

JUVENILE JUSTICE COMMISSION WORK STUDY GROUP
BLENDED SENTENCING INFORMATION MEMO

Through the 1980's and 1990's, the United States saw a dramatic increase in the number and severity of violent crimes committed by minors. This caused many communities to question whether their juvenile justice systems were equipped to effectively address violent juveniles. Several states moved away from the rehabilitative nature of juvenile sanctions, enacting statutes requiring or allowing imposition of adult sentences on violent juvenile offenders. While the nationwide rate of violent juvenile crime has decreased in recent years, sentencing changes cannot be credited. Bill Draft Request 5-66, to be considered by the 2005 Nevada Legislature, proposes substantial changes to juvenile criminal sentencing, similar to those mentioned above, through adoption of blended juvenile sentences.

Blended sentencing and Extended Jurisdiction Juvenile (EJJ) are two terms used interchangeably, although they represent slightly different but overlapping sentencing models. Blended sentencing is a system allowing the juvenile court to impose juvenile sanctions, followed by an adult sentence. The adult sentence is suspended and imposed only if the juvenile does not comply with the juvenile sanction. EJJ is a system whereby the juvenile court retains jurisdiction over a juvenile beyond the age of 18, usually until the age of 21. The juvenile court is able to require the juvenile to continue to participate in services past the age of 18, if it finds that circumstances warrant continued monitoring.

While all 50 states currently use some form of blended sentencing or EJJ, a handful of states have enacted comprehensive sentencing laws that combine the two systems. In these states, juvenile offenders can generally be sentenced in one of five ways: 1) the juvenile court can impose either a juvenile or adult sentence (NM); 2) the juvenile court can impose both a juvenile and adult (usually suspended) sentence (MI, MN, CO, KS, MT); 3) the juvenile court can impose both a juvenile and adult (not suspended) sentence (CO, TX, SC, MA); 4) the adult criminal court can impose either a juvenile or adult sentence (CA, FL, OK, VA, ID); or 5) the adult court can impose a juvenile and adult sentence (AK, IA, MO). These blended sentences do not exclude the possibility that the juvenile offender may alternatively be certified to adult court. Alternatively, Wisconsin and New Hampshire have defined Adult for the purpose of criminal prosecution to be anyone 17 years of age or older.

Currently in Nevada, the juvenile court has a form of extended jurisdiction allowing it to impose sanctions until the juvenile reaches the age of 21. Sanctions include several forms of services, but do not generally include incarceration. See Attachment A for a comprehensive list of available services.

The original intent of blended sentencing/EJJ was to reduce the number of juvenile offenders being certified into adult court by granting the court discretion to impose suspended adult consequences on juvenile offenders who had committed serious offenses, but who did not appear to be beyond rehabilitation. This sentencing model was intended as a last resort alternative for the worst of the worst violent juvenile offenders.

Statistics show, however, that the number of adult certifications has not been significantly reduced, because blended sentences are permitted as a consequence for most felonies, not only violent ones, it is broadly used as a plea bargaining tool for lesser felonies. As a result, the number of juvenile offenders who face adult prison time through blended sentences and certification has substantially increased.

An unintended consequence has also emerged. Generally any non-compliance with the juvenile sanction results in the imposition of the adult sentence. For instance, if a juvenile offender who is subject to a blended sentence later commits another minor offense, such as shoplifting (not in-and-of itself eligible for blended sentencing), the adult sentence is imposed. When this unintended consequence is combined with the increased number of juveniles subject to adult sentences it is possible that a juvenile may be remanded to

EXHIBIT D Pardons

Document consists of 3 pages

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adult prison for committing a non-certifiable felony and a minor parole violation. These juveniles cause additional strain on the adult prison system. More importantly, incarceration tends to result in the loss or outright reversal of some of the benefit of the rehabilitative services provided during the juvenile sentence.

In addition to the above-outlined drawbacks of these sentencing systems, blended sentencing/EJJ does not appear to decrease the incidence of violent juvenile crime. Recent studies conducted by and through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) indicate that family involvement, combined with school and community programs which address violence head on, commonly referred to as Aup-front services@ are most likely the cause of the recent reduction in violent juvenile crime. Viewing blended sentencing/EJJ as a whole, it appears that implementation increases the number of juvenile offenders eligible for and incarcerated in the adult prison system, decreases efficacy of existing juvenile prevention programs, and does nothing to decrease the incidence of violent juvenile crime.

Research Documents

1. Sentencing Blending and the Promise of Rehabilitation: Bring the Juvenile Justice System Full Circle- *Hofstra- Law Review* 2000
2. When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases
Gene Siegal and Rachael Lord- NCJFCJ / OJJDP, June 2004
3. Blending Sentencing in Minnesota: On Target for Justice and Public Safety?
Fred L. Cheesman II, PhD, Project Co-Director; Thomas Cohen (2000-2001); Denise Dancy; Matthew Kleinman, PhD, National Center for State Courts; Heidi Green, Project Co-Director; Minnesota Supreme Court, and State Courts Administrator=s Office NCSC/OJJDP/SJI
4. The Back-Door to Prison: Waiver Reform, ABlended Sentencing,@ And The Law of Unintended Consequences- *Marcy R. Podkopacz and Barry C. Field*
The Journal of Criminal Law and Criminology, 2001
5. States New Blended Sentencing Schemes in the Juvenile Court
Richard E. Redding, J.D., PhD- Juvenile Forensic Evaluation Resource Center, 2000
6. Update on Blended Sentences
Greg Jones and Michael Connelly, PhD-State Commission on Criminal Sentencing Policy, June 2001
7. Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws- *Patrick Griffin- NCJJ/OJJDP October 2003*
8. Juveniles Facing Criminal Sanctions: Three States the Changed the Rules
Patricia Torbet, Patrick Griffin, Hunter Hurst, Jr., Lynn Ryan MacKenzie, Ph.D,
US Department of Justice, OJJDP, April 2000

The Nevada Association of Juvenile Justice Administrators and the Work Study Group of the Nevada Juvenile Justice Commission agreed that **AB329 Revises Provisions Governing Juvenile Justice 2005** may be problematic, despite its discretionary nature, for the following reasons:

AB329 changes the current structure of the Juvenile Court System by allowing for the imposition of juvenile determinate sentencing consequences. Nevada, as many states, had thus far subscribed to the concept that children in juvenile court, are appropriately consequented and rehabilitated consistent with their cognitive and emotional developmental stages. There is insufficient research to support the superior effectiveness and deterrent value of determinate sentences for juveniles.

AB329 authorizes placement of children 16 and older who are sentenced in the Juvenile court to an adult facility. There currently is no research or justification for the benefit or need for such a facility for children in the juvenile justice system. (Creating a facility for young offenders in the adult system is highly desirable.) Recognizing sight and sound provisions will be made to separate such children from the adult

system youthful offenders, there remains concern for the juvenile court placing juveniles into the adult prison system to be supervised by the adult Director of Corrections. The National Youth Law Center has expressed concern that such commitments may be unconstitutional without the child being afforded a right to a jury trial.

AB329 will broaden the time and therefore the number of all children who are detained in or committed to institutional settings. Juveniles currently are committed to state training camps for an indefinite period of time to accomplish rehabilitation. County Detention centers currently detain committed children until spots are available at DCFS training camps. Upon passage of this legislation, children who have committed certain felonies may be committed into training camps for periods of up to 3 years. The number and impact of such long-term commitments, on DCFS as well as on the counties who hold committed children until training camp spots become available, has not been evaluated. However, the longer a child is committed to a training camp, the longer a committed but detained child must wait in a county facility for a spot to become available with DCFS. The logistical and financial impact of this bill on all aspects of state and county juvenile justice providers requires more review.

Recommendations by the ACR 18 report on Interim Study of the Juvenile Justice System, 2005, Legislative Counsel Bureau Bulletin # 05-6 page 17, considered and refrained from making alternative sentencing recommendations for juveniles until sophisticated research and thorough evaluation could be accomplished to guide the Nevada Legislature on these important public safety, juvenile sanctions and rehabilitation issues.

The membership of the Nevada Association of Juvenile Justice Administrators supports this position and would offer their expertise and resources to continue the research and evaluation to establish policy in the crucial area.

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