

# Status Offense Task Force Recommendations

November 2023

The SC Status Offense Task Force reviewed and analyzed information related to status offense cases in South Carolina, including state and county data, state laws and regulations, comparable laws and policies in other states, and current practices. The Task Force identified recommendations to improve the current status offense system and provide better outcomes for youth charged with status offenses and their families.

The Task Force adopted the following 2023 recommendations:

## 1. Continuation of the Status Offense Task Force

The USC Children’s Law Center created the task force in 2021 to create best legal practices for handling status offense cases, develop and guide South Carolina’s community-based efforts to prevent status offense incarcerations and advise the Governors Juvenile Justice Advisory Council (GJJAC). The task force is comprised of representatives from the Departments of Juvenile Justice, Education, Mental Health, Social Services, Children’s Advocacy, Public Safety, family court (solicitors and public defenders), South Carolina Law Enforcement Division, family-run organizations, not-for-profit, and non-profits including the Midland’s Fatherhood Initiative, Family Connections of South Carolina, I AM B.E.A.U.T.I.F.U.L Inc, South Carolina Appleseed Legal Justice Center, Palmetto Association for Children and Families, University of South Carolina School of Law, and the Children’s Law Center.

As of October 2023, the SC Department of Public Safety’s Office of Justice Programs assumed facilitation and support of the task force. Through the leadership of their Juvenile Justice Specialists, the task force will continue to support the GJJAC, routinely update the best legal practices, and be a resource for local efforts working to bolster community-based responses for these youth and families.

## 2. A pro-active, informed, multi-disciplinary, and formalized approach should be used when responding to status offenders and their complex needs.

- a. Early School Interventions: Evidence-based practices should be used from elementary through high school to identify attendance issues early and support children affected and their families.
- b. Training for Professionals: Law enforcement, teachers, school administrators, social workers, state agency staff, and non-profit providers should receive training on the underlying causes associated with status offenses, the harms associated with out-of-home placement, and the best practices when working with these youth and their families.

- c. Multi-disciplinary, Pre-Court, and Pre-Disposition Staffing: Multi-disciplinary staffing should be a regular component for youth charged with or adjudicated for status offenses. Given the individual circumstances of each case, it should be comprised of representatives from DJJ, all other agencies involved (e.g., DMH or DSS), the solicitor's and public defender's office, school staff (e.g., social worker or attendance officer), [more participants here too]. These staffings benefit the youth and family by allowing for a current and comprehensive assessment of their needs to create a tailored intervention plan. They foster improved communication amongst professionals as well as families to ensure the best possible outcome. Additionally, they can help to reduce the time spent in the court system and help to prevent future involvement with the court.
- d. Memorandums of Agreement (MOAs): Child-serving agencies and providers should use MOAs to clearly define roles and guide the coordination of services, information sharing, etc., regarding youth at risk of or adjudicated for status offenses. Because these youth often have complex needs requiring the simultaneous attention of multiple agencies, interagency cooperation is critical for ensuring the best outcomes for themselves and their families. By entering into MOAs, agencies and providers can ensure that collaboration is taking place to provide comprehensive care tailored to the unique needs of status offenders.

**3. Attendance Intervention Plans (AIP) should address the root causes of truancy, employ a multi-agency approach, and utilize court referrals as a last resort. By addressing the underlying causes of truancy, such as poverty, mental health issues, learning disabilities, home life, and other barriers, school intervention plans can provide the support these students need to stay in school and succeed. A multi-agency approach ensures that all relevant stakeholders are involved and can provide the best support. In addition, AIPs should identify who is responsible for the intervention team. Families and guardians, school officials; representatives of the Department of Social Services (DSS); community mental health; and substance abuse prevention service providers may be involved.**

- a. Address root causes: Not attending school often goes far beyond a child simply being defiant or lazy. Extreme poverty, unhoused families, caring for dependent or vulnerable siblings, protecting victims of domestic abuse, parental substance use, and/or mental illness can keep a child out of the classroom. Only by addressing these needs will children and families be able to create and benefit from a supportive space and shared well-being that will provide the environment for a child to attend school as needed.
- b. Multi-disciplinary Approach: A multi-disciplinary staffing should be required for the "habitual truant" (following a failed school intervention plan). These should include but not be limited to school social workers, attendance officers, and administrators,

local agency representatives (Social Services, Juvenile Justice, and alcohol and drug services), and any other state or local non-profit whose services could include utility and housing assistance, mentoring and after-school programs, parenting classes, etc. [need more here—can we have those type entities that are part of our stakeholder coalitions/] In cases involving children younger than 12, extra effort should be taken to include DSS' involvement as the focus should be on assisting the parents and family. These staffings should be designed to ensure that every effort has been made to identify and address the root cause(s) of truancy and that all treatment options and referral sources have been exhausted before referring the child to court.

- c. Attendance Intervention Plan Oversight. All Attendance Intervention Plans (required by S.C. Code of Regs., R. 43-274) should be tailored to meet the needs of the individual student and family and should be reviewed and approved by a certified or licensed professional/school official with training on identifying the needs of and appropriate intervention services for these students. The plans should be designed to uncover and address contributors to attendance problems, such as family dynamics, parent-child conflict, parent or child mental health problems, parent or child substance abuse problems, or peer conflict.

#### **4. Community-based services for status offenders should be expanded.**

- a. Coordinated Crisis Response: A system should be implemented and utilized across the state to assist families in crisis with nowhere to turn for help other than law enforcement or emergency services, especially during weekends and non-business hours. Crisis-response services should be available throughout the state.
- b. Use of Community-Based Alternatives to Detention and Secure Evaluations: Community-based options should always be exhausted before any secure confinement, research-proven to increase the likelihood of subsequent delinquency, is even considered. Short-Term Alternative Placement (STAP) homes, like those utilized by DJJ, should be expanded throughout the state to ensure all stakeholders can access these homes when it is determined a child cannot return home.

Community evaluations should be the standard for status offenders. STAP homes should also be utilized to allow youth to remain in the community while receiving an evaluation instead of being placed in a residential (secure) evaluation center when the court determines the child cannot be evaluated at home. The staff of STAP homes across the state should receive training on the complexities of status offenders and tools for effectively working with them to increase confidence in accepting these youth. Electronic monitoring is another cost-effective, readily available option that should be utilized more to keep status-offending children out of secure confinement.

- c. Increased Use of Family-Based Services: Resources should be directed towards family-based, trauma-focused services to reduce the need for alternative placements. Although South Carolina has effective tools in some areas for working with status offenders in the community, such as Functional Family and Multi-Systemic Therapies, these services are often hard to access, especially in SC's more rural counties. While these services can be costly, they are less expensive than keeping a youth in a detention facility or residential placement.
  - d. Inclusion of Youth and Families as Partners: Families and youth should be included in developing interventions and resources to ensure their actual needs, along with the barriers (e.g., lack of transportation) that may prevent them from accessing services, are addressed.
5. **Family court referrals must be the last option for all status offenders. Referring a child to family court for a status offense has a long-term negative impact on their lives. Because of this, all other alternatives, including home visits and community-based resources, must be exhausted.**
- a. County-Specific Needs and Resources Assessment: Community-based analyses should be conducted at the county level to assess how well schools, agencies, and providers are communicating, connecting youth and families with resources, and expanding capacity to address any unmet needs.
  - b. Expand Status Offender Diversion Programs: All status offenders should be offered a diversion option before being processed through the juvenile justice system. As the resources and opportunities vary throughout the state, individual counties should be charged with developing diversion programs for incorrigible, runaway, and truant youth, utilizing existing resources and strengths within their community. The diversion programs should use a multidisciplinary approach, positive youth development model, and focus on the family unit.
6. **Best Legal Practices should be adopted and implemented to provide juvenile justice professionals guidance regarding handling status offense cases. Such practices would help to ensure that young people who commit status offenses receive fair and equitable treatment and that the measures taken are appropriate to the offense and the individual involved. The following are some of these Best Legal Practices.**
- a. Legal Representation at Truancy Hearings: Children should have meaningful access to legal counsel at all hearings, including hearings to place a child under a Mandatory School Attendance Order, the violation of which could result in secure confinement. The existing statutory requirement for separate, private, formal hearings in S.C. Code 63-3-590 should be followed in all cases.

Every child facing being placed under a school attendance order should have the opportunity, with the assistance of counsel, to challenge whether they were, in fact in willful violation of the state's truancy law and whether the school complied with S.C. Code of Regs., R. 43-274. In addition, these children should be provided with a clear understanding of the implications of being placed under a court order before consenting to anything.

Defense attorneys who counsel and represent these children should receive specialized training on truancy and understand how to represent youth throughout these hearings effectively.

- b. Time Limits for Probationary Sentences and School Attendance Orders: Probationary sentences should be limited to the time necessary to ensure children adjudicated for status offenses and their families receive adequate services and treatment. School attendance orders should be time-limited with consideration given to the grade level and mitigating factors of truant behavior. Indefinite and extensive periods are often unnecessary and set the child up for failure.

Judges should consider including language allowing the child to come off the order after a period of compliance (using positive reinforcement while allowing the child to make better decisions and become empowered by those good decisions) and upon recommendation from the school.

- c. Information Provided to the Court: Sufficient information must be provided to the court at the hearing to allow the judge to tailor the probationary terms to meet the child's specific needs.
- d. Naming Parent as Party in the Case: Parents should be named as parties in status offender cases so violations of orders not resulting from the child's "willful violation" can be addressed with the parent as appropriate.
- e. Community Evaluations: Community evaluations should be the standard for all adjudicated status offenders needing a pre-dispositional evaluation. An evaluation should only be ordered if necessary to determine the service needs of the child and family.

Orders for a secure evaluation should contain a finding that secure confinement is necessary and articulate the individualized, factual basis for that finding, including describing all reasonable efforts to place the child in the community, in a STAP or in an alternative placement, and why those options were unsuccessful or unavailable.

Secure evaluations should be reserved for high-level offenders or offenders who are a demonstrable flight risk and where other interventions (electronic monitoring, STAP homes, behavior contracts) cannot be used.

- f. Incorrigibility Petition Requirements: Parents and guardians should demonstrate their commitment to seeking assistance outside of family court and show that they have exhausted all possible resources before filing an incorrigibility petition. Documentation should be required which indicates that the family and child have made reasonable efforts to resolve the challenges confronting the family unit through participation in family counseling, pastoral counseling, parenting improvement classes, or other family therapy services.
- g. Training for Legal Professionals: Family court judges, attorneys, and DJJ staff involved with status offender cases should be trained on the current statutes, alternatives to detention, the complex needs of status offending youth and families, and tools for keeping status offenders in the community. Other training topics should include but are not limited to trauma-informed courts, Best Legal Practices for first-time school rules/hearings, and how to handle bullying and its impact on truancy.

**7. State laws governing status offenses should be reviewed for possible revisions.**

- a. Expungement: S.C. Code of Laws § 63-19-2050 should be amended to allow for expungement of a juvenile's record about a status offense upon the juvenile reaching the age of 17 and completing any dispositional sentence imposed instead of at the age of 18. Automatic expungement, currently used in several states, should be an ideal standard for status offenders, and the logistical application of this approach should be explored.
- b. Records/Confidentiality: State statutes should be reviewed regarding records and confidentiality to determine if statutory changes are required to ensure appropriate information-sharing among agencies working with these children. (See S.C. Code § 63-19-2020(B) & (C) for language allowing DJJ to share information.).
- c. Juvenile Justice and Delinquency Prevention Act (JJDP A) Compliance: State statutes should be amended to incorporate JJDP A provisions. This would include but is not limited to limiting status offense-related court-ordered detentions and commitments to 7 days. See JJDP A, Section 223(a)(23).

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