

SUPPORTED FAMILIES GROW HEALTHY CHILDREN: Branching Out Services to Support Children, Families, and Communities Impacted by Punitive Practices in the Criminal Justice System



Supported Families Grow Healthy Children

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April 2020

The well-being of Minnesota's children and families is negatively impacted by punitive practices. Investing in programs that divert parents from the criminal justice system ensures parental accountability while contributing to healthy children, families, and communities.

Understanding the Problem

Parental incarceration in Minnesota is severely jeopardizing the well-being of the state's most vulnerable children. Studies suggest children who experience the incarceration of a caregiver face an elevated risk for developing physical, mental, and behavioral health problems, substance use, and poor academic achievement.¹⁵ Additionally, families involved within the criminal justice system face increased barriers to securing employment, housing, and financial assistance that can stifle intergenerational economic mobility and family stability.⁷

- 1 in 14 children in the U.S. have experienced the incarceration of a primary caregiver.⁷
- 67.5% of adults serving time in Minnesota state prisons are a parent to a minor child.¹⁵
- Black and Latino children are 7.5 and 2.5 times more likely have an incarcerated caregiver.⁷
- Children living in rural areas are more vulnerable to experiencing caregiver incarceration.¹⁴



The MN Student Survey results of children with an incarcerated parent by race.¹⁶

Current Policy Approach and Policy Options

Across the country states are creating responsive reforms that provide alternatives that can mitigate negative impacts to children. Current efforts nationwide call for increased discretion for judges when sentencing parents of minor age children to incarceration or community-based alternatives to sentencing. California's statewide Primary Caregiver Pretrial Diversionary Program¹³ in California is the nation's most comprehensive and successful diversionary program to incarceration for parents of minor age children.

Minnesota's current policies and practices are not affording all parents with minor age children involved with the criminal justice system equitable solutions to minimize negative consequences for children. Currently, three Minnesota counties have Family Dependency Court⁸ and Blue Earth County has also implemented the Yellow Line Project⁶, holding offenders accountable and keeping families intact with these unique approaches.



Sentencing Reform Approach

National Conference of State Legislatures (NCSL)

The (NCSL) suggests policy measures be put into place before sentencing to allow for the children's best interests be considered. States such as Massachusetts⁵, Oklahoma, and North Dakota have passed such legislation. In contrast, New York and California have incorporated family impact statements into the sentencing phase, allowing judges to consider the challenges placed on family systems.³

Strengths:

- Alternatives to incarcerations through addiction treatment, individual and family counseling, along with other human service programs.
- Incorporation of children's interest and challenges on family systems.
- Decrease the duration of sentence based on successful advancements in rehabilitation.

Limitations:

- Narrowly defined timeframes to request consideration of primary caregiver status.
- Lacks the ability for the court to dismiss or withhold charges from a defendant's record during or upon completion of rehabilitation.

Diversionary Reform Approach

California Primary Caregiver Pretrial Diversion Act (PCPD)¹

California's pretrial diversion program is an intensive rehabilitative program available to all primary caregivers convicted of a non-violent misdemeanor or felony.

Strengths:

- Estimated annual savings of \$43 million in 2021-22 and \$68.5 million in 2023-24.¹⁴
- Rehabilitative services: mental health, drug/alcohol treatment, anger management, vocational, educational, and job training services.
- The charges will be dismissed. Dismissed charges better ensure stability in housing, employment, and voting rights.¹⁸

Limitations:

- Counties have considerable discretion in creation of pretrial diversion program.
- Large counties (e.g. LA, San Bernardino) lack adequate service structures.¹
- PCPD is enforceable statewide as of January 2020. Long-term impacts of PCPD on child well-being, child life outcomes, effects adult recidivism rate are unknown.¹

Family Dependency Treatment Court (FDTC) Models

FDTC uses a multidisciplinary team approach to chemical dependency that provides extensive wrap around services helping the entire family achieve stability. This model has been implemented in several states¹⁰ and is recognized as best-practice by several² children advocacy organizations.¹⁹ MN FDTC model has been evaluated²⁰ proving successful outcomes for the healthy development of families and Blue Earth County as a whole. FDTC outcomes include:⁸

- Safer environments for children
- Family reunification and less use of the foster care system
- Lower recidivism rates
- Enhances public safety and accountability to the legal system
- Higher rates of participation in substance use disorder treatment
- Cost efficient

The Yellow Line Project – Blue Earth County

The Yellow Line Project in Blue Earth County, MN is a criminal justice diversionary program created in 2016.²⁰ The overall goal of the project is to divert non-violent offenders, particularly those experiencing either mental health or chemical dependency issues, away from “non-beneficial” jail time and towards a path of healing and recovery. Local law enforcement and human service professionals work together to provide increased options for services, solutions, and treatment that at the same time decrease the County's jail population and systemic costs.

- 81% of persons screened have tested positive for mental or chemical health issues.
- 226 persons were referred in past 18 months; 115 started a plan.
- 82% of participants completed their plan.
- Only 6% recidivism rate in Minnesota within one year.
- 80% decrease in state hospital costs and 20% decrease in detox costs since 2015.⁶

Policy Recommendation

Research demonstrates that diversionary programs as an alternative to incarceration of parents with minor age children supports families in growing healthy children. It is our recommendation that Minnesota enact Primary Caregiver legislation on par with legislation enacted in California and implement programs like the Blue Earth County's Yellow Line Project and Family Dependency Treatment Court throughout Minnesota.

We recommend implementing statewide pretrial diversion guidelines that include:

- Community-based alternatives to incarceration for caregivers, such as mental health and chemical dependency services, housing resources, education, and job training.
- The ability to withhold sentences from records during and after program completion.
- Continuous program evaluation to assess needs, progress, and effectiveness of rehabilitative programs for pretrial diversion.

To access this document online go to: sbs.mnsu.edu/social-work/policy-briefs

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