



SCRIVNER INSTITUTE
OF PUBLIC POLICY

Testimony of John Seward
Support of SB21-066
Senate Judiciary Committee
March 18, 2021
john.seward@du.edu | (720) 682-4501

Mr. Chairman, Madam Vice Chair, Members of the committee. My name is John Seward from the Scrivner Institute of Public Policy at the University of Denver. I study labor and employment with particular focus on intersection of employment and criminal justice

I am here today, all be it though a computer screen, to testify in support of Senate Bill 66, Concerning juvenile diversion programs.

I'd like to start with a bit of history. The Sumerian people from what is now Iraq produced the earliest known set of written of criminal laws around 2100 BC. The intent of these initial laws was twofold first to regulate what is and is not acceptable behavior and second to adjudicate those that violate the standard. They defined justice in its broadest sense as the principle that people receive that which they deserve. England in the mid-19th century established the first reformatories, which were conceived as an alternative to the traditional practice of sending juvenile offenders to adult penitentiaries. As the term suggests, these institutions were intended to reform juvenile offenders rather than to punish or exact retribution on them. At the turn of the 20th century, the United States developed a separate justice system for juveniles that included special courts with strong emphasis being placed on treatment instead of confinement.

Doctors Robert Morecraft and Edward Yeterian wrote in the Encyclopedia of the Human Brain about neurological development and most importantly that it does not conclude until age 25. The prefrontal cortex is the last part of the brain to develop. It just so happens that the prefrontal cortex plays a cardinal role in the temporal organization of behavior and cognitive activities. It is regarded as a critical portion of the cerebral cortex that mediates intellectual or executive functions, it contains a variety of anatomical projections for transferring informational content, also important is complex local circuitry involved in the short-term storage of information, encoding of this information, and synthesis of the associated mental representations to achieve an appropriate goal-directed response, controlling the execution, order and timing of sequential acts toward a goal. In short, the prefrontal cortex controls decision making, and it is the last part of the brain to develop.

Thus is the reason why we treat juveniles whose brains have not yet finished developing differently under our criminal laws. This concept of justice where people receive that which they deserve.

Our diversion programs are designed to serve as an intervention tool implementing strategies seeking to avoid the formal processing of a juvenile offender. These strategies, take many forms, a typical diversion program results in a person who has been accused of a crime being

directed into a treatment or care program as an alternative to prosecution and imprisonment. Diversion is possibly as old as the justice system itself. Police officers and court officials have always exercised their discretion to prevent the formal processing of offenders. Because we understand that youth are not finished growing and learning we seek avenues to provide them with a second chance, to learn from their mistakes, receive the appropriate services and then reintegrate into society to live meaningful lives.

Dr. Holly Wilson a professor at Ryerson University conducted a meta-analysis of 73 juvenile diversion programs, including some here in Colorado. The odds ratios for all diversion programs ranged from 0.07 to 8.91, with an unweighted mean of 0.79. For fixed effect, the weighted mean was 0.61. For random effects, this mean was slightly higher at 0.57. The weighted means do not exceed 1.0, indicating that diversion programs are more effective in reducing recidivism than the traditional justice system.

What this means is that our diversion programs work, by giving juvenile offenders a second chance another opportunity to learn and grow in life we see that they do not reoffend. It is for this very reason that these programs should be celebrated and expanded to serve more youth. They make a difference. That is why I am asking you for a yes vote on Senate Bill 66. Let's expand these successful programs to serve justice and make a positive impact on the entire state.

I would be remiss if I did not mention ways, we could make this bill even stronger. Mandatory assessment for a traumatic brain injury would be one place to start, Traumatic brain injury can affect a person's ability for self-regulation, planning, organization, judgment, reasoning, and problem solving. Additionally, there may be emotional and behavioral changes after a traumatic brain injury, including increased agitation, depression, and irritability. A report published last August by my colleges in University of Denver Graduate School of Professional Psychology concluded that these behaviors are related to a greater risk for involvement in the criminal justice system, as well as ongoing mental health and drug and alcohol problems. The sooner we are able to identify a brain injury and provide treatment the more successful a participant will be.

In the spirit of doing justice to all it would also seem wise to shore up the protections for a juvenile that successfully diverts. Current statute in section 18-1.3-101 states "The effect of the dismissal is to restore the defendant to the status he or she occupied before the arrest, citation, or summons. A successfully completed diversion agreement shall not be considered a conviction for any purpose." Yet there are other portions of statute that equate a diversion record to that of a conviction it seems as if statute is at odds with one another and the true intent of the second chance is diminished. Perhaps this bill could remedy some of these conflicts.

I'll conclude by reiterating the positive effects that diversion has on our communities, Senate Bill 66 improves these programs and by no doubt will make them even more successful. I again urge a yes vote. I am happy to answer any questions you might have. Thank you.