

# DISQUALIFICATION SUBCOMMITTEE UPDATE

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MAY 20, 2022

# DQ SUBCOMMITTEE FINISHED JUVENILE DISCUSSION

## Definitions/discussions:

- What is a “juvenile record?”
- Extended Juvenile Jurisdiction:
- When can a juvenile be tried as an adult?
- If tried as an adult, if the record still a “juvenile record?”

# JUVENILE RECORD

- Juvenile Court - Minn. Stat. ch. 260B.
- The juvenile court has jurisdiction over individuals under the age of 18 who engage in unlawful conduct.
- In contrast to the adult courts, the juvenile proceeding in this context is not a criminal proceeding designed to determine criminal responsibility and punishment but, rather, it is a civil proceeding designed to protect the child from the consequences of his or her own conduct, develop individual responsibility for unlawful behavior, rehabilitate him or her, and, at the same time, promote public safety. [Minn. Stat. § 260B.001](#), subd. 2.
- Delinquency is NOT a criminal conviction.

# EXTENDED JUVENILE JURISDICTION (EJJ)

- EJJ located at Minn. Stat. § 260B.130 – enacted in 1994 – focus on public safety.
- Extends juvenile court jurisdiction over a juvenile up to the child's 21<sup>st</sup> birthday.
- Dual sentence. Youth is given adult sentence and a juvenile disposition. If the juvenile violates the terms of juvenile disposition, then adult sentence is invoked and are then out of juvenile court and in adult criminal court (and maybe adult prison). If the child does not violate the terms of the juvenile court, then the juvenile court jurisdiction is in place until age 21. Once the person turns 21, the case is dismissed.
- Possible if offense committed after child's 14<sup>th</sup> birthday and must include felony level offense.

# WHO CAN BE CERTIFIED AS AN ADULT

- Certain juveniles can be certified as adult and do not participate in juvenile court, but rather are transferred to adult criminal court. Minn. Stat. §260B.125
- Having a juvenile charged as an adult is an option only if the offense in question would result in prison time for an adult facing the same charges. Not all charges are eligible for certification.
- To try a juvenile as an adult, the prosecution must have a separate trial to determine if it is the proper course of action. When a child is 14 or 15 at the time of the offense, the burden is on the state to prove the need for adult certification. Over the age of 16, it is presumptive certification. If the prosecution is unable to obtain adult certification for a child between the ages of 14 and 17, it can pursue extended juvenile jurisdiction (EJJ) as a fallback option.

# RECOMMENDATIONS

- Prohibit disqualification on juvenile records after juvenile supervision ends.
- Prohibit disqualifications based on juvenile records for offenses committed under the age of 14.
- Only use convictions (tried as an adult) and extended juvenile jurisdiction (EJJ) cases for disqualification determinations.
- Mirror the beginning date for the lookback periods used in the recent foster care licensing statute (eg, beginning the lookback period at the time of the offense, the time probation ends, etc).
- Permit DHS to set-aside a permanent disqualification if said DQ was based on a juvenile record.
- Regardless of the disqualifying offense, the individual is disqualified for 5 years. Does NOT include cases routed through EJJ and cases where the person is tried as an adult.

# SCOPE

The DW Subcommittee is making recommendations on the following specific issues:

- Use of juvenile records
- Which crimes/conducts should be basis for DQ
- How long a crime of conduct should DQ a person from providing direct contact services.
- Disqualifications and the foster care system.

# INTRODUCTIONS/PREAMBLES

For each of the sections identified above, the DQ Subcommittee will draft a written introduction or preamble to describe its recommendation. The introduction will help, we hope, the public, the task force as a while and the legislature understand how and why the subcommittee made the recommendation.

- The idea is to create an easy to read introductory narrative explaining, but not limited to, the following:
- What facts the subcommittee reviewed in making its recommendation. (Goal is to use the data and other facts)
- What guiding principles guided the subcommittee in making its recommendation.
- What process was used?
- How the recommendation does not have a negative impact on the health and safety of vulnerable individuals and children
- Anything else the subcommittee deemed important.



# GUIDING PRINCIPLES/JUVENILES

- Juveniles are fundamentally different from adults
- Brain science supports treating juveniles differently than adults
- Juveniles mature and with maturity is a reduction in the risk of harm
- Some crimes are serious, and those individuals may be a risk of harm to vulnerable groups.
- Racial disparities within the juvenile system lead to lifelong reduction in employment (and foster care) opportunities. In Hennepin County (HC), from 2018-2022, 66.5% of juvenile prosecutions are listed as “Black of African Americans” while 19.89% are identified as “White.” According to the 2021 Census, 74.2% of HC identified as “White alone” while 13.8% of HC identified as “Black of African American Alone.”

# RACIAL DISPARITY IN JUVENILE SYSTEM IN HENNEPIN COUNTY

- <https://www.hennepinattorney.org/about/dashboard/data-dashboard>