender expansive youth. Although jurisdictions have varying needs, there are common legislative reforms that have demonstrated success in decreasing the number of girls in detention and placement facilities.

Based on a survey of reform bills nationwide, this issue brief highlights key legislative policies that can mobilize and guide advocates to end girls' incarceration in their jurisdiction. Although complementary strategies exist, this brief focuses on a set of key legislative policy ideas that directly impact the goal of reducing and eventually ending girls' incarceration.

## Model State Legislative Policies

### **1. End the criminalization of survivors by decriminalizing offenses common to girls living in traumatic social contexts**

Many girls and gender expansive youth in detention facilities face long-standing challenges, including unstable housing, family issues, involvement in child welfare, sexual abuse, exploitation, domestic violence, and historical trauma. Instead of receiving the necessary support to address and heal from their trauma, these survivors are instead funneled into the juvenile justice system through common experiences that criminalize them.

Behaviors or experiences that may lead girls to being criminalized include

- engaging in the sex trade, commercial sexual exploitation, or sex trafficking,<sup>1</sup>
- labor trafficking, including forced criminality,<sup>2</sup>
- domestic and intimate partner violence,<sup>3</sup> and
- school-based offenses such as verbally disruptive behavior.

To support the decriminalization of girls, legislation should clearly specify exceptions for common adolescent behaviors and certain behaviors that could be criminalized when exhibited by adults.

Sample Legislation Text:

California

“[T]his subdivision does not apply to a child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, violate this subdivision. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to paragraph (2) of subdivision (b) of Section 300 of the Welfare and Institutions Code and may be taken into temporary custody pursuant to subdivision (a) of Section 305 of the Welfare and Institutions Code, if the conditions allowing temporary custody without warrant are met.”

CA S.B. 1322, ch. 654 (2016).

Decriminalizing behaviors rooted in harmful social conditions beyond girls’ control helps close the front door to the justice system, ensuring many girls and gender responsive youth never have to enter it in the first place.

## **2. Ban confinement for misdemeanors and other low-level offenses, technical violations of probation, safety concerns, and housing insecurity**

States have also passed reforms that reflect a growing recognition of the need for alternatives to detention, especially for behaviors rooted in unmet needs rather than public safety threats.

Many girls and gender expansive youth in detention facilities are facing multiple hardships simultaneously. They end up in the legal system because they are criminalized for how they respond to trauma or protect themselves, such as running away from an abusive group home or avoiding an unsafe school. Where possible, states should legislate blanket incarceration bans for the following:

- **Misdemeanors** and other minor offenses that pose no threat to the public would be more effectively addressed in the community.
- Decisions to detain based on **concerns about girls’ and gender expansive youth’s safety or housing insecurity**, which are often rooted in gender-based paternalism. Incarceration should *never* be used as a means to “protect” or remove a young person from harmful environments, especially when they have not been charged with a serious violent offense.
- Confinement for **technical violations** of probation (that is, breaking of terms or conditions of supervision typically set by the court or probation, not a new offense), which is inconsistent with developmentally appropriate treatment and exacerbates racial and ethnic disparities. Best practice guidance recommends holding youth accountable for noncompliance by identifying the root causes of their behavior and connecting youth to wraparound services.

**Figure 1**

**National survey on confinement bans**

	Misdemeanors	Other low-level offenses	Technical violations of probation	Bench warrants	Safety concerns	Housing insecurity
Georgia	✓	✓			✓	
Hawai`i	✓	✓				
Illinois	✓	✓				
Kansas			✓	✓	✓	✓
Kentucky	✓	✓				
Maryland	✓	✓	✓			
South Dakota		✓				
Utah	✓	✓	✓			

**Sample Legislation Text:**

**Maryland**

“A child may not be placed in a facility used for detention for a technical violation.”

Md. Code Ann., Cts. & Jud. Proc. § 3-8A-19.7(b).

**Utah**

“A juvenile court may not order a minor to secure care for:

- (a) contempt of court;
- (b) a violation of probation;
- (c) failure to pay a fine, fee, restitution, or other financial obligation;
- (d) unfinished compensatory or community service hours;
- (e) an infraction; or
- (f) a status offense.”

Utah Code Ann. § 80-6-705(2).

**3. Modify legislative codes to support diversion**

*Diversion* is a broad term that refers to the practice of redirecting youth away from formal justice system processing.<sup>4</sup> Although the terminology may vary across jurisdictions, national best practice recommends that eligible youth be diverted to community-based alternatives where they can receive tailored support from gender-responsive, trauma-informed, and culturally relevant programs.

Juvenile legislative codes often mandate what happens at each point of contact with the justice system. Removing barriers to diversion and expanding or mandating opportunities for diversion within each of these system points is critical to reducing the system involvement of girls and gender expansive youth.

## Nationwide momentum: key youth justice legislation across the United States, Maryland

### Maryland Senate Bill 691—Juvenile Justice Reform Act

In 2022, Maryland passed the Juvenile Justice Reform Act (JJRA), sponsored by Senator Jill Carter (D) and based on the recommendations of the Juvenile Justice Reform Council, a group formed in 2019 that included legislators, state officials, judges, prosecutors, public defenders, advocates, and researchers.<sup>a</sup>

The JJRA reflects a broader national shift toward equitable, trauma-informed, and developmentally appropriate juvenile justice practices. Key reforms include

- **raising the minimum age of juvenile court jurisdiction to 13;<sup>b</sup>**
- **banning secure detention or commitment for**
  - **technical violations of probation,<sup>c</sup> and**
  - **misdemeanor offenses, except in cases involving handgun violations or repeated misdemeanors;<sup>d</sup>**
- **eliminating the requirement that nonviolent felonies be forwarded to the State’s Attorney for diversion approval and eliminating the requirement of complaining witness’s consent to diversion;<sup>e</sup> and**
- **limiting length of probation to one year for misdemeanors and two years for felonies, with limited opportunities to extend probation.<sup>f</sup>**

<sup>a</sup> Maryland SB 691/HB 459 (2022).

<sup>b</sup> In 2024, Maryland passed HB 814, reversing course by carving out an exception for youth aged 10 to 12 accused of the most serious violent offenses. Md. Code Ann., Cts. & Jud. Proc. § 3-8A-03.

<sup>c</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-8A-19.7.

<sup>d</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-8A-15(b)(3)(i).

<sup>e</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-8A-10(c)(4) and (e)(2) and (3). Previously under Maryland law, victims had to consent to diversion for youth to be eligible.

<sup>f</sup> Md. Code Ann., Cts. & Jud. Proc. § 3-8A-19.6 (c)–(e).

### Barriers to diversion include

- consent of victim requirements and
- mandatory referrals to the next system point (for example, to probation or the district attorney) based on offense.

### Openings to diversion include

- explicit direction to allow for diversion at each system point,
- mandating diversion if possible,
- emphasizing community-based organizations, and
- highlighting community-centered responses.

Gender-specific diversion is essential because girls and gender expansive youth often enter the juvenile justice system as a result of trauma, abuse, and gender-based discrimination, pathways that differ significantly from those that cisgender boys typically face.<sup>5</sup> Without diversion programs that are responsive to these realities, girls may not only lack the support needed to heal but may also be excluded from diversion altogether. When diversion is not designed with their unique needs in mind, girls are more likely to be overlooked for diversion opportunities or to “fail out” of programs that were not built for them—ultimately increasing their risk of incarceration rather than preventing it.<sup>6</sup> Evidenced-based research supports maximizing pre-arrest diversion whenever possible, as youth are 2.5 times less likely to return to the system if diverted before arrest, versus 1.5 times less likely if diverted post-arrest.<sup>7</sup>

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#### Sample Legislation Text:

##### South Dakota

“Any . . . apparent delinquent child shall be referred for informal adjustment . . . if the following criteria are met:

1. The child has no prior adjudications;
2. The child has no informal adjustments or informal action within the last twelve months;
3. [The] alleged conduct constitutes a misdemeanor;
4. The child’s alleged conduct did not include use of violence or force against another; and
5. All of the requirements in § 26-7A-11 are met.”

S.D. Codified Laws § 26-7A-11.1.

##### Kansas

“Each director of juvenile intake and assessment services in collaboration with the county or district attorney shall adopt a policy and establish guidelines for an immediate intervention process by which a juvenile may avoid prosecution.”

Kan. Stat. Ann. § 38-2346(a).

## 4. Invest in community-based alternatives and programming

Funds saved from emptying detention facilities and youth prisons should be reallocated to communities to support evidence-based, gender-responsive, nongovernmental programs **focused on prevention, diversion, intervention, and alternatives to incarceration**. These community-based initiatives are more responsive to the developmental needs of youth, taking a holistic approach that fosters healing, accountability, and long-term well-being. By addressing the root social circumstances and dynamics that can lead to system involvement, these programs go beyond simply reducing incarceration to improving youth outcomes. Ending girls’ incarceration cannot just be about emptying facilities—it must be part of a broader movement toward realizing justice and freedom for girls and gender expansive youth, especially the historically marginalized.

These community-rooted, developmentally appropriate alternatives are also significantly more cost-effective than incarceration—**averaging just \$75 per day, or \$27,375 annually, compared to more than \$407 per day and \$148,000 each year for institutional confinement.**<sup>8</sup> By redirecting savings

from decarceration into these programs, states can invest in proven solutions that strengthen communities and keep young people out of the justice system altogether.

Many girls and gender expansive youth in the juvenile justice system experience unstable housing, family instability, involvement in child welfare, sexual abuse, exploitation, domestic violence, and historical trauma. Healing-centered programming should be guided **by local trends and specific drivers of incarceration for girls and gender expansive youth**. Counties should invest in young people's economic security, housing, education and school-based services, community-based mental health services, family support, and gender-responsive programming to proactively promote young people's well-being and reduce the likelihood of legal system involvement. These wraparound supports should be offered in lieu of incarceration through a local continuum of care.

### Nationwide momentum: key youth justice legislation across the United States, Utah

#### Utah House Bill 239691—Juvenile Justice Amendments

Utah H.B. 239, enacted in 2017, is a landmark bill that aimed to comprehensively reform the state's juvenile justice system while improving outcomes for youth and promoting state savings. The bill passed with near-unanimous support and was built on the recommendations of the Utah Juvenile Justice Working Group, formed in 2016.<sup>a</sup>

Key reforms include

- requiring alternative interventions for misdemeanor, infraction, status offense, and trancies;<sup>b</sup>
- expanding investment in evidence-based community alternatives to out-of-home placements;<sup>c</sup>
- mandating that probation officers offer diversion to all youth referred for misdemeanors, infractions, or status offenses—unless they have more than two prior adjudications or have unsuccessfully completed more than two prior diversion attempts;<sup>d</sup>
- limiting court fines and preventing probation officers from denying youth access to diversion opportunities simply because they can't afford to pay restitution or fines;<sup>e</sup>
- tailoring eligibility for secure detention for those youth who pose the highest risk to public safety;<sup>f</sup>
- limiting judges' power to order certain dispositions;<sup>g</sup>
- establishing defined performance standards for community-based placement programs;<sup>h</sup> and
- eliminating the option to place youth in the custody of a child welfare agency for law violations without a finding of abuse, neglect, or dependency.<sup>i</sup>

<sup>a</sup> Utah HB 239 (2017).

<sup>b</sup> Utah Code Ann. § 53A-11-911. Modified to Utah Code Ann. § 53G-8-211(3).

<sup>c</sup> Utah Code Ann. § 63M-7-208. Legislature appropriated approximately \$1 million in initial funding. See Pew, "Utah's 2017 Juvenile Justice Reform Shows Early Promise," May 20, 2019, <https://perma.cc/WA7M-PWRF>.

<sup>d</sup> Utah Code Ann. § 80-6-303.5(4).

<sup>e</sup> Utah Code Ann. § 80-6-304.

<sup>f</sup> Utah Code Ann. § 80-6-704.

<sup>g</sup> Utah Code Ann. § 80-6-712; Utah Code Ann. § 62A-7-404(3).

<sup>h</sup> Utah Code Ann. § 80-5-402.

<sup>i</sup> Utah Code Ann. § 80-2-301.

Key areas to fund include

- **gender-responsive programming** that provides resources for survivors of domestic violence, sexual abuse, and commercial sexual exploitation—including safety planning and healing resources—and includes advocacy and civic engagement;
- **family support** such as family counseling (when appropriate), parent peer support, and connecting families to community-based resources to meet needs;
- **mental health and substance use services**, including investments in mental health supports, school counselors, trauma-based clinics, mobile crisis response, and health insurance for everyone;
- **education and career programming**, including investments in a variety of educational opportunities that include postsecondary education, trades, résumé building, interview preparation, and other programs tailored to the career interests of youth in communities and those currently incarcerated; and
- **economic supports**, including cash payments and rental, clothing, and food assistance.

Sample Legislation Text:

California

“The board shall allocate 94 percent of funds for the Youth Reinvestment Grant Program . . . to local jurisdictions . . . through a competitive grant **process for the purpose of implementing trauma-informed diversion programs** for minors.”

Cal. Welf. & Inst. Code § 1454.

## Conclusion

The nationwide momentum toward youth justice reform has created a critical opportunity to address the unique needs of girls and gender expansive youth, particularly girls of color, who have long been overlooked in broader reform efforts. By examining successful legislative strategies in jurisdictions that have already made meaningful progress, advocates and policymakers committed to ending the incarceration of girls can adapt and apply proven models to drive change within their own communities. The evidence presented underscores that targeted, gender-responsive legislative reforms are not only possible but effective, and with focused advocacy, they can be adapted and implemented across the country to ensure a more equitable and developmentally appropriate youth justice system.

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This brief is part of a multi-part publication that addresses various aspects of ending girls’ incarceration. The complete set is available at [vera.org/ending-girls-incarceration-how-to](https://vera.org/ending-girls-incarceration-how-to).



## Endnotes

- <sup>1</sup> There is no such thing as a child prostitute, only survivors of commercial sexual exploitation. However, the term “prostitution” is often used in legal codes. See, for example, Tex. Penal Code Ann. § 43.02 (2024), <https://law.justia.com/codes/texas/penal-code/title-9/chapter-43/subchapter-a/section-43-02/>; 18 Pa. Cons. Stat. Ann. § 5902 (2024), <https://law.justia.com/codes/pennsylvania/title-18/chapter-59/section-5902/>; Conn. Gen. Stat. Ann. § 53a-85 (2024), <https://law.justia.com/codes/connecticut/title-53a/chapter-952/section-53a-85/>; Cal. Penal Code § 266h (2024), <https://law.justia.com/codes/california/code-pen/part-1/title-9/chapter-1/section-266h/>; and N.Y. Penal Law § 230.00 (2024), <https://law.justia.com/codes/new-york/pen/part-3/title-m/article-230/230-00/>. See also Mae Ackerman-Brimberg and Kate Walker Brown, *Understanding Criminalization of Girls and Gender-Expansive Youth Impacted by Commercial Sexual Exploitation* (New York: Vera Institute of Justice, 2025) which notes that 30 states no longer arrest children for prostitution, 20 states do, and regardless of this, any minor in the commercial sex industry is by law a victim of trafficking.
- <sup>2</sup> This includes cases in which girls who are victims of sex or labor trafficking are charged with solicitation or theft, as well as cases in which girls are charged with trafficking in relation to another girl’s exploitation.
- <sup>3</sup> This includes physical conflicts between parents and children resulting in the child being charged, as well as cases in which girls who are experiencing such violence have trauma responses that may lead them toward criminalized behavior.
- <sup>4</sup> National Center for Youth Law, *Diversion Information Sheet* (Oakland, CA: National Center for Youth Law, 2024).
- <sup>5</sup> Vera Institute of Justice and Young Women’s Freedom Center, *Freedom and Justice: Ending the Incarceration of Girls and Gender-Expansive Youth in California* (New York: Vera Institute of Justice, 2024), 13–16, <https://www.vera.org/freedom-and-justice-ending-the-incarceration-of-girls-and-gender-expansive-youth-in-california>.
- <sup>6</sup> Cortney Sanders, *State Juvenile Justice Reforms Can Boost Opportunity, Particularly for Communities of Color* (Washington, DC: Center on Budget and Policy Priorities, 2021), <https://www.cbpp.org/research/state-budget-and-tax/state-juvenile-justice-reforms-can-boost-opportunity-particularly-for>.
- <sup>7</sup> Kim Gilhuly, Megan Gaydos, and Holly Avey, *Reducing Youth Arrests Keeps Kids Healthy and Successful: A Health Analysis of Youth Arrest in Michigan* (Oakland, CA: Human Impact Partners, 2017), 24, <https://perma.cc/867Y-TP67>.
- <sup>8</sup> Francine T. Sherman and Annie Balck, *Gender Injustice: System-Level Juvenile Justice Reforms for Girls* (Portland, OR: The National Crittenton Foundation, 2015), 56, <https://www.defendyouthrights.org/wp-content/uploads/2015/09/Gender-Injustice-System-Level-Juvenile-Justice-Reforms-for-Girls.pdf>.