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Testimony Re: House Bill 7642 Relating to Delinquent and Dependent Children – Proceedings in Family Court

House Judiciary Committee

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Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony today. We would also like to thank Representative Stewart for sponsoring this important bill and Representatives Cruz, Tanzi, Boylan, Ajello, Caldwell, McEntee, and Kislak for co-sponsoring. Rhode Island KIDS COUNT strongly supports House Bill 7642, which would prohibit the incarceration of children under the age of 14 at the Rhode Island Training School for any offense other than murder, first degree sexual assault, or an attempt to commit such offenses.

Why younger children should not be incarcerated

Nationally and in Rhode Island, pre- or early-adolescent children only make up a small portion of youth involved in the juvenile justice system. Rhode Island does not have a statutory minimum age for incarceration. This bill ensures that children under the age of 14 are protected from early exposure to a correctional setting.

During adolescence, the prefrontal cortex - the part of the brain that controls reasoning, weighs consequences, helps youth consider the implications of their behavior and is responsible for emotion regulation - is still developing. Research over the last two decades has confirmed that the human brain does not reach maturation until at least age 26.

Juvenile justice systems have a range of options for monitoring and rehabilitating youth, including restorative justice programs, evidence-based treatment programs, probation, and incarceration. **Alternatives to incarceration have been shown to be more effective in preventing recidivism, more cost effective, and are often the more appropriate response to developmentally typical child and adolescent behavior that is often criminalized.**

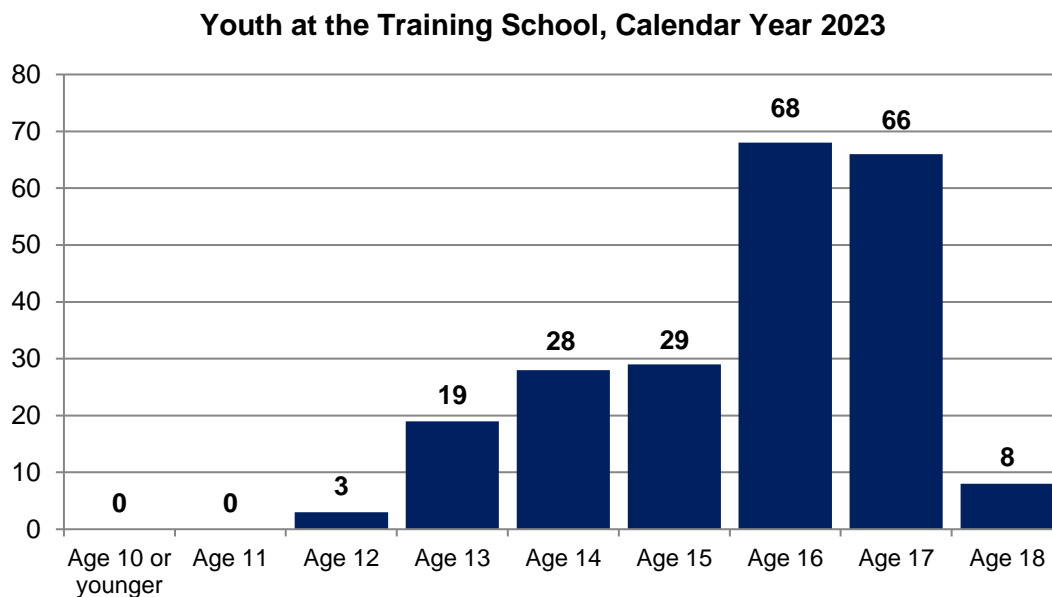
Youth with mental health needs that go unaddressed are often funneled into the juvenile justice system due to historic criminalization of behaviors associated with mental health needs, and the justice system they interact with is not always designed to meet those needs. The more disruptive behaviors are often the result of unmet needs and untreated trauma that could be more appropriately addressed through culturally and developmentally appropriate behavioral health services and not the justice system. Approximately 65-70% of youth arrested annually in the United States have a diagnosable mental health disorder. Some youth may be incarcerated due to an unmet mental health need that resulted in a behavior that was criminalized, and many more develop mental health issues due to the trauma of incarceration.

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Protecting public safety is critically important, and we recognize that children who engage in law-breaking behavior need to be held accountable. However, preventing future offending is best achieved in a setting that is conducive to addressing children’s behavioral, mental health, and family needs. Research clearly shows that incarcerating children can exacerbate criminal behavior and that children who are incarcerated are more likely to be arrested again in the future. It is especially concerning and harmful for younger children to be placed with much older and more serious offenders. Research also demonstrates that youth in secure confinement experience a significant stagnation in psychosocial maturity including temperance, perspective and responsibility, essentially intensifying the issue that brought them in contact with the justice system to begin with.

How our juvenile justice system can better support younger children

During 2023, there were 22 children under age 14 held at the Training School at some point during the year, up from nine youth under age 14 in 2022. Those under 14 represented roughly 10% of the youth at the Training School during the calendar year (see chart below).



Source: Rhode Island Department of Children, Youth and Families (2023)

We know that the Family Court and DCYF work hard to find ways to address law-breaking behavior without sending children to the Training School, and we support their great efforts. Children ages 10 and under committed <1% of offenses referred to Family Court during 2023, 2% were committed by children aged 11, 7% were committed by children aged 12, and 12% were committed by children aged 13. The overwhelming majority of these children were not incarcerated. Rhode Island has made tremendous progress over the past several years to reduce the number of children that are held at the Training School. From 2008 to 2023, the annual total number of youth at the Training School has decreased by 81%.

Rhode Island has existing service providers capable of caring for children with serious issues and challenging behavior, and there are many service options that would be more appropriate and significantly more cost effective than incarcerating a young child at the Training School.

However, the current DCYF community service array is *severely* underfunded. The failure to ensure that rates paid to community providers keep pace with the cost of providing services has

led to community providers placing vulnerable children on waitlists, delaying services due to staffing issues and turnover. This has placed our children, youth, and families who are in desperate need of services at an unacceptable disadvantage. This problem creates an additional crisis because the lack of placement options can result in children being inappropriately placed in the Training School. We as a state need to provide and fund alternatives to incarceration for all youth, and especially young, middle-school-age youth and protect them from correctional settings that may harm their development. If this is the *only* option we can offer young adolescents, then this is a symptom of our state's lack of investment in appropriate community-based prevention, diversion, and mental health services – a symptom we can and must treat.

There is a push nationally for states to raise their minimum age laws for detention/commitment as well as for age of juvenile prosecution. Our neighbors in New Hampshire, Massachusetts, Connecticut, Vermont, New York among others, have instituted minimum age laws. It is time for Rhode Island to provide these same protections.

This legislation establishes into law what is already being practiced for all but a handful of children and adolescents referred to Family Court each year.

This legislation also provides protection to children whose parents may not have the resources needed to effectively advocate for their children's needs. For children from well-resourced families, a child's arrest would likely lead his or her parents to frantically call anyone they could think of to avoid having their child held at the Training School. Children from families struggling with substance use disorders, mental health needs, poverty, or other contributing factors may not have adults in their lives who are able to provide this level of advocacy. This is an equity issue.

House Bill 7642 will ensure that the system prioritizes connecting young children and their families with community-based services and supports and help Rhode Island continue its path of juvenile justice reform.

Thank you for the opportunity to provide testimony.