



HB18-1156

Limit Penalties From Juvenile Truancy



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“We cannot afford the financial or the societal costs of unnecessary juvenile incarceration. By shifting our focus—and our investments—to the front end of the system, we will save not only money, but also lives.”

- Governor Rick Scott, Florida (R)

Under Colorado’s School Attendance Law, a truant can be detained if found in contempt of a court ordered attendance plan. HB18-1156 seeks to “remove the authority of a judge or magistrate to issue a warrant to take a juvenile into temporary custody for a truancy action, including contempt proceedings for refusal to comply with a truancy plan, or for failure to appear for a truancy or contempt action.” The secondary provision stipulates that a district judge retains authority to require appearance in court and impose age-appropriate sanctions. This paper advocates for passing HB18-1156 by offering a socioeconomic perspective.

Literature on the topic of truancy is extensive so it will first be necessary to justify government intervention by introducing some basic knowledge on the subject before delving into why detainment is not a reasonable government sanction. Framing detainment procedure in the context of transactions within the judiciary and associating them with direct and indirect socioeconomic externalities will illustrate this point. The final section will cover recommendations on more reasonable sanctions for future policy consideration.

Justifying Government Intervention¹

Under Colorado State law, truancy is categorized as a status offense defined as a "non-criminal infraction that would not be an offense but for the youth’s status as a minor." Jenna Zerylnick, a civil litigations attorney, describes truancy as a “gateway offense” generating involvement in agencies and service systems. She finds that truancy is “often an early indicator

¹All quotes in section titled, “Justifying Government Intervention”, referenced from (Zerylnick, 2014)

that a student is headed toward delinquency, substance abuse, teen pregnancy, social isolation, educational failure, employment problems, and poverty and dependence on public assistance.” Based on these collateral effects, reasonable sanctions set by the government are justified for mitigation of societal inefficiencies.

A reasonable sanction would be one that doesn’t adversely affect the juvenile through involvement with the state. Conversely, Zerylnick finds that “detaining status offenders is not only ineffective, but often harms juveniles.” She further argues recidivism can be exacerbated because “commingling status offenders with delinquent juveniles who have committed serious crimes increases the likelihood of criminal behavior by mere status offenders.” The punitive nature of detainment is ineffective because it does not address underlying socioeconomic causes of status offense behavior such as drug or alcohol problems, mental or emotional issues, special education needs, and abuse or neglect at home. Due to oversight of these factors and possible damages to the juvenile, detainment is not a reasonable government sanction.

Juvenile Detainment & Externalities

Restorative Justice Colorado describes juvenile interaction with the justice system as a series of transactions that include, but aren’t limited to: “arrest, filing of a petition, diversion, deferred adjudication, adjudication, sentencing, and probation.”² Each transaction poses variable costs per district and infraction but the total cost of one juvenile’s pathway through the justice system is “the sum of the costs of all the transactions he or she incurs from entry to last interaction with the system.”³ Due to the self-reinforcing nature of negative interactions

²Footnotes 2-3 referenced from (Resorative Justice Colorado, 2015)

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with the criminal justice system that may lead to recidivism, these transactions can follow a juvenile for years after first offense resulting in indirect damages to the state and individual.

To give an idea of some measurable costs related to truancy detainment, a recent study by the Justice Policy Institute(JPI) found that Colorado detainment of a juvenile costs an average of \$287.63 per day, or \$1,438.15 for five days.⁴ Comparatively, community-based programs, wraparound services, individualized services based on unique needs, engaging the family, and connecting the youth to neighborhood resources can cost as little as \$75 per day.⁵ These direct costs do not include long-term indirect costs of detainment incident on the government which include “higher rates of unemployment and thus less tax revenue, increased application to public assistance programs, and increases in annual crime costs to tax payers.”⁶

Indirect social costs of detainment, such as exacerbated mental health issues, can hinder youth ability to complete k-12 education. Confined youth have a 9.8-to-18.3% reduction in chances to receive a high school diploma.⁷ Families also incur travel costs and financial burdens that disproportionately affect those of low socioeconomic status.⁸ Nationwide, juveniles in the detention system face total direct and indirect damages of confinement estimated to “cost billions more when including long-term impacts on schooling, job preparation, recidivism, ability to earn a living, pay taxes, and future reliance on public assistance.”⁹ This deficit can be lowered drastically through research and better practices.

⁴ Footnotes 4-9 referenced from (Justice Policy Institute, 2014)

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Reducing Punitive Sentencing for Juvenile Truancy

Colorado is no stranger to legislation in this area of concern. HB18-1156 complements years of research and innovative projects aimed at identifying roots of absenteeism and, more broadly, juvenile delinquency. The provision in HB18-1156 that a court retain power to assign an action plan incentivizes innovation aimed at efficiency enhancing practices when dealing with the issue. Investing in preventative measures and alternative remedies for truant behavior can be cheaper in the long run and research shows that these yield better societal outcomes.

The National Center for School Engagement (NCSE) in Denver developed a study in 2006 providing a list of recommendations related to school attendance. Recommendations included “increased public awareness of the prevalence of truancy and its societal impact; a full continuum of supports and sanctions to address truancy; consistent enforcement of attendance policies; and clear leadership and a community-wide response.”¹⁰ Similarly, amendments to the School Attendance Law in 2013 explicitly encourage community outreach between schools and organizations in determining causes and treatment of truant behavior.

A cost savings analysis on Restorative Justice Colorado’s juvenile deferment pilots concluded that programs designed to keep children out of the incarceration system may reduce costs through “Cost Savings and/or Cost Avoidance.”¹¹ Cost savings occurred when pilots operated at lower cost than the justice system transactions they displaced. Cost avoidance occurred when pilots reduced the number of future transactions in the justice system. Various forms of cost saving observed in this study included: “no change to staffing levels but reduced

¹⁰ (National Center for School Engagement, 2006)

¹¹ (Restorative Justice Colorado, 2015)

caseloads and therefore increased quality of services, or no change to staffing levels or quality of service but reduced caseloads and the ability for staff to take on new areas of work.”¹²

Conclusion

Truancy detention procedures are costly, inefficient, and burdensome. If passed, HB18-1156 will likely reduce long-term social and judiciary cost burdens as well as mitigate indirect damages incurred by the state and local communities. The most prevalent consensus seems to be that the largest cost burdens are incident upon juveniles, their families, and lower socioeconomic communities which tend to widen social disparities as well.

By removing the option of detainment from state law however, it will be necessary to shift resources toward prevention, innovative action plans, alternative educational opportunities, and community outreach groups. The secondary provision in HB18-1156 will facilitate and aid in this necessary shift which places emphasis on early intervention and collaboration in lines with the evolved form of the School Attendance Law. This presents an opportunity for individualized treatment of troubled youth because truancy proceedings often uncover other socioeconomic problems. As Zerylnick puts it, “between school collaboration with local community service groups and the court’s jurisdiction to order a neglect assessment by social services amid a truancy proceeding, the School Attendance Law is a mechanism to advance child welfare as opposed to existing for the sole purpose of punishment.”¹³ By passing HB18-1156 this claim will be supported by furthering the law’s goal of advancing child welfare.

¹² (Resorative Justice Colorado, 2015)

¹³ (Zerylnick, 2014)

References

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