

Juvenile Justice Reforms in HB 86¹ and Ohio FY 2012-2013 State Budget

- *Promotes research-informed practices with the RECLAIM program and reallocation of institutional savings into evidence-based community programs.*
- *Creates a uniform juvenile competency law.*
- *Increases judicial discretion in some instances and makes statutory changes to specific juvenile sentencing provisions, including a new limited reverse waiver option.*
- *Creates an Interagency Mental Health Juvenile Justice Task Force.*

1. HB 86 promotes research-informed practices.

Specifically, in reference to how RECLAIM dollars should be spent, it adds new language that states: "Research-supported, outcome-based programs and services, to the extent available, shall be encouraged."

2. HB 86 adopts a uniform juvenile competency code that applies to all delinquency proceedings using a juvenile specific standard.

A juvenile is incompetent if, "due to mental illness, intellectual disability, or developmental disability, or otherwise due to or a lack of mental capacity, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child's defense." A child who is 14 or older who, "is not otherwise found to be mentally ill, intellectually disabled, or developmentally disabled," is rebuttably presumed to "not have a lack of mental capacity" (for purposes of determining mental capacity only). The law provides significant detail on the methods and procedures for identifying experts, conducting competency evaluations, addressing youth found incompetent, etc.

3. **HB 86 extends juvenile court authority to allow for judicial release throughout a youth's term of commitment.** Under this reform, judges maintain jurisdiction to consider early release opportunities throughout a youth's commitment, including juvenile's serving mandatory sentences.

4. **HB 86 revises four of the existing mandatory sentencing specifications involving a firearm to allow for judicial discretion in instances where the youth was not the main actor.** Specifically, juvenile judges have more discretion in sentencing for youth accomplices (complicity) under certain conditions where the youth did not furnish, dispose of or otherwise use the weapon.

5. **HB 86 creates a narrow reverse waiver provision for youth automatically transferred to adult court (mandatory bindover) that would permit transfer back to juvenile court.** This reverse waiver procedure would only apply in those circumstances where a youth is convicted of an offense that would not have originally qualified as a mandatory bindover offense. The case would go back to juvenile court for juvenile sentencing or an amenability hearing to consider the appropriate sentence.

7. **HB 86 creates an Interagency Mental Health Juvenile Justice Task Force to address the challenges of delinquent youth who "suffer from serious mental illness or emotional and behavioral disorders."** The six month Task Force has representation from the state Supreme Court, the Governors office, the House, the Senate, ODYS, ODMH, juvenile judges, public defenders, child development experts, prosecutors, academic institutions and others. It must submit a report with findings and recommendations to the legislature by March 31, 2012.

¹ Signed by the Governor on June 29, 2011 and effective September 30, 2011