

**Health Impact Review of SB 5122  
Concerning the jurisdiction of juvenile court  
(2021 Legislative Session)**

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**Full review**

The full Health Impact Review report is available at:

<https://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2021-04-SB5122..pdf>

**Acknowledgements**

We would like to thank the key informants who provided consultation and technical support during this Health Impact Review.

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**Executive Summary**  
**SB 5122, Concerning the jurisdiction of juvenile court**  
**(2021 Legislative Session)**

**Evidence indicates that [SB 5122](#) would likely decrease criminal legal system involvement for some youth aged 8 through 12 years and for some emerging adults aged 18 and 19 years, which would likely improve health outcomes, reduce recidivism, and decrease penalties and collateral consequences. It is unclear how the bill would impact equity.**

## **BILL INFORMATION**

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**Sponsors:** Darneille, Das, Hasegawa, Nguyen, Pedersen, Robinson, Saldaña, Wilson C.

### **Summary of Bill:**

Full details about the provisions of this bill can be found in the bill text linked above. Given the level of detail within provisions, the summary highlights sections most relevant to this review.

- Changes the procedural jurisdiction of Washington State juvenile courts from 8 through 17 years to 13 through 19 years such that:
  - Juveniles under 13 years of age are considered legally incapable of committing a crime. Except, juveniles 8 through 12 years of age (i.e., under 13 years of age) may be prosecuted in cases where the juvenile is alleged of Murder 1 or Murder 2 and the prosecution can present proof and evidence that a juvenile has sufficient capacity to understand that the act or neglect was wrong. Juveniles under 13 years of age may not be prosecuted for other crimes.
  - Juveniles aged 13 through 19 years (i.e., under 20 years of age) who are alleged of committing a crime are in the jurisdiction of juvenile court.
- Establishes a phased approach to change the definition of “juvenile”. Effective July 1, 2022, a “juvenile” includes any individual under 19 years of age who is not subject to adult court. Effective July 1, 2024, a “juvenile” includes any individual under 20 years of age who is not subject to adult court.
- Retains legislation extending juvenile court jurisdiction to age 25 years for the purposes of sentencing, and raises the maximum age of confinement in Juvenile Rehabilitation through age 21 years for juveniles adjudicated in juvenile court for crimes committed at age 18 and through age 22 years for juveniles adjudicated in juvenile court for crimes committed at age 19.

## **HEALTH IMPACT REVIEW**

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### **Summary of Findings:**

This Health Impact Review found the following evidence for relevant provisions in SB 5122:

- **Informed assumptions** that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach would likely decrease juvenile criminal

legal system<sup>a</sup> involvement for some youth aged 8 through 12 years and would likely decrease adult criminal legal system involvement for some emerging adults aged 18 and 19 years. These assumptions are based on proposed changes to state law and information from key informants.

- **Very strong evidence** that decreased involvement in the criminal legal system would improve health outcomes across the life course.
- **Very strong evidence** that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age will decrease juvenile recidivism.
- **Informed assumption** that decreasing adult criminal legal system involvement for emerging adults aged 18 and 19 years will decrease penalties and collateral consequences for these individuals charged with a crime. This assumption is based on current differences between the adult criminal legal system and juvenile criminal legal system in Washington State.
- **Very strong evidence** that decreased penalties and collateral consequences of conviction would likely improve access to employment opportunities, housing, and economic stability.
- **Very strong evidence** that improved access to employment opportunities, housing, and economic stability would improve health outcomes.
- **Unclear impact** on equity due to the intersectionality of overlapping identities, current inequities due to racism in the juvenile and adult criminal legal systems, and continued opportunities for involvement with the criminal legal systems for 8 through 19 year olds.

#### **\*UPDATE TO PREVIOUS HEALTH IMPACT REVIEW**

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This review is an update to the Health Impact Review completed for S-6720.1, Concerning the jurisdiction of juvenile court (2021 Legislative Session) and reflects changes made to the draft bill. As part of this update, staff:

- Added language accounting for the phased implementation approach to extending juvenile court jurisdiction to including emerging adults aged 18 years and 19 years who are not subject to adult court.

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<sup>a</sup> To align with preferred language of the community, this analysis will use the phrases “juvenile criminal legal system” and “adult criminal legal system.” In addition, the term “juvenile” will be used in relation to specific laws or rules governing individuals alleged of crimes through the juvenile criminal legal system. The term “youth” refers to individuals younger than 18 years of age and “emerging adults” refers to individuals 18 and 19 years of age.

## Introduction and Methods

A Health Impact Review is an analysis of how a proposed legislative or budgetary change will likely impact health and health disparities in Washington State ([RCW 43.20.285](#)). For the purpose of this review ‘health disparities’ have been defined as the differences in disease, death, and other adverse health conditions that exist between populations ([RCW 43.20.270](#)). Differences in health conditions are not intrinsic to a population; rather, inequities are related to social determinants (e.g., access to healthcare, economic stability, racism). This document provides summaries of the evidence analyzed by State Board of Health staff during the Health Impact Review of Senate Bill 5122 ([SB 5122](#)).

Staff analyzed the content of SB 5122 and created a logic model depicting possible pathways leading from the provisions of the bill to health outcomes. We consulted with experts and contacted key informants about the provisions and potential impacts of the bill. We conducted an objective review of published literature for each pathway using databases including PubMed, Google Scholar, and University of Washington Libraries.

Staff also completed key informant interviews to gather additional supporting evidence. In total, we spoke with 20 key informant interviewees, including: 8 individuals representing three community organizations that work with youth involved in the criminal legal system; 4 state agency staff working with juveniles; 3 individuals representing prosecuting attorneys and public defenders working with juveniles; 3 researchers familiar with the juvenile criminal legal system; and 2 additional subject matter experts. More information about key informants and detailed methods are available upon request.

The following pages provide a detailed analysis of the bill including the logic model, summaries of evidence, and annotated references. The logic model is presented both in text and through a flowchart (Figure 1). The logic model includes information on the strength-of-evidence for each relationship. The strength-of-evidence has been defined using the following criteria:

- **Very strong evidence:** There is a very large body of robust, published evidence and some qualitative primary research with all or almost all evidence supporting the association. There is consensus between all data sources and types, indicating that the premise is well accepted by the scientific community.
- **Strong evidence:** There is a large body of published evidence and some qualitative primary research with the majority of evidence supporting the association, though some sources may have less robust study design or execution. There is consensus between data sources and types.
- **A fair amount of evidence:** There is some published evidence and some qualitative primary research with the majority of evidence supporting the association. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Expert opinion:** There is limited or no published evidence; however, rigorous qualitative primary research is available supporting the association, with an attempt to include

viewpoints from multiple types of informants. There is consensus among the majority of informants.

- **Informed assumption:** There is limited or no published evidence; however, some qualitative primary research is available. Rigorous qualitative primary research was not possible due to time or other constraints. There is consensus among the majority of informants.
- **No association:** There is some published evidence and some qualitative primary research with the majority of evidence supporting no association or no relationship. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Not well researched:** There is limited or no published evidence and limited or no qualitative primary research and the body of evidence has inconsistent or mixed findings, with some supporting the association, some disagreeing, and some finding no connection. There is a lack of consensus between data sources and types.
- **Unclear:** There is a lack of consensus between data sources and types, and the directionality of the association is ambiguous due to potential unintended consequences or other variables.

This review was subject to time constraints, which influenced the scope of work for this review. The annotated references are only a representation of the evidence and provide examples of current research. In some cases, only a few review articles or meta-analyses are referenced. One article may cite or provide analysis of dozens of other articles. Therefore, the number of references included in the bibliography does not necessarily reflect the strength-of-evidence. In addition, some articles provide evidence for more than one research question, so are referenced multiple times.

## Analysis of SB 5122 and the Scientific Evidence

### Summary of relevant background information

- The Juvenile Justice Act of 1977 ([Chapter 13.40 RCW](#); Title 13) established the Washington State juvenile criminal legal system.<sup>a,1</sup> The intent of this system is to focus equally on accountability and rehabilitation of juveniles to prepare youth for adulthood.<sup>1</sup>
- The Washington State constitution “grants general jurisdiction over the superior court to hear and determine cases regardless of age. On the other hand, the statutory ‘exclusive original jurisdiction’ and other portions of RCW Title 13 set forth a procedural scheme codifying the unique due process to which a ‘juvenile’ is entitled to receive in the juvenile court division of superior court.”<sup>1</sup>
- “Juvenile” is defined as any individual under 18 years of age at the time of court proceedings (not at the time of the alleged crime) who is not subject to adult court.<sup>1</sup> At age 18, regardless of the age at which the alleged crime was committed, individuals are in the jurisdiction of adult court.<sup>1</sup>
- The Washington State juvenile court system, comprised of 33 courts,<sup>2</sup> has jurisdiction over juveniles under the age of 18 who are alleged to have committed a crime.<sup>3</sup>
  - Juveniles under 8 years of age are considered legally incapable of committing a crime and may not be prosecuted in either juvenile or adult court.<sup>4</sup>
  - Juveniles 8 through 11 years of age are presumed incapable of committing a crime unless the prosecution can present proof and evidence that a juvenile has sufficient capacity to understand that the act or neglect was wrong.<sup>3,4</sup> At the discretion of the prosecutor, an evidentiary hearing to prove capacity may be held for any type of crime.<sup>1</sup>
  - Juveniles 12 through 17 years of age who are alleged of committing a crime are in the jurisdiction of juvenile court.
  - Juveniles 16 and 17 years of age may be subject to adult court under three circumstances:<sup>1</sup>
    - Committing a non-felony licensing violation, such as a traffic, fish, boating, or game violation or a civil infraction.<sup>1</sup> These cases must be charged in district or municipal court.<sup>1</sup>
    - Committing a serious violent offense, violent offense with certain histories, or rape of a child in the first degree.<sup>1,3,4</sup> These cases are given “exclusive adult jurisdiction” and statutory provisions state these cases may be filed directly in adult court without determination or appearance in the juvenile criminal legal system (known as “auto-decline exclusive adult jurisdiction” cases).<sup>1</sup>
      - [RCW 9.94A.030](#) defines serious violent offenses to include murder in the first degree; homicide by abuse; murder in the second

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<sup>a</sup> To align with preferred language of the community, this analysis will use the phrases “juvenile criminal legal system” and “adult criminal legal system.” In addition, the term “juvenile” will be used in relation to specific laws or rules governing individuals alleged of crimes through the juvenile criminal legal system. The term “youth” refers to individuals younger than 18 years of age and “emerging adults” refers to individuals 18 and 19 years of age.

degree; manslaughter in the first degree; assault in the first degree; kidnapping in the first degree; rape in the first degree; assault of a child in the first degree; an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or any federal or out-of-state conviction for an offense that would meet these classifications.<sup>5</sup>

- Legislation passed in 2018 removed the automatic requirement that juveniles aged 16 and 17 years be tried as an adult for Robbery 1 or Burglary 1.<sup>6</sup> Prosecutors reserve the option to try these juveniles as an adult or to retain these individuals in the juvenile system.<sup>6</sup>
- Receiving a judicial “decline” or “declination” hearing in which a “juvenile court judge may choose to waive juvenile jurisdiction in favor of transferring the juvenile to adult court for eventual adjudication.”<sup>1</sup> These hearings may only occur for juveniles 15 through 17 years of age charged with a serious violent offense or for juveniles under 15 years of age charged with Murder 1 or Murder 2.<sup>1</sup>
- In 2019, the Washington State Legislature passed [House Bill 1646](#), which stated that individuals older than 18 years of age who committed a crime when younger than 18 years of age could serve at a Department of Children, Youth, and Families (DCYF) juvenile rehabilitation facility until 25 years of age.<sup>7</sup>
- The majority of states do not specify a minimum age of juvenile court jurisdiction.<sup>8</sup> Of states that do set a minimum age, two states set a minimum age of 12 years; one state set a minimum age of 11; 14 states set a minimum age of 10; 1 state (Washington) set a minimum age of 8; two states set a minimum age of 7; and one state set a minimum age of 6.<sup>8</sup> Internationally, the most common minimum age of jurisdiction is 12 years, and in Europe it is 14 years (Columbia University Justice Lab, personal communication, August 2020).
- The majority of states (45 states), including Washington State have a maximum age of jurisdiction for juvenile court of 17 years of age; 5 states have a maximum age of 16 years of age.<sup>9</sup>
- Some states have considered raising the age of juvenile jurisdiction to include emerging adults up to 20 years of age.<sup>10</sup> In 2018, Vermont became the first state to raise the maximum age of juvenile jurisdiction.<sup>10</sup> The Vermont Legislature passed Act 201, which expanded the state’s juvenile jurisdiction to include 18 and 19 year olds.<sup>11</sup> Using a phased approach, Vermont juvenile court will include 18 year olds in 2020 and 19 year olds in 2022.<sup>10,11</sup>
- Internationally, in 2003, the Committee of Ministers of the Council of Europe recommended emerging adults under 21 years of age be treated as juveniles.<sup>12</sup> There is a growing international trend toward agreement with and acceptance of this recommendation. For example, of 35 European countries surveyed in 2010:
  - 20 countries (57%) “provide for either the application of educational measures of juvenile law, or special rules concerning specific sanctions for young adults in the general penal law;”



- 17 countries (49%) “have special rules in the adult criminal law concerning the mitigation of penalties for young adults;” and
- 9 countries (26%) provide both of these types of measures and sanctions.<sup>12</sup>
- In Germany, emerging adults aged 18 through 20 years can receive a sentence according to juvenile law or a (mitigated) sentence according to adult criminal law.<sup>12</sup> In 2012, 67% of emerging adults were sentenced as juveniles,<sup>12</sup> and “over 90% of young adults were sentenced under the juvenile law for homicide, rape, and other serious bodily injury crimes, reflecting the confidence in the ability of the juvenile [criminal legal] system to appropriately handle the most serious offenses.”<sup>12</sup>

### **Summary of SB 5122**

Full details about the provisions of this bill can be found in the bill text linked above. Given the level of detail within provisions, the summary highlights sections most relevant to this review.

- Changes the procedural jurisdiction of Washington State juvenile courts from 8 through 17 years to 13 through 19 years such that:
  - Juveniles under 13 years of age are considered legally incapable of committing a crime. Except, juveniles 8 through 12 years of age (i.e., under 13 years of age) may be prosecuted in cases where the juvenile is alleged of Murder 1 or Murder 2 and the prosecution can present proof and evidence that a juvenile has sufficient capacity to understand that the act or neglect was wrong. Juveniles under 13 years of age may not be prosecuted for other crimes.
  - Juveniles aged 13 through 19 years (i.e., under 20 years of age) who are alleged of committing a crime are in the jurisdiction of juvenile court.
- Establishes a phased approach to change the definition of “juvenile”. Effective July 1, 2022, a “juvenile” includes any individual under 19 years of age who is not subject to adult court. Effective July 1, 2024, a “juvenile” includes any individual under 20 years of age who is not subject to adult court.
  - Allows counties to increase the age of juvenile court jurisdiction sooner than the dates required if capacity exists to provide for adequate safety, rehabilitation programming, and efficient court processing for the affected persons during the transition period.
  - Requires the Office of Juvenile Justice to monitor and report annually to the Governor and relevant legislative committees on counties’ progress and readiness to move forward to full implementation.
- Retains legislation extending juvenile court jurisdiction to age 25 years for the purposes of sentencing, and raises the maximum age of confinement in Juvenile Rehabilitation through age 21 years for juveniles adjudicated in juvenile court for crimes committed at age 18 and through age 22 years for juveniles adjudicated in juvenile court for crimes committed at age 19.
  - Establishes that once proceedings have been filed under the juvenile court’s jurisdiction, the proceedings shall remain under the jurisdiction of the juvenile court or Department of Children, Youth, and Families until the judgment expires

- or the juvenile reaches the maximum age of commitment, whichever is sooner, unless the juvenile court declines jurisdiction under RCW 13.40.100.
- Details instances in which the juvenile court may extend its jurisdiction beyond maximum date of commitment.

### **Health impact of SB 5122**

Evidence indicates that SB 5122 would likely decrease criminal legal system involvement for some youth aged 8 through 12 years and for some emerging adults aged 18 and 19 years, which would likely improve health outcomes, reduce recidivism, and decrease penalties and collateral consequences. It is unclear how the bill would impact equity.

### **Pathway to health impacts**

The potential pathways leading from the provisions of SB 5122 to decreased health inequities are depicted in Figure 1. This review made the informed assumptions that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach would likely decrease juvenile criminal legal system involvement for some youth aged 8 through 12 years and would likely decrease adult criminal legal system involvement for some emerging adults aged 18 and 19 years. These assumptions are based on proposed changes to state law and information from key informants. There is very strong evidence that involvement in the criminal legal system generally is linked to poor health outcomes,<sup>13-19</sup> and evidence suggests that youth involved at a younger age may be at particular risk for poor health across the life course.<sup>20-23</sup>

We also made an informed assumption that decreasing adult criminal legal system involvement for emerging adults aged 18 and 19 years using a phased approach will decrease penalties and collateral consequences for these individuals charged with a crime. This assumption is based on current differences between the adult criminal legal system and juvenile system in Washington State. There is very strong evidence that decreased penalties and collateral consequences of conviction would likely improve access to employment opportunities, housing, and economic stability,<sup>1,24-34</sup> which would improve health outcomes.<sup>35-39</sup>

There is also very strong evidence that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age will decrease juvenile recidivism, which in turn will decrease criminal legal system involvement and improve health.<sup>40-48</sup> Lastly, the impact on equity is unclear due to the intersectionality of overlapping identities,<sup>49,50</sup> current inequities due to racism in the juvenile and adult criminal legal systems,<sup>6,22,49-55</sup> and continued opportunities for involvement with the criminal legal systems for 8 through 19 year olds.

### **Scope**

Due to time limitations, we only researched the most direct connections between the provisions of the bill and decreased health inequities and did not explore the evidence for all possible pathways. For example, we did not evaluate potential impacts related to:

- Effects on families and communities of youth and emerging adults involved in the criminal legal system. Key informants noted that family and community members of youth involved with the criminal legal system also experience trauma related to necessary interactions with police officers, attorneys, judges, and other officials involved at each

stage of the criminal legal system as well as in response to the treatment of young people by these actors.

- Future generations. Evidence shows that involvement in the criminal legal system at a young age may increase recidivism and involvement later in life.<sup>40</sup> Research has also shown that parental incarceration can impact children’s mental, emotional, and social health.<sup>18,56</sup> Therefore, criminal legal involvement for youth and emerging adults could perpetuate this cycle. For example, one researcher examining the role of age and race on criminal legal involvement stated that, “[B]lack youths’ perceptions of law enforcement are shaped by the vicarious and collective experiences of their friends and family members”<sup>57</sup> and “[g]iven the frequent and disproportionate arrest of [B]lack Americans, it is hard to find a [B]lack child who does not have a friend or relative who has not been arrested or ‘known to police.’”<sup>57</sup>
- Burden on the juvenile criminal legal system. Key informants shared that extending the age of juvenile court jurisdiction to include emerging adults aged 18 and 19 years may result in additional caseloads, potentially placing increased burden on the system. Vermont’s 2018 legislation to expand juvenile court jurisdiction to include 18 and 19 year olds also included a phased approach based on the belief that incorporating emerging adults would “overwhelm the system unless it was accompanied by structural, programmatic, and resource allocation changes.”<sup>11</sup> Key informants who work with youth involved in the criminal legal system also noted that other related services and programs may be impacted. For example, Department of Social and Health Services’ (DSHS) Child Study and Treatment Center (CSTC), which is the state hospital designated for the sole care and treatment of persons under eighteen years of age ([RCW 72.23.210](#)), has two evaluators that work to determine whether juveniles are competent to stand trial (CSTC, personal communication, September 2020). They complete about 145 juvenile cases per year (CSTC, personal communication, September 2020). Competency evaluations were completed through the Office of Forensic Mental Health Services for 76 emerging adults aged 18 and 19 years in fiscal year (FY) 2019 and 74 emerging adults in FY 2020 (unpublished data, DSHS’ Facilities, Finance and Analytics Administration, Research and Data Analysis, October 2020). At this time, CSTC has limited capacity for inpatient forensic mental health services, with one inpatient bed for competence restoration services for individuals under 18 years of age (CSTC, personal communication, September 2020). Expanding the juvenile court system to include 18 and 19 year olds would require additional funding to hire and train new staff to respond to the needs of emerging adults (CSTC, personal communication, September 2020). Staff at CSTC estimate an additional 75 to 90 referrals would require hiring at least two additional forensic psychologists and adding 8 to 9 beds for inpatient care (CSTC, personal communication, October 2020).

### **Magnitude of impact**

Since SB 5122 would change the procedural jurisdiction of juvenile court using a phased approach to 13 through 19 years of age, if passed this bill would most likely impact youth aged 8

through 12 years (effective 90 days after adjournment of the session) and emerging adults aged 18 years (effective July 1, 2022) and 19 years (effective July 1, 2024).

In Washington State, the juvenile court system has jurisdiction over youth aged 8 through 17 years who are alleged to have committed a crime.<sup>3</sup> Data from the Washington State Administrative Office of the Courts (AOC) found that, from 2009 through 2019, there were 301,757 referrals of youth to the juvenile criminal legal system, with an average of 27,432 referrals impacting 19,309 youth per year (unpublished data, AOC, 2020). On average, 21,796 referrals (79%) were diverted or filed in juvenile court, impacting 16,747 youth aged 8 through 17 per year (unpublished data, AOC, 2020).<sup>b</sup> Other cases may have been set for a declination hearing, scheduled for a competency hearing, filed in adult court, or dismissed.<sup>6</sup>

Referrals for youth aged 8 through 12 years make up 6% of referrals to the juvenile criminal legal system in Washington State (unpublished data, AOC, 2020). From 2009 through 2019, there were 18,082 referrals of youth aged 8 through 12 years to the juvenile system, with an average of 1,808 referrals impacting 1,400 youth per year (unpublished data, AOC, 2020). On average, 1,325 referrals (73%) were diverted or filed in juvenile court, impacting an average of 1,073 youth aged 8 through 12 years annually (unpublished data, AOC, 2020). As SB 5122 would raise the age of juvenile court jurisdiction to 13 years of age, there is the potential that most of these youth aged 8 through 12 years would no longer be referred to the juvenile criminal legal system.

In addition, most juvenile arrests are for non-violent, low-level, or non-criminal acts.<sup>21,55</sup> Nationally, property crimes are the most common offenses for juveniles and account for 25% of arrests.<sup>55</sup> Violent crimes account for 5% of juvenile arrests.<sup>21,55</sup> This number is lower in Washington State. Based on data from AOC, from 2009 through 2019, 0.4% of referrals (101 referrals) among youth aged 8 through 17 years were made for violent crimes as defined in [RCW 9.94A.030](#) (unpublished data, AOC, 2020). Among 8 through 12 year olds, this percentage drops to 0.3% (50 referrals) for the same time period (unpublished data, AOC, 2020). In the past 10 years, 34 individuals aged 8 through 17 years were diverted or filed on a charge of Murder 1 or Murder 2 (unpublished data, AOC, 2020), with 1 or 2 cases occurring among the youngest age group (personal communications, August-September 2020).

Under current Washington State law, 18 and 19 year olds alleged to have committed a crime are under jurisdiction of the adult criminal legal system.<sup>1</sup> From 2018 to 2019, there were 80,209 individuals aged 18 and 19 years referred to the criminal legal system, including 36,871 individuals aged 18 years and 43,338 individuals aged 19 years (unpublished data, AOC, 2020). SB 5122 would extend juvenile court jurisdiction using a phased approach to include these emerging adults, and there is the potential that most of these individuals would instead be referred to the juvenile criminal legal system. Data from Vermont show that 18 and 19 year olds

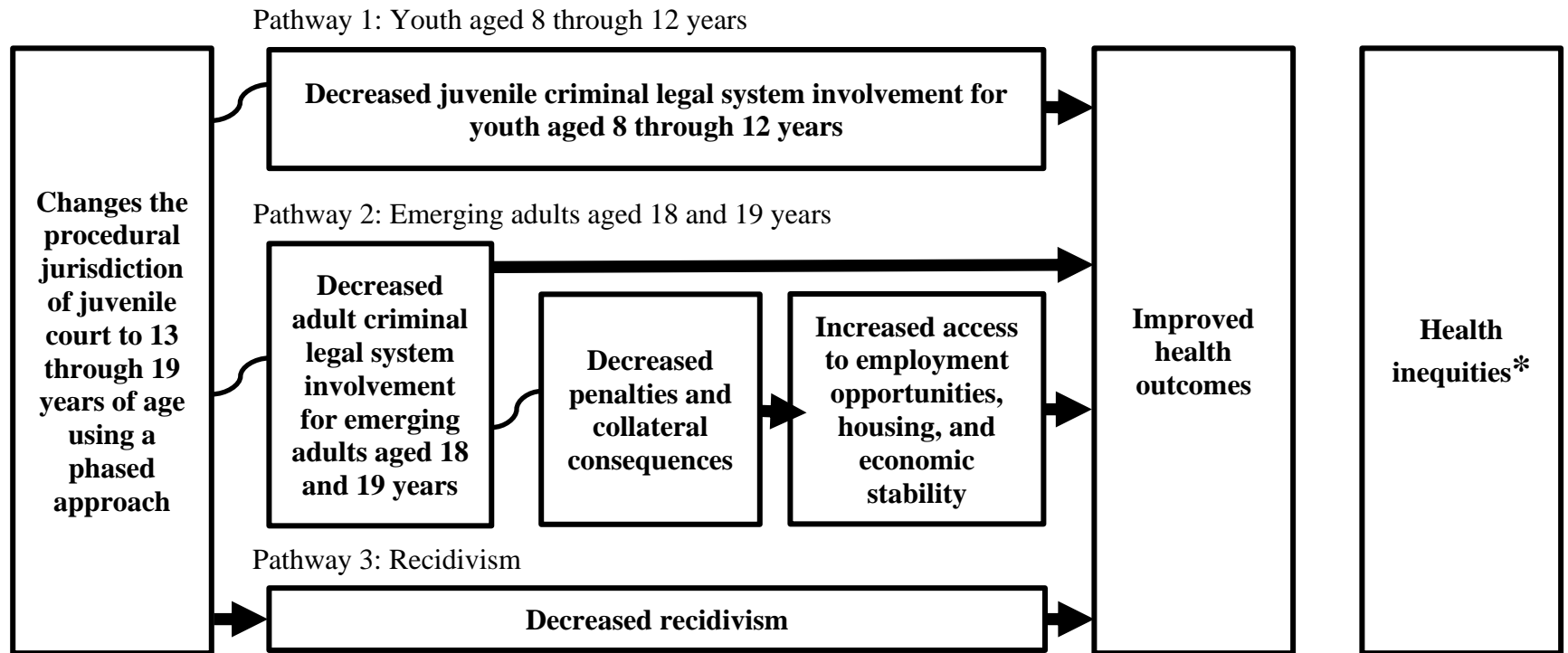
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<sup>b</sup> These numbers may be an undercount and may not be representative of all cases as Washington State has a non-unified court system and information and data are not consistently reported (personal communication, AOC, July 2020). In addition, demographic information (including age and race/ethnicity) is typically reported by law enforcement or court documents and may not be provided for every case (personal communication, AOC, July 2020).

commit similar offenses to younger juveniles, and that “80% of potential cases are low-level and should be considered for diversion from the system.”<sup>29</sup>

Overall, SB 5122 would likely result in fewer youth aged 8 through 12 years involved with the juvenile criminal legal system and in fewer emerging adults aged 18 and 19 years involved with the adult criminal legal system.

### Logic Model



**Figure 1:**  
Concerning the jurisdiction of juvenile court  
SB 5122

Key	Very strong	
	Strong	
	A fair amount	
	Expert opinion	
	Informed assumption	
	No association	
	Not well researched	
	Unclear	*

## Summaries of Findings

### Pathway 1: Youth aged 8 through 12 years

#### **Will changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach decrease juvenile criminal legal system involvement for youth aged 8 through 12 years?**

We have made the informed assumption that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach would likely decrease juvenile criminal legal system involvement for some youth aged 8 through 12 years. This informed assumption is based on changes proposed in SB 5122 that would modify current Washington State law and on information from key informants.

Federally, juvenile criminal legal system contact is defined as, “arrest, referral to court, diversion, secure detention, petition (i.e., charges filed), delinquent findings (i.e., guilt), probation, confinement in secure correctional facilities, and/or transfer to criminal/adult jurisdiction.”<sup>55</sup> Once youth are cited or arrested by police, they may be held in a local juvenile detention facility or released to the custody of their parent or legal guardian.<sup>1</sup> Cases may be referred to the county prosecutor and referred to diversion, assigned a capacity or competency hearing, assigned a decline or declination hearing, filed in adult court, or dismissed.<sup>6</sup>

Under current state law, youth under 8 years of age are considered legally incapable of committing a crime and may not be prosecuted in either juvenile or adult court.<sup>4</sup> Juveniles aged 8 through 11 years are presumed incapable of committing a crime unless the prosecution can present proof and evidence that a juvenile has sufficient capacity to understand that the act or neglect was wrong.<sup>3,4</sup> At the discretion of the prosecutor, these evidentiary hearings to prove capacity may be held for any type of crime.<sup>1</sup> From 2013 to 2018, an average of 314 annual law enforcement referrals and 143 prosecutor filings or diversions were made for youth aged 8 through 11 years.<sup>4</sup> The majority of youth referred by law enforcement or prosecutors are alleged of non-violent offenses.<sup>21,55</sup> Based on data from AOC, from 2009 through 2019, 0.3% of referrals (50 referrals) among youth aged 8 through 12 years old were made for violent crimes as defined in [RCW 9.94A.030](#) (unpublished data, AOC, 2020). Over the same time period, 34 individuals aged 8 through 17 years were filed or diverted on an originating charge of Murder 1 or Murder 2 (unpublished data, AOC, 2020), with 1 or 2 cases occurring among the youngest age group (personal communications, August-September 2020).

In addition to capacity, prosecutors or judges may request a competency hearing.<sup>1</sup> These hearings are used to determine if any individual, regardless of age, can understand court proceedings and can assist a lawyer in their defense (personal communications, September 2020).<sup>1</sup> Under Washington State law there is no juvenile competence statute (CSTC, personal communication, September 2020). Instead, [Chapter 10.77 RCW](#) (Criminally Insane—Procedures) has been extended to juveniles via case law (CSTC, personal communication, September 2020). The legal meaning of ‘incompetency’ is that “a person lacks the capacity to understand the nature of the proceedings against [them] or to assist in [their] own defense as a result of mental disease or defect.”<sup>58</sup> According to this legal definition, a competency evaluation assesses an individual’s knowledge base as well as their capacity to understand information

when provided (CSTC, personal communication, September). Multiple key informants noted that competency hearings are rarely requested for juveniles, which may disadvantage youth (personal communication, September 2020). Additionally, key informants representing youth in court proceedings questioned the current approach to competency, noting their experiences in which youth often do not have the mental or emotional competency to understand court proceedings and that such cases would be better handled by the child welfare system (personal communications, September 2020).

SB 5122 would modify [RCW 9A.04.050](#) to raise the minimum age of capacity to commit a crime to 13 years of age and would restrict prosecution for youth aged 8 through 12 years to Murder 1 or Murder 2 and only if the prosecution can present proof and evidence that the juvenile has sufficient capacity to understand that the act or neglect was wrong.<sup>3,4</sup> Juveniles under 13 years of age could not be prosecuted for other crimes.

While SB 5122 restricts the types of crimes 8 through 12 year olds could be prosecuted for to Murder 1 or Murder 2, it does not make changes to declination hearing requirements ([RCW 13.40.110](#)). Prosecutors and judges would retain discretion to request a declination hearing, therefore individuals under 15 years of age could still be declined to adult court for Murder 1 or Murder 2 (personal communication, August 2020). In addition, changes in SB 5122 would make youth aged 8 through 12 years ineligible for conviction to a lesser charge (personal communication, September 2020). Therefore, youth aged 8 through 12 years charged with Murder 1 or Murder 2 would not be eligible to have their cases resolved by plea bargain to a lesser charge or to receive an adjudication that involves an acquittal of the higher charge but conviction of a lesser offense. Key informants shared that the unavailability of other criminal charges might influence charging decisions by law enforcement and prosecutors (personal communication, September 2020). They suggested this change may either result in fewer referrals for Murder 1 or Murder 2 unless there is substantial evidence or, without eligibility to plea to a lesser offense, it could result in strict sentencing standards for youth who are convicted.

Since youth aged 8 through 12 years alleged of Murder 1 or Murder 2 could still be involved in the juvenile criminal legal system or declined to adult court, SB 5122 would not eliminate juvenile system involvement for all youth under 13 years of age. However, as raising the minimum age of juvenile jurisdiction and restricting prosecution except in cases of Murder 1 or Murder 2 would likely result in fewer youth aged 8 through 12 years being involved in the juvenile criminal legal system, we made the informed assumption that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach would likely decrease juvenile system involvement for some youth aged 8 through 12 years.

### **Will decreasing juvenile criminal legal system involvement for youth aged 8 through 12 years improve health outcomes?**

There is very strong evidence indicating that involvement in the criminal legal system generally is linked to poor health outcomes,<sup>13-19</sup> including for youth.<sup>20-23</sup> Criminal legal system contact can be measured by a number of indicators including, but not limited to, arrest, conviction, and incarceration.<sup>59,60</sup> A large body of evidence supports the association between incarceration and poor health outcomes. Individuals who are incarcerated are more likely to experience chronic



medical conditions, infectious diseases, lower self-rated health, increased psychiatric disorders, and a greater risk of mortality upon release.<sup>56,60,61</sup> Research shows that those with a history of incarceration have a significantly greater likelihood of major depression, life dissatisfaction, and mood disorders when compared to individuals who do not have a history of incarceration<sup>59,61</sup> and that effects persist after release. Analysis of a contemporary cohort's criminal legal system contact and mental health over time found arrest and incarceration, but not conviction, are independently associated with poor mental health.<sup>59</sup>

While youth involved with the juvenile criminal legal system have similar health needs to peers in the community,<sup>20</sup> they are more likely to experience high-risk behaviors (e.g., violence, substance use and misuse, and sexual activity)<sup>20,21</sup> and adverse childhood experiences (ACEs) which may influence certain health outcomes.<sup>21</sup> Research has found that as many as 93% of youth involved with the juvenile criminal legal system have experienced at least one ACE.<sup>21</sup> For example, individuals in juvenile detention experienced sexual violence (10-24% of youth) and physical violence (11-58% of youth), with all forms of abuse more commonly experienced by girls.<sup>20</sup> Key informants also stressed that youth involved with the criminal legal system are more likely to experience trauma (personal communications, August-September 2020). Lastly, youth involved in the juvenile system also have higher rates of mental health concerns compared to their peers.<sup>22</sup>

Generally, youth who are incarcerated have higher morbidity and mortality compared to their counterparts who are not involved in the juvenile criminal legal system.<sup>21</sup> Youth who are incarcerated experience health inequities related to reproductive health, mental health, and exposure to violence and injury.<sup>21</sup> Specifically, youth who are incarcerated experience numerous health inequities, including “sexually transmitted infections; teenage pregnancy and parenthood; chronic conditions affecting [youth of color] and disadvantaged communities (e.g., asthma, type 2 diabetes, sickle cell disease); ADHD and learning disorders; behavioral problems (e.g., conduct disorder, anger management); posttraumatic stress disorder [PTSD]; mood disorders (e.g., depression); substance [use]; suicidality.”<sup>21</sup> Youth who are detained are four times more likely to die by suicide than youth in the general population.<sup>21</sup> In addition, “juvenile incarceration itself is an important determinant of health...[and] correlates with worse health and social functioning across the life course.”<sup>21</sup>

Long-term outcomes for girls involved in the juvenile criminal legal system “reveal greater persistence of emotional problems and worse outcomes complicated by relationship and parenting issues, drug problems, and suicidality.”<sup>20</sup> Girls who are incarcerated have higher rates of reproductive health needs, sexually transmitted infections, pregnancy, anxiety, mood disorders, and history of physical and sexual abuse than boys who are incarcerated and girls in the general adolescent population.<sup>21</sup>

Generally, adults who were ever incarcerated as juveniles had worse health outcomes than adults who had never experienced incarceration as juveniles.<sup>23</sup> In the only study to examine the longitudinal impacts of youth incarceration on adult health, “history of child incarceration [at ages 7 through 13 years] was associated with the highest rates of subsequent poor adult health across all four health variables,” including self-reported general health, physical function (e.g., ability to climb stairs), depression, and suicidality.<sup>23</sup> For example, 21.1% of adults who were aged 7 through 13 years at first incarceration reported poor general health, compared to 13% who

were incarcerated at 14 years of age or older, and 8.4% who were never incarcerated.<sup>23</sup> Further analysis also found that rates of suicidality were more pronounced for adults who were incarcerated at 7 through 12 years of age than 13 and 14 years of age at first incarceration.<sup>23</sup>

Overall, there is very strong evidence that involvement in the criminal legal system is linked to poor health outcomes, and evidence suggests that youth involved at a younger age may be at particular risk for poor health across the life course.

## **Pathway 2: Emerging adults aged 18 and 19 years**

### **Will changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach decrease adult criminal legal system involvement for emerging adults aged 18 and 19 years?**

We have made the informed assumption that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach would likely decrease adult criminal legal system involvement for some emerging adults aged 18 and 19 years. This assumption is based on changes proposed in SB 5122 that would modify current Washington State law and on information from key informants.

Under current Washington State law, 18 and 19 year olds alleged to have committed a crime are under jurisdiction of the adult criminal legal system.<sup>1</sup> From 2018 to 2019, there were 107,174 individuals referred to the criminal legal system, including 48,848 individuals aged 18 years and 58,326 individuals aged 19 years (unpublished data, AOC, 2020).

SB 5122 would extend juvenile court jurisdiction to include emerging adults aged 18 years (effective July 1, 2022) and aged 19 years (effective July 1, 2024). However, SB 5122 does not change the circumstances under which juveniles 16 to 19 years of age may be subject to adult court, including committing a licensing offense; committing a serious violent offense, violent offense with certain histories, or rape of a child in the first degree; or receiving a judicial decline or declination hearing. However, data from Vermont show that 18 and 19 year olds commit similar offenses to younger juveniles, and that “80% of potential cases are low-level and should be considered for diversion from the system.”<sup>29</sup> Therefore, there is the potential that fewer emerging adults would be referred to the adult criminal legal system.

In addition, some evidence suggests that changing the maximum age of juvenile jurisdiction could change law enforcement behavior. Research prior to and after Connecticut raised the age of juvenile jurisdiction from 15 to 16 years found that “the arrest rate of 16 year-olds dropped significantly immediately after the change in legislation, which may imply police were less likely to arrest 16 year-olds when defined as juveniles.”<sup>46</sup> However, the study found that arrest rates for felony charges did not change.<sup>46</sup> Key informants in Washington State also suggested that changing the age of statutory juvenile jurisdiction could change law enforcement behavior and patterns. Therefore, potential changes in law enforcement behavior or arrest rates as a result of SB 5122 may also decrease emerging adult involvement with the adult and/or juvenile criminal legal system.

Lastly, competency hearings could also be requested for 18 and 19 year olds to determine if they can understand court proceedings and can assist a lawyer in their defense (personal communications, September 2020).<sup>1</sup> Most competency evaluations for juveniles are completed by Department of Social and Health Services' Child Study and Treatment Center, which is the state hospital designated for the sole care and treatment of persons under eighteen years of age ([RCW 72.23.210](#)) (CSTC, personal communication, September 2020). In cases where individuals are determined to need mental health treatment, current state law ([RCW 72.23.210](#)) restricts mental health treatment facilities for youth to those under 18 years of age.<sup>62</sup> Therefore, under SB 5122, if an 18 or 19 year old needed to be seen in an inpatient setting for either a competence evaluation (15-days under RCW 10.77) or restoration (14, 45, or 90 days), CSTC would not be able to admit them to a youth facility (CSTC, personal communication, September 2020). At this time, there is no arrangement for juvenile court respondents older than 17 years of age who need inpatient competence evaluation or inpatient competence restoration to be admitted to Western State Hospital or Eastern State Hospital or otherwise served by the Office of Forensic Mental Health Services (CSTC, personal communication, September 2020). Therefore, arrangements would need to be made so that emerging adults under juvenile court jurisdiction who require inpatient services have a place to receive timely and age-appropriate care (CSTC, personal communication, September 2020).

SB 5122 would extend juvenile court jurisdiction to include emerging adults and, while SB 5122 would not eliminate adult criminal legal system involvement for all emerging adults, extending juvenile court jurisdiction using a phased approach would likely result in fewer emerging adults aged 18 and 19 years involved with the adult criminal legal system.

### **Will decreased adult criminal legal system involvement for emerging adults aged 18 and 19 years old improve health outcomes?**

There is very strong evidence indicating that involvement in the criminal legal system generally is linked to poor health outcomes,<sup>13-19</sup> including for emerging adults.<sup>20-23</sup> In addition, there is strong evidence that emerging adults experience better health outcomes when they are housed in juvenile facilities than when they are housed in adult correctional facilities.<sup>63,64</sup> For example, evidence indicates that youth placed in adult facilities are more likely than those in juvenile facilities to be physically or sexually assaulted by other inmates and staff, to experience depression and suicide ideation, and to die by suicide.<sup>64</sup> Evidence also indicates that emerging adults in adult correctional facilities have the greatest risk of being assaulted with 18 through 24 year olds being the most at risk for victimization.<sup>63</sup> Key informants in Washington State confirmed that youth and emerging adults have experienced violence from other incarcerated individuals and guards while held in adult facilities (personal communication, September 2020). Research shows incarceration is associated with barriers to accessing a service provider, depression, involvement in jobs with high risk of injury or exposure to hazardous working conditions, divorce, and separation of families.<sup>14,15</sup>

There is also robust evidence to indicate that up to 70% of incarcerated juveniles meet the criteria for at least one mental health disorder.<sup>42</sup> Research from the 1990s suggested that youth processed in adult courts “go on to become more criminal” than youth processed in juvenile court and that “in addition to simply shielding youths from the negative influence of older more hardened criminals, there is widespread belief that adult system processing is simply not

appropriate for youths based on their mental maturity and cognitive abilities.”<sup>46</sup> A large body of neuroscience literature has demonstrated that the human brain continues to develop well into an individual’s 20’s and that “adult-quality” decision-making ability, self-regulation, and impulse control continues to develop into adulthood.<sup>44,57</sup> Researchers discuss what is known as the “maturity gap” in emerging adults aged 18 through 24 years where cognitive functioning develops faster than psychosocial capacities and because of this, emerging adults are more likely to engage in risk-seeking behavior, have difficulty moderating their responses to emotionally charged situations, have poor risk assessment skills, be more impulsive and emotional, and think about short-term rather than long-term consequences.<sup>41,57,65</sup> Key informants emphasized that these developmental qualities would apply to all juveniles and all types of crimes, including serious violent offenses (personal communication, September 2020). Additionally, psychosocial development is further disrupted by factors such as involvement in the criminal legal system, traumatic incidents, parental incarceration, poverty, foster care, substance abuse, mental health needs, and learning disabilities.<sup>44</sup> Allowing emerging adults to remain in juvenile court jurisdiction where they have access to developmentally appropriate treatment would likely improve mental health outcomes for these individuals.

Overall, since it is well-documented that involvement in the criminal legal system generally is linked to poor health outcomes, and since there is evidence that juvenile court may provide developmentally appropriate treatment for emerging adults, there is very strong evidence that decreased adult criminal legal system involvement for youth aged 18 and 19 years old would likely improve health outcomes.

### **Will decreased adult criminal legal system involvement for emerging adults aged 18 and 19 years decrease penalties and collateral consequences for those individuals charged with a crime?**

We have made the informed assumption that decreasing adult criminal justice involvement for emerging adults aged 18 and 19 years will decrease penalties and collateral consequences for those individuals charged with a crime. This assumption is based on current differences in maximum sentencing, alternative sentencing, legal financial obligations, and records between the adult criminal legal system and juvenile criminal legal system in Washington State and key informant interviews.

#### Maximum sentencing

The intent of the Washington State juvenile criminal legal system is to focus equally on accountability and rehabilitation of juveniles to prepare youth for adulthood.<sup>1</sup> The focus of the adult criminal legal system is on punishment and “holding criminals accountable by punishing them, usually through more severe punishments than juveniles.”<sup>1</sup> The juvenile criminal legal system considers age in determining capacity to commit a crime and sentencing for individuals charged of a crime based on the “fact children are less criminally culpable than adults. They lack maturity and have an underdeveloped sense of responsibility. They are deserved of less punishment than adults based on their distinct attributes.”<sup>1</sup>

[RCW 13.40.0357](#) provides standard sentencing ranges for juveniles charged of a crime based on the seriousness of the crime and a juvenile’s past criminal history.<sup>1,66</sup> Standard ranges are typically below levels in the adult criminal legal system. For example, “even when tried as adults

for the most heinous crimes, including aggravated murder, children under the age of 18 cannot be sentenced to death, nor to life without the possibility of parole.”<sup>1</sup> Juveniles charged of a crime may be sentenced to Local Sanctions, “which allows a court to keep the [juvenile] in the local community by imposing probation, community service, a fine, and local detention,” or to “commitment to a secure rehabilitation facility operated by [DCYF] Rehabilitation which is the functional equivalent of a secure prison for youth.”<sup>1</sup> Ranges for Local Sanctions include 0 to 12 months of Community Supervision (i.e., probation); 0 to 150 hours of Community Restitution (i.e., community service work); 0 to 30 days of detention in a local facility; and \$0.00 to \$500.00 fines.<sup>1</sup> The standard sentencing range for commitment to DCYF Rehabilitation is from 15 weeks to 260 weeks (5 years) for Drive-By Shooting and Robbery 1 at age 16 or 17 years.<sup>66</sup>

Therefore, extending juvenile court jurisdiction to include emerging adults using a phased approach would “allow judges to consider age as a mitigating factor in their sentencing decision, which encourages lesser sentences.”<sup>10</sup> Under SB 5122, emerging adults aged 18 and 19 years charged with a crime would likely receive lesser maximum sentences in juvenile court than if they were sentenced in adult court.

#### Alternative sentencing

In addition to lesser standard sentencing ranges, juveniles charged of a crime may also receive alternative sentencing, including suspended disposition, manifest injustice, deferred disposition, and diversion.<sup>1,66</sup>

Suspended and manifest injustice dispositions use different mechanisms but allow a judge to sentence a juvenile outside the standard sentencing range. Under a suspended disposition, a juvenile receives a lesser, community-based sentence with the “knowledge any failure to comply could result in the suspended sentence imposed.”<sup>1</sup> Judges may impose a suspended sentence only in certain circumstances, including when a juvenile is required to complete a research and evidenced-based chemical dependency or mental health treatment program.<sup>1</sup> Certain crimes are not eligible for suspended disposition, including serious violent offenses.<sup>66</sup> A manifest injustice disposition is one that, “if the standard sentencing guidelines yield a sentence that would be an injustice to the [juvenile] or risk the safety of the public, the judge can use [manifest injustice] to impose an alternative disposition” that results in either a shorter or longer sentencing range or in institutionalization to a residential detention facility.”<sup>22</sup> Research examining the use of manifest injustice dispositions in Washington State stated that the intent of judges in using manifest injustice is unclear; it is uncertain whether they use it for punishment (i.e., increased or intensified sentencing) or rehabilitation (i.e., decreased sentencing).<sup>22</sup>

Juvenile diversion is a “statutorily authorized method of handling a minor juvenile offense without prosecution in juvenile court.”<sup>1</sup> Diversion “is essentially a contract or agreement requiring a juvenile... fulfill certain community-based sanctions and conditions, usually in the form of community service work, counseling, and restitution. The diversion unit may also refer the juvenile to community-based programs, restorative justice programs, mediation, or victim offender reconciliation programs.”<sup>1</sup> Diverting a case is at the discretion of the prosecuting attorney, and can be used in any case except sex offenses or violent offenses (Assault 2 and Robbery 2 are still eligible for diversion).<sup>1</sup> Diversion is not considered to be a conviction or adjudication.<sup>1</sup> Key informants noted that certain common community-based sanctions may be

difficult to use under the provisions of SB 5122. For example, sanctions requiring youth to follow the rules of the house, attend school, or abide by curfew laws that are often used for youth aged 8 through 17 may not be relevant for emerging adults aged 18 and 19 years (personal communication, August 2020). However, other key informants noted that a portion of emerging adults are still in high school and/or living with parents/guardians (personal communication, September 2020). Lastly, data from Vermont show that 18 and 19 year olds commit similar offenses to younger juveniles, and that “80% of potential cases are low-level and should be considered for diversion from the system.”<sup>29</sup>

Overall, SB 5122 would allow emerging adults to be eligible for alternative sentencing and diversion programs that are not available in the adult criminal legal system.

### Legal financial obligations

Juvenile sentencing and diversion can also reduce the consequences associated with legal financial obligations (LFOs). In adult cases, courts have the authority to order the payment of LFOs which may include fines, fees, and costs associated with an individual’s conviction.<sup>25-27</sup> The Youth Equality and Reintegration Act of 2015 abolished most LFOs associated with juvenile offenses, including LFOs, fees, fines, or cost imposed at the city, town, or county level.<sup>28</sup> Juveniles offenses still generally require payment of the DNA Collection Fee (if not collected as the result of a previous offense), the Crime Victims Penalty Assessment (required when the offense is defined as a most serious offense [RCW 9.94A.030] or a sex offense [Chapter RCW 9A.44.128]), and Restitution to any persons who have suffered a loss or damage as a result of the offense committed by the juvenile.<sup>28</sup> Juvenile sentences may not include interest or fees for collecting LFOs.<sup>1</sup> Under Local Sanctions, fines may not exceed \$500.00.<sup>1</sup> In cases where a juvenile is required to pay restitution for a crime, “the diversion unit is allowed to convert the monetary amount to community service later...and, where the court later determines there is good cause, including a juvenile’s inability to pay, the restitution amount ordered may be reduced or even eliminated altogether.”<sup>1</sup>

Overall, since individuals tried in the juvenile court system are subject to fewer LFOs, fees, fines, and other costs than individuals tried in the adult court system, SB 5122 will likely decrease financial penalties for emerging adults charged with a crime.

### Records

Extending juvenile court jurisdiction to include emerging adults also provides the potential for records to be sealed or destroyed, “which reduces the long-term challenges associated with criminal justice involvement.”<sup>10</sup> Record sealing “means a file is removed from the record and all matters surrounding the sealed records must be treated as though the matter never occurred...destruction means the physical file and all records are destroyed permanently without ability to retrieve the material later.”<sup>1</sup> In Washington State, “the purpose of the sealing laws is to allow [juveniles] to overcome prejudice resulting from their crimes and to reintegrate them back into society.”<sup>1</sup>

[RCW 13.50.050](#) outlines the keeping, release, and destruction of records by the Washington State juvenile criminal legal system.<sup>52</sup> [RCW 13.50.050](#) stipulates that “all records other than the official juvenile court file are confidential and may be released only as provided in this

chapter.”<sup>52</sup> Further, “certain persons [have] the right to request their juvenile files be sealed or destroyed at some point provided they meet specified conditions in statute. In most cases, statute provides that most juvenile records may become eligible to be sealed and diversion records may become eligible for destruction.”<sup>1</sup>

The current law provides that most juvenile records are sealed automatically. If no other crimes are committed and certain conditions are met, most juvenile cases may become eligible to be sealed after 2 years; serious violent offenses may become eligible after 5 years; and sex offenses may become eligible after an individual is no longer required to register as a sex offender.<sup>1</sup> Diversions are eligible to be sealed with other records, and completed diversions automatically become eligible for destruction when an individual turns 18.<sup>1</sup>

Overall, since the juvenile criminal legal system allows for different maximum sentencing, alternative sentencing, legal financial obligations, and record sealing and destruction than the adult criminal legal system, SB 5122 would likely decrease penalties and other collateral consequences for emerging adults aged 18 and 19 years.

### **Will decreased penalties and collateral consequences for emerging adults aged 18 and 19 years charged with a crime increase access to employment opportunities, housing, and economic stability?**

There is very strong evidence that decreased penalties and collateral consequences of conviction would likely improve access to employment opportunities, housing, and economic stability for emerging adults aged 18 and 19 years.<sup>67</sup> Research has shown the long-term impacts of juvenile criminal legal system contact on youth include lower high school graduation rates, higher rates of unemployment, and higher rates of eviction and homelessness.<sup>49</sup> The U.S. Commission on Civil Rights 2019 Report “Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities,” which cites 955 sources, found “alleviating collateral consequences can help formerly incarcerated individuals [including emerging adults] lead more productive lives, secure gainful employment, find housing, and obtain the resources they need to become self-sufficient.”<sup>67</sup>

#### Access to employment opportunities

Criminal background checks often act as barriers to employment for people previously involved with the criminal legal system, including emerging adults. The Director of the Collateral Consequences Resource Center explained, “[m]any [collateral consequences] consist of nothing more than a direction to an official decision-maker to conduct a criminal background check, frequently understood as an unspoken warning that it is safest to reject anyone with a criminal record.”<sup>67</sup> For example, results of an audit study found that applicants with a criminal record are 50% less likely to receive a callback or job offer than applicants without criminal records.<sup>67</sup> Evidence also shows, “[t]he recidivism rate for people who are unemployed post-incarceration is nearly twice that of those who find employment.”<sup>67</sup>

Licensing requirements also act as barriers for people previously involved with the criminal legal system, including emerging adults. About 30% of U.S. workers need licenses.<sup>67</sup> Nationally, about 8,000 documented state licensing restrictions apply to people convicted of any felony conviction and over 4,000 apply to people convicted of any misdemeanor.<sup>67</sup> In addition, “at least

9,000 state licensing disqualifications apply for an indefinite period and could last a lifetime, and more than 4,000 are mandatory disqualifications, for which licensing agencies have no choice but to deny a license.”<sup>67</sup>

Because the juvenile criminal legal system allows for record sealing and destruction, extending juvenile court jurisdiction to include emerging adults aged 18 and 19 years would remove barriers to employment they would otherwise face with a permanent adult criminal legal record. However, if an individual is adjudicated of a new juvenile offense or convicted of a crime in the adult criminal legal system, the sealing order is nullified and the public may again access the juvenile court record.<sup>30</sup>

### Access to housing

Individuals with previous criminal legal system involvement, including juvenile adjudications, face barriers to securing both public and private housing. As such, “[a]pproximately two-thirds of formerly incarcerated individuals rely on family members for housing.”<sup>67</sup> However, housing restrictions can also limit the family support available to persons previously involved with the criminal legal system, including youth and emerging adults. There is a large body of evidence demonstrating the association between incarceration and homelessness as “prior incarceration has been identified as a risk factor for homelessness, and individuals experiencing homelessness are vulnerable to incarceration.”<sup>67</sup> Evidence also indicates that “individuals who cannot secure adequate housing post-incarceration are twice as likely to recidivate.”<sup>67</sup>

Federal law regulates admission and eviction from low-income housing programs funded through the U.S. Department of Housing and Urban Development (HUD).<sup>30</sup> While discretionary admission and eviction requirements vary by local Public Housing Authorities (PHAs), HUD requires landlords to deny housing for certain crimes, including those requiring registration under a state sex offender program.<sup>30,30,67</sup> Therefore, for families living in subsidized housing, the presence of a juvenile required to register as a sex offender would put all household members at risk for eviction.<sup>30,67</sup> One study found that nearly 80% of individuals who were formerly incarcerated reported ineligibility or denial of housing because of their or a family members’ conviction history.<sup>67</sup>

Because federal housing laws treat juvenile adjudications as convictions,<sup>30</sup> extending juvenile court jurisdiction to include emerging adults would not remove all barriers to public housing (personal communication, August to September 2020). However, as many evictions are discretionary, participation in rehabilitation efforts or treatment programs may be used to negotiate with housing authorities.<sup>30</sup> Because the juvenile criminal legal system focuses on accountability and rehabilitation, there are more programming options that may meet an emerging adult’s needs (personal communication, September 2020) which may aid in negotiations with housing providers.

The private market also poses additional challenges (e.g., expensive rents, background and credit checks, and stigma associated with criminal legal records) to individuals with previous criminal legal system involvement, including for emerging adults.<sup>67</sup>



Extending juvenile court jurisdiction to include emerging adults would allow for juvenile records to be sealed or destroyed, thereby removing barriers related to background checks that emerging adults would otherwise face when attempting to access public and private housing.

#### Access to economic stability

A number of studies have indicated that LFOs, and the interest on them, is one of the biggest barriers to successful re-entry into communities following conviction and perpetuate a cycle of poverty.<sup>24,25,31-33,68</sup> In 2018, the Washington State Legislature passed Engrossed Second Substitute House Bill 1783 (Chapter 269, Laws of 2018), which eliminated the 12% interest accrual on the non-restitution portions of LFOs, and provided that a court may not impose costs on an adult defendant who is indigent at the time of sentencing, among other provisions. While these changes have generally reduced the burden of LFOs for individuals convicted as adults, the costs associated with adult convictions are generally greater than those faced by individuals tried in the juvenile criminal legal system.<sup>1,25-28</sup>

Key informants shared that economic barriers associated with adult criminal legal system involvement pose significant challenges for emerging adults who are beginning or in the process of reaching key markers for independence (e.g., employment, stable housing) (personal communication, August to September 2020). Reducing financial penalties for emerging adults aged 18 and 19 years charged of a crime has the potential to improve their ability to pay rent, buy food and medicine, and financially support themselves and their families.<sup>24,34</sup>

The U.S. Commission on Civil Rights concluded, “evidence shows harsh collateral consequences unrelated to public safety increase recidivism [...] by limiting or by completely barring formerly incarcerated persons’ access to personal and family support.”<sup>67</sup> Overall, there is very strong evidence that decreasing penalties and collateral consequences will likely improve access to employment opportunities, housing, and economic stability for emerging adults aged 18 and 19 years charged of a crime.

#### **Will improved access to employment opportunities, housing, and economic stability for emerging adults aged 18 and 19 years result in improved health outcomes?**

There is very strong evidence that improved access to employment opportunities,<sup>35,38,39,69</sup> housing,<sup>36,37,70</sup> and economic stability will likely result in improved health outcomes, including for emerging adults. For example, results from an analysis of longitudinal studies demonstrated a relationship between losing a job and negative changes in mental health including indicators such as depression, anxiety, distress, and general well-being.<sup>39</sup> Data also suggested that returning to employment after a period of being unemployed is associated with an improvement in mental health indicators.<sup>39</sup> Specific to housing instability, evidence from a peer-reviewed literature review shows that “individuals under threat of eviction present negative health outcomes, both mental (e.g., depression, anxiety, psychological distress, and suicides) and physical (poor self-reported health, high blood pressure and child maltreatment).”<sup>36</sup> Since these connections are widely accepted, less time was dedicated to researching these relationships.

Overall, improved access to employment opportunities, housing, and economic stability will likely result in improved health outcomes for emerging adults aged 18 and 19 years.

### **Pathway 3: Recidivism**

#### **Will changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach decrease juvenile recidivism?**

There is very strong evidence that changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach will decrease recidivism for youth and emerging adults. Data from DCYF showed that, in 2016, about 50% of juveniles were identified as low risk to recidivate.<sup>6</sup> In a 2020 report, the Washington State Center for Court Research provided a summary of juvenile recidivism for a 2014 court cohort and a 2015 Juvenile Rehabilitation cohort.<sup>40</sup> Overall, they found that 30.3% of juveniles in the court cohort recidivated and 49.6% of juveniles in the Juvenile Rehabilitation cohort recidivated, which was consistent with previous state data.<sup>40</sup> Recidivism rates were higher for “groups with more severe case dispositions and sanctions” such that youth released from Juvenile Rehabilitation recidivated at a rate of 49.6%, youth with adjudicated court cases at 44%, and youth with diverted cases at 21.7%.<sup>40</sup>

Notably, Washington State Center for Court Research found that recidivism rates varied by age, and “analysis of age at first disposition showed, generally, that the younger a person was at their first disposition, the more likely they were to recidivate.”<sup>40</sup> Recidivism rates decreased from 57.7% for youth with age of first disposition of 11 years to 26.5% for youth with age of first disposition of 17 years.<sup>40</sup> They summarized that, “recidivism rates peak early (age 11 or 12 [years]) and are at half or less the peak rate for those whose first offense occurred at age 17 [years].”<sup>40</sup> While the recidivism rates for those released from Juvenile Rehabilitation do not decrease as dramatically by age, the rates “do substantially fall from peak rates for those that commit their first offense later in life.”<sup>40</sup> Therefore, since SB 5122 has the potential to delay age at first disposition by raising the minimum age of juvenile court jurisdiction from 8 to 13 years of age, the bill may reduce juvenile recidivism.

Evidence also indicates that juveniles transferred to the adult system have recidivism rates that are higher than juveniles who are retained in the juvenile criminal legal system.<sup>41-44,71</sup> While some research has found mixed results,<sup>45</sup> generally evidence has shown that youth retained in juvenile court had lower rates of recidivism than youth transferred to adult court, and that youth transferred to adult court recidivated earlier, more frequently, and for more severe crimes.<sup>46</sup> For example, a natural experiment evaluating recidivism prior to and after Connecticut raised the age of juvenile jurisdiction from 15 to 16 years old found that “16 year-olds processed in juvenile courts [after the law change] had substantially reduced rates of recidivism” compared to 16 year olds processed in adult courts before the law change.<sup>46</sup> Overall, about 42% of 16 year olds processed as adults recidivated compared to 26% of 16 year olds processed as juveniles.<sup>46</sup> Another study found that 76% of emerging adults under the age of 25 years released from adult prisons were rearrested within 3 years and 84% were rearrested within 5 years.<sup>42</sup> The literature indicates that these higher rates may be a result of a number of factors including: less effective rehabilitation efforts for juveniles incarcerated in adult prisons; “stigmatization; humiliation; loss of self-respect; attenuation of guilt or shame; hardening of the delinquent self-concept; weakening of ties to families, prosocial peers, and community; and diminishment of job and educational prospects;” and youth attributing greater injustice to the court system.<sup>71</sup> In addition, research on juvenile delinquency found that “justice system involvement may increase

delinquency through the stigmatization process that decreases positive social bonds and increases association with deviant others.”<sup>46</sup> There is also strong evidence that juveniles who are placed in adult correctional facilities have higher rates of recidivism than juveniles placed in juvenile facilities.<sup>41-44,47,48,71</sup>

Overall, changing the procedural jurisdiction of juvenile court to 13 through 19 years of age using a phased approach will likely decrease recidivism for youth across the life course.

### **Will decreased juvenile recidivism improve health outcomes?**

There is very strong evidence indicating that involvement in the criminal legal system is linked to poor health outcomes,<sup>13-19</sup> including for youth and emerging adults;<sup>20-23</sup> therefore, decreasing recidivism and further involvement for juveniles has the potential to improve health outcomes for these youth and emerging adults. Pathway 1 and 2 provide more detailed discussion about how decreasing involvement in the criminal legal system for youth and young adults will improve health outcomes.

### **Will improving health outcomes for youth aged 8 through 12 years and emerging adults aged 18 and 19 years decrease health inequities?**

The potential impact of SB 5122 on health inequities is unclear. Inequities in the juvenile criminal legal system exist by foster care status,<sup>72</sup> gender identity,<sup>73</sup> geography,<sup>6,22,55</sup> housing status,<sup>74</sup> indigeneity,<sup>53</sup> race/ethnicity,<sup>6,22,49,50,54,55</sup> sexual orientation,<sup>73</sup> and socioeconomic status.<sup>21,49</sup> It is well-documented that these youth experience worse health outcomes.<sup>12,21,75-77</sup> However, because of the intersectionality of overlapping identities, current inequities due to racism in the juvenile criminal legal system and adult criminal legal system, and continued opportunities for involvement with the criminal legal systems for youth aged 8 through 12 years and emerging adults aged 18 and 19 years, it is unclear how changing the age of statutory juvenile jurisdiction may impact equity for youth and emerging adults.

Many inequities in the juvenile criminal legal system are inter-related and exacerbated by the intersectionality with race/ethnicity.<sup>50</sup> Researchers have noted that, “the intricacies of racial disparities in the [juvenile criminal legal system] are difficult to study because of the close relationship between crime and many of the social factors affecting communities in which [youth of color] are likely to be raised.”<sup>49</sup> Youth of color are more likely to experience higher financial poverty rates and lower socioeconomic status, to attend schools with zero-tolerance policies and law enforcement presence on campus, and to experience parental incarceration due to disparities in the larger criminal legal system.<sup>49,50</sup> Similarly, a report by the Office of Juvenile Justice and Delinquency Prevention concluded that, “exacerbating the difficulty of addressing [disproportionality in the criminal legal system] is the fact that [racial/ethnic] disparities exist well before contact with the juvenile [criminal legal] system has occurred—in child welfare, the foster care system, school readiness, school performance, and school suspensions and expulsions.”<sup>50</sup> Students who experience suspension or expulsion due to zero-tolerance or similar policies are “at higher risk for several negative outcomes, including academic failure, grade retention, negative school attitude, and, consequently, high school dropout, juvenile delinquency, and incarceration.”<sup>39</sup> The evidence that Black and African American students are disproportionately suspended and expelled compared to students of any other race or ethnicity is well documented.<sup>78-89</sup> Washington State Board of Education’s 2016 Biennial Report found that

Black students were twice as likely to be subject to exclusionary discipline in school when compared to all students in Washington State.<sup>81</sup>

In addition, rates of juvenile arrest and use of diversion and detention varied widely by court jurisdiction and “the large majority of [youth involved in the criminal legal system] are managed by local courts (94%) and there are large differences in court process, diversion options, and program availability across sites.”<sup>6</sup> Inequities by geography are exacerbated by the intersectionality with race/ethnicity: “Given the realities of residential patterns by race, [differences in arrest rates by race for the same behaviors] may be reflected in higher arrest rates of [youth of color] than white youth for some offenses. As a result, juveniles behaving in the same way—for example, hanging out late at night—will be treated differently based on where they live, not on how they behave.”<sup>55</sup> Research has shown that law enforcement practices may vary by jurisdiction.<sup>50</sup> Law enforcement “who interact with youth have little understanding of adolescent development and little training in appropriate strategies for interacting with youth,”<sup>57</sup> and “police tend to patrol urban [neighborhoods of color] more aggressively than suburban areas where few [youth of color] reside.”<sup>50</sup>

The interplay of race and geography may also impact sentencing. Washington State Juvenile Code includes a “manifest injustice provision,” which allows judges to sentence youth outside standard sentencing guidelines.<sup>22</sup> The provision states that, “if the standard sentencing guidelines yield a sentence that would be an injustice to the offender or risk the safety of the public, the judge can use [manifest injustice] to impose an alternative disposition” that results in either a shorter or longer sentencing range or in institutionalization to a residential detention facility.<sup>22</sup> A study of the use of “manifest injustice” in Washington State found that African American and multiracial youth were less likely to have manifest injustice used to increase their sentences than white youth (i.e., white youth were more likely to have their sentences increased or intensified than Black youth).<sup>22</sup> However, the authors hypothesized that this is likely due to the fact that “African American youth reside in urban and liberal parts of the state where judges may be more progressive and less likely to use [manifest injustice] to intensify sentences. More diversion programs targeting [youth of color] exist in urban areas of Washington, and more African American youth are transferred to adult court; both reduce the likelihood of [youth of color] receiving [manifest injustice]. Judges in rural areas of the state, which have fewer treatment resources, may be using [manifest injustice] to access services only available to court-involved youth.”<sup>22</sup> Key informants confirmed that existing evidence-based programs are not accessible in all areas of the state, and that areas of the state with limited community resources may be more likely to refer youth to court (personal communication, September 2020).

A 2017 report by DCYF stated, “it is becoming increasingly clear that juvenile courts will not be able to reduce disparities through court policies alone.”<sup>6</sup> Key informants in Washington State emphasized that communities need resources to improve inequities perpetuated throughout all stages of the juvenile criminal legal system, and that existing evidence-based programs are not. The Office of Juvenile Justice and Delinquency Prevention found that communities have differential access to prevention and treatment resources.<sup>50</sup> The report states that unequal access to community-based resources “creates a disadvantage for [youth of color]. For example, effective programs may be geographically inaccessible to [youth of color] in a jurisdiction, or existing programs may be designed for white, suburban youth. Thus, retention and outcomes for

[urban youth of color] are poor.”<sup>50</sup> The report also states that overcoming these inequities requires efforts that promote direct services (e.g., early intervention services, diversion programs), training and technical assistance for juvenile system personnel and law enforcement (e.g., implicit bias training), and systems change (e.g., altering laws and policies that treat individuals differently based on their race/ethnicity).<sup>50,57</sup> Key informants also emphasized the importance of programs that involve families and communities of youth involved in the juvenile system to improve re-entry outcomes and reduce recidivism (personal communication, September 2020).

Overall, “youth of color are overrepresented at many stages of the juvenile [criminal legal] system as compared with their presence in the general population.”<sup>55</sup> For example, nationally, African American youth comprise 14% of the general population, but account for 40% of youth placed in secure detention.<sup>55</sup> In Washington State, Black youth and American Indian/Alaska Native youth are disproportionately represented in the juvenile criminal legal population as compared to the state population. While 12% of youth referred to the juvenile criminal legal system were Black (unpublished data, AOC, 2020), these individuals constitute only 5% of the Washington State population under 20 years of age.<sup>90</sup>

It is also well-documented that individuals of color, particularly those who are Black and African American, experience disproportionate contact with the juvenile criminal legal system and adult criminal legal system across all age groups and at all stages of involvement.<sup>22,49,50,55</sup> “Disproportionate minority contact” is a measure required by the federal Juvenile Justice and Delinquency Prevention Act of 1974 and is defined as “rates of contact with the juvenile [criminal legal] system among juveniles of a specific minority group that are significantly different from rates of contact for white non-Hispanic juveniles.”<sup>50</sup> The U.S. Justice Department has stated that juvenile disproportionate minority contact “is evident at nearly all contact points on the juvenile [criminal legal] system continuum”<sup>55</sup> including at arrest, referral, diversion, detention, filings, findings, probation, confinement, and transfer to adult court.<sup>6,49-51</sup> Nationally, Black youth are more likely to be arrested, referred to juvenile court, processed, sent to secure confinement, and transferred to adult facilities than white youth.<sup>55</sup> In addition, “national data indicate emerging adults have the most racially disparate [criminal legal] system outcomes of any age group.”<sup>29</sup> One study found that in 2012, the rate of incarceration in either a state or federal prison among individuals aged 18 to 24 years was nine times greater for Black males than for white males.<sup>44</sup>

Consistent with these national findings, the Washington State juvenile criminal legal system has documented disproportionate minority contact for all non-white racial/ethnic groups, with Black and African American youth experiencing the greatest disproportionately.<sup>22,54</sup> For example, Black youth were three times as likely as white youth to be referred to juvenile court.<sup>6</sup> Black youth were seven times more likely to be in Juvenile Rehabilitation Administration custody than white youth.<sup>22</sup> Black youth were also less likely to receive a diversion or deferred disposition and less likely to receive an evidence-based program.<sup>6</sup> Lastly, Black youth were significantly more likely to be tried as adults compared to white youth.<sup>6,51-53</sup>

Some evidence suggests that inequities due to racism persist even after changes in these systems. While juvenile arrests, referrals to court services, and detention use declined by 55% in

Washington State from 2007 to 2015, these declines did not happen proportionally.<sup>6</sup> Rather, contact for youth of color increased over the same time period, with data showing that disparities in juvenile court referrals doubled in six years.<sup>6</sup> In a 2012 report, the Research Working Group, Task Force on Race and the Criminal Justice System, convened to address racial inequities in Washington’s criminal legal system concluded that, “Washington State criminal justice practices and institutions find that race and ethnicity influence criminal justice outcomes over and above [crime] commission rates.”<sup>54</sup> The Task Force found “that racial and ethnic bias distorts decision-making at various stages in the criminal [legal] system, contributing to disparities.”<sup>54</sup>

The finding that implicit racial bias impacts all steps of the juvenile criminal legal system<sup>57</sup> has potential ramifications for the implementation of SB 5122. While the bill will likely reduce criminal legal system involvement for youth, the provisions of SB 5122 will not eliminate all potential for involvement. For example, youth aged 8 through 12 years alleged of Murder 1 or Murder 2 could still be involved in the juvenile criminal legal system or declined to adult court, and emerging adults aged 18 and 19 years could still be involved in the adult criminal legal system for certain crimes. Evidence suggests that youth of color and other marginalized youth may continue to be disproportionately involved in these stipulations. For example, evidence from Washington State shows that Black youth were significantly more likely to be tried as adults compared to white youth.<sup>6,51-53</sup>

Research on the adultification of Black and African American youth has found that youth are more likely to be viewed as violent and as older than they are by law enforcement, legal representation, and judges.<sup>57</sup> For example, a study that “showed police officers a series of photographs of young white, [B]lack, and Latino males, advised them that the children in the photographs were accused of either a misdemeanor or a felony, and asked them to estimate the age of each child. While the officers overestimated the age of adolescent [B]lack felony suspects by five years, they underestimated the age of adolescent white felony suspects by one year. Moreover, the older an officer thought a child was, the more culpable the officer perceived the child to be of the suspected crime.”<sup>57</sup> Findings from similar studies showed that Black youth are “more likely to be treated as adults much earlier than other youth and less likely than white youth to receive the benefits and special considerations of adolescence.”<sup>57</sup> Therefore, youth of color, particularly Black youth, may continue to be disproportionately involved in the juvenile and adult criminal legal systems even as overall youth involvement may decrease.

Lastly, communities of color experience worse health outcomes than their white counterparts for many health measures. Poor health outcomes are not inherent to an individual’s race/ethnicity, rather they are influenced by determinants of health like racism, which “contributes to social inequities (e.g., poverty) that shape health behaviors, access to healthcare, and interactions with medical professionals.”<sup>77</sup> Institutionalized racism results in differential access to resources, services, and opportunities, including access to healthcare, by race.<sup>91</sup> In Washington State, data indicate that American Indian/Alaska Natives and Black individuals had some of the highest age-adjusted death rates and shortest life expectancies at birth compared to other groups in the state.<sup>92</sup> Further, communities of color also have higher rates of current tobacco use, diabetes, obesity, and poorer self-reported overall health and mental health.<sup>92-100</sup> Similar patterns are seen among youth as data also demonstrates that youth of color have worse health outcomes for many health measures compared to white youth.<sup>12,75,76</sup>

Therefore, because of the intersectionality of overlapping identities, current inequities due to racism in the juvenile criminal legal system and adult criminal legal system, and continued opportunities for involvement with the criminal legal systems for youth aged 8 through 12 years and emerging adults aged 18 and 19 years (during the transition and after full implementation), it is unclear how changing the age of statutory juvenile jurisdiction may impact equity for youth and emerging adults.

## Annotated References

1. **Dowell T. The Juvenile Offender System in Washington State, 2020 Edition. 2020.** Todd Dowell, Deputy Prosecuting Attorney, Kitsap County is a foremost expert in Washington State juvenile law. The intent of this resource is to provide an overview and explanation of the juvenile justice system in Washington State, and to serve as a resource and teaching tool for prosecutors, defenders, judges, students and others. This resource details the history of the Washington State juvenile justice system, describes how a juvenile may be brought to court, explains juvenile jurisdiction, defines a "juvenile," describes juvenile capacity and competency, outlines juvenile court arraignment, and describes adjudication, disposition, and post-disposition.

2. **Knott L. , Drake E. , Wanner P. , et al. Washington State's Juvenile Justice System: Evolution of Policies, Populations, and Practical Research. Olympia: Washington State Institute for Public Policy; 2020.**

This report from the Washington State Institute for Public Policy reviews the last 20 years of investments and change in Washington State's juvenile justice system. It provides "an overview of major legislative changes to the juvenile justice system and a review of juvenile justice-involved practices and populations over time." Authors also discussed WSIPP's role in juvenile justice research; the challenges researchers and policymakers face; and potential pathways forward for juvenile justice research and reform. The report defines justice-involved youth as "youth processed through any stage of the juvenile justice system" including youth who are arrested, diverted, charged, adjudicated, on probation or formal supervision, and confined. In 1977, Washington became the first state to adopt sentencing guidelines for juveniles. The state employs a presumptive sentencing structure, which presumes that judges will sentence youth within the established range. Data show 95% of all sentences in Fiscal Year 2018 fell within the standard range. Previously, the decision to intervene with youth was at the discretion of the probation staff and the juvenile courts. In 1997, the Legislature passed the Community Juvenile Accountability Act (CJAA) with bipartisan support. The legislation created alternate dispositions that offered judges with additional sentencing options for youth in need of treatment (e.g., substance abuse, mental health, or sexual offending). Additionally, it "required that state-funded programs implemented by the local courts must be "cost-effective" while also reducing recidivism." Washington became the first state to mandate the creation of an evidence-based juvenile justice system. WSIPP is charged with evaluating the costs and benefits of programs under the CJAA. In 2018 and 2019, the Legislature further has continued to reform the juvenile justice system and to prioritize rehabilitative services for justice-involved youth. In regards to how the populations of justice-involved youth have changed, WSIPP reports, "Data and methodological differences in reports published by different agencies over time make it impossible to establish a comprehensive understanding of how populations have changed over time." Additionally, there is a lack of data related to: the use of diversion dispositions; the percentage of youth eligible for an EBP who are placed in an EBP; the use of different dispositions by demographics over time; and changes in profiles of risk and needs in the court-involved youth population. Due to incomplete data, WSIPP found that available reports "do not allow for a holistic understanding of how the system has changed over time." Finally, authors state that WSIPP studies, "both outcome evaluations and systematic reviews, have shown that some programs are effective at reducing recidivism, while others are not." Moreover, they



underscore the need to consider for whom programs work. While researchers have systematically reviewed 58 juvenile justice interventions and conducted outcome evaluations on several of the programs offered, many programs offered in Washington's juvenile justice system have not been evaluated. Therefore, authors recommend further studies evaluating outcomes as well as comprehensive systems.

**3. House of Representatives Office of Program Research. House Bill Analysis, Substitute Senate Bill 5735, An act relating to the appropriate age for juvenile court adjudication. 2019.**

This House Bill Analysis provides background and bill overview information for Substitute Senate Bill 5735 (SSB 5735) (original sponsor, Senator Darneille) (2019-2020 Legislative Session). SSB 5735, Concerning the appropriate age for juvenile court adjudication would raise the age of capacity to commit a crime from age 8 to age 12 and older for crimes that are not serious violent offenses (i.e. murder 1 or 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, or an attempt or conspiracy to commit one of these offenses). The analysis states that, in Washington State, the juvenile court system has jurisdiction over youth under the age of 18 who are alleged to have committed a crime. There are exceptions to jurisdiction where state law requires youth to be tried in adult courts. Adult criminal courts have jurisdiction over youth aged 16 or 17 for serious violent offenses. The bill analysis also provides an overview of sentencing guidelines for juvenile court dispositions.

**4. Services Senate Committee. Senate Bill Report, Substitute Senate Bill 5735, An act relating to the appropriate age for juvenile court adjudication. Washington State Legislature; 2019.**

This Senate Bill Report provides background and bill overview information for Substitute Senate Bill 5735 (SSB 5735) (original sponsor, Senator Darneille) (2019-2020 Legislative Session). SSB 5735, An act relating to the appropriate age for juvenile court adjudication would immunize children aged 8 to 11 from prosecution for a crime that is not a serious violent offense (i.e. murder 1 or 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, or an attempt or conspiracy to commit one of these offenses). The report explains that, in Washington State, children under 8 years of age are legally incapable of committing a crime and may not be prosecuted in either juvenile or adult court. Children ages 8 to 11 years old are presumed incapable of committing a crime unless a prosecutor can present proof and evidence that the youth has sufficient capacity to understand that the act or neglect was wrong. Data from the Washington State Administrative Office of the Courts, Washington State Center for Court Research found an average of 9,334 annual law enforcement referrals for youth ages 8 to 17 from 2013 to 2018. Of law enforcement referrals, 37.7% of referrals are for youth aged 8 to 14 and 62.3% are for youth aged 15 to 17. Referrals for youth aged 8 to 11 make up 3.4% (314 average referrals) of law enforcement referrals. Over the same time period, an average of 7,648 annual prosecutor filings or diversions are made for youth aged 8 to 17. Of these referrals, 36.4 percent of prosecutor referrals or diversions are for youth aged 8 to 14 and 63.6% are for youth aged 15 to 17. Referrals for youth aged 8 to 11 make up 1.9% (143 average referrals) of prosecutor filings or diversions. The Senate Bill Report also provided summary of pro and con public testimony on SB 5735.

**5. Legislature Washington State. RCW 9.94A.030: Definitions. 2020.**

RCW 9.94A.030 defines serious violent offenses to include murder in the first degree; homicide by abuse; murder in the second degree; manslaughter in the first degree; assault in the first degree; kidnapping in the first degree; rape in the first degree; assault of a child in the first degree; an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or any federal or out-of-state conviction for an offense that would meet these classifications.

**6. Services Washington State Department of Social and Health, Justice Washington State Partnership Council on Juvenile. Washington State Partnership on Juvenile Justice 2017 Annual Report to the Governor and State Legislature. 2017.**

The Washington State Partnership Council on Juvenile Justice, the Office of Juvenile Justice (Department of Children, Youth, and Families), and the Center for the Study and Advancement of Justice Effectiveness provided an annual report to the Governor and Legislature. In this 2017 Annual Report, they highlighted major accomplishments, summarized key findings of the juvenile justice system, and provided recommendations. The report found that, from 2007 to 2015, juvenile arrests, referrals to court services, and detention use declined by 55% in Washington State, and the juvenile arrest rate in Washington State (23 per 1000 youth aged 12 to 17) was lower than the national average (28 per 1000 youth aged 12 to 17). However, these declines did not happen proportionally and contact for youth of color increased over the same time period, with data showing that disparities have doubled in the last six years. Black youth were 3 times as likely and American Indian/Alaskan Native youth were 4 times as likely to be referred to juvenile court as white youth. These disparities were greatest at arrest and referral. The report notes, "while disparities in [juvenile justice system] contact are the highest at the point of referral, they also persist at each decision point of system involvement." For example, Black youth are 40% less likely to receive a diversion or deferred disposition as white youth; Black youth are less likely to receive an evidence-based practice program; and Black and African American youth are significantly more likely to be tried as adults compared to white youth. In addition, rates of juvenile arrest and use of diversion and detention varied widely by court jurisdiction and "the large majority of [youth involved in the criminal justice system] are managed by local courts (94%) and there are large differences in court process, diversion options, and program availability across sites." The report notes, "a fundamental attribute of the juvenile justice system in Washington State is the division of responsibility between the county-run system of juvenile courts and the state-run system intended to serve higher risk youth who have been found responsible for more serious offending behavior. There are 35 independent, locally funded and locally administered juvenile courts serving Washington's 39 counties." The report notes that, in 2016, there were 19,234 misdemeanor and felony referrals to juvenile courts and 12,131 juvenile court dispositions involving 10,553 youth. Of these youth, 647 (6%) were admitted to Juvenile Rehabilitation. Once youth are cited or arrested by police, they may be referred to the county prosecutor and may then be referred to diversion, be assigned to a capacity or competency hearing, have their case filed in adult court, or be dismissed. The rate of juvenile violent index offenses (i.e. murder, non-negligent homicide, rape, robbery, aggravated assault) was approximately 1.5 per 1000 in 2015. In 2016, approximately 70% of juvenile court referrals were for males and 30% for females. By race/ethnicity, 51% of juvenile court referrals were for white youth, 24.8% for Hispanic youth, 14.8% for Black youth, 4% for American Indian/Alaskan Native youth, 3.4% for Asian/Pacific Islander youth, and 1.8% for youth whose race/ethnicity is other or unknown.

7. **JR to 25 Youth Transfer Update. 2020; Available at: <https://dcyf.wa.gov/news/jr-25-youth-transfer-update>. Accessed.**

This Department of Children, Youth, and Families webpage provides information about juvenile rehabilitation to age 25.

8. **Minimum Age for Delinquency Adjudication--Multi-Jurisdiction Survey. 2020; Available at: <https://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/>. Accessed.**

The National Juvenile Defender Center found that the majority of states do not specify a minimum age of juvenile court jurisdiction. Of states that do set a minimum age, two states set a minimum age of 12; one state set a minimum age of 11; 14 states set a minimum age of 10; 1 state (Washington) set a minimum age of 8; two states set a minimum age of 7; and one state set a minimum age of 6.

9. **Juvenile Age of Jurisdiction and Transfer to Adult Court Laws. 2020; Available at: <https://www.ncsl.org/research/civil-and-criminal-justice/juvenile-justice-reports-publications-and-meetings.aspx>. Accessed 6/9/2020.**

The National Conference of State Legislatures provides summary information about juvenile age of jurisdiction laws for each state. In 2020, the majority of states (45 states) had a maximum age of jurisdiction for juvenile court at 17 years of age. Five states had a maximum age of jurisdiction at 16 years of age.

10. **Emerging Adult Justice Project. 2020; Available at: <https://www.eajustice.org/recent-reforms>. Accessed 6/9/2020.**

The Columbia University Justice Lab, Emerging Adult Justice Project is a clearinghouse of research, news, and information related to raising the age of juvenile jurisdiction.

11. **Vastine K. Report to the Vermont Legislature: Report on the Expansion of Juvenile Jurisdiction. Vermont Agency of Human Services, Department for Children and Families; 2018.**

In 2018, the Vermont Legislature passed Act 201, which expanded the state's juvenile justice jurisdiction to include 18 and 19 year olds. Raising the age of juvenile jurisdiction will go into effect for 18 year olds in 2020 and 19 year olds in 2022. The phased in approach accounts for an anticipated increase in volume in the system and necessary changes related to structure, programs, and resource allocation.

12. **Matthews S. , Schiraldi V. , Chester L. Youth Justice in Europe: Experience of Germany, the Netherlands, and Croatia in Providing Developmentally Appropriate Responses to Emerging Adults in the Criminal Justice System. *Justice Evaluation Journal*. 2018;1(1).**

Multiple U.S. states are considering extending juvenile courts' jurisdiction beyond age 18 years. This article explores three European examples of nations (i.e., Germany, the Netherlands, and Croatia) which allow youth over age 18 years "to be sanctioned in the same manner as younger youth in the juvenile justice system." In contrast to the United States, European countries generally have a history and practice of providing more developmentally appropriate responses to emerging adults involved in the justice system. Twenty-eight of 35 European countries have

special legal provisions for youth over age 18 years. Common policies include: "(1) greater reliance on informal approaches to offending by juveniles and emerging adults; (2) higher minimum ages at which juvenile laws can be applied to children; (3) greater reliance on "educational" – or rehabilitative – approaches to youth found involved in delinquent or criminal behavior; (4) greater confidentiality protections for youth and young adults; and (5) less reliance on incarceration, either in adult or juvenile facilities, as a sanction for criminal behavior." For example, Germany's youth justice system prioritizes diversion and nonpunitive and rehabilitative responses, referred to in Europe as "educational measures." Under Germany's strict model, juveniles under 18 years of age cannot be prosecuted in the adult criminal court or receive adult criminal sanctions, even in the case of very serious offenses. Reforms in 1953 allowed sanctions in Youth Court Law to apply to 18-, 19-, and 20-year old young adults in place of the general criminal law. Germany's specialized youth court has jurisdiction over juveniles between the ages of 14 and 21 years. "Young adults from 18 up to (but not including) 21 can receive a sentence according to juvenile law or a (mitigated) sentence according to adult criminal law." The judge is required to apply a juvenile sanction to young adults up to age 21 if 1) "the moral psychological, and social maturity of the offender is that of a juvenile" or 2) "the type, circumstances, or motives of the offense were typical of juvenile misconduct." In 2012, two-thirds of young adults were sentenced as juveniles across Germany. Generally, more serious cases are retained by the juvenile jurisdiction, and minor offenses that require less justice-involvement (e.g., traffic infractions) are handled by the adult courts. For example, in 2012, "over 90% of young adults were sentenced under the juvenile law for homicide, rape, and other serious bodily injury crimes, reflecting the confidence in the ability of the juvenile system to appropriately hand the most serious offenses." More than one-third of juvenile and young adult cases are disposed of using restorative sanctions (e.g., victim-offender-reconciliation or community service). The German youth court system uses imprisonment as a last resort—"approximately 70% of the juvenile and system-involved youth adults are diverted, with youth imprisonment used only rarely (2% of all cases involving juveniles and young adults)." Youth imprisonment requires "one of two preconditions be met: either the 'dangerous tendencies' of the youth exclude community sanctions as appropriate or there is 'gravity of guilt' concerning particularly serious crimes such as murder or aggravated robbery." For those who are incarcerated, the sentence is served in a juvenile facility for every young adult up to age 24 years of age who receives a juvenile sentence. Conditions of confinement are focused on building a youth's sense of self respect, providing educational opportunities, and developing the youth's ability to overcome difficulties which contributed to the criminal offense. Therefore, youth prisons offer extensive vocational programs (e.g., professional wood-working, culinary instruction, farming), "with no use of solitary confinement or strip searching." Authors recommend U.S. states learn from European approaches that recognize sanctioning youth and emerging adults like fully mature adults can have life-long consequences that harm the youth, communities, and public safety.

13. **London A, Myers N. Race, incarceration, and health. *Research on Aging*. 2006;28(3):409-422.**

London and Myers conducted a review of the literature around health and other outcomes for incarcerated individuals. They highlighted research that indicates that black Americans have worse health outcomes than other racial/ethnic groups, and also are disproportionately represented in the justice system. The authors also outlined data indicating the high rates of injury in jails and prison as well as the high rates of communicable disease among incarcerated

and formerly incarcerated individuals. In addition, they highlight research that indicates that incarceration is associated with lower educational attainment, lower income, higher rates of unemployment, and higher involvement in jobs with high risk of injury or exposure to hazardous working conditions. Evidence also indicates that incarceration is associated with divorce and separation of families.

14. **Turney K, Wildeman C, Schnittker J. As fathers and felons: Explaining the effects of current and recent incarceration on major depression *Journal of Health and Social Behavior*. 2012;53(4):465-481.**

Turney et al. analyzed data from the longitudinal Fragile Families and Child Wellbeing study. The researchers found that currently and recently incarcerated fathers are more likely to report a change in employment status, separation from a child's mother, a change in relationship quality, and depression. The association between incarceration and depression remained significant even after controlling for variables such as demographic characteristics and history of depression.

15. **Wu E, El-Bassel N, Gilbert L. Prior incarceration and barriers to receipt of services among entrants to alternative incarceration programs: A gender-based disparity. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*. 2012;89(2):384-395.**

Wu et al. collected data from a random sample of adults (N=322; 83 women and 239 men) entering alternative to incarceration programs in New York City. Researchers collected data through structured interviews including information on sociodemographics, substance use, prior incarcerations, and barriers that had prevented a participant from visiting or returning to a service provider. Less than half of the participants had earned a high school diploma or GED. When analyzing collapsed data for male and female participants, they found that a greater number of prior incarcerations were significantly associated with a greater number of barriers that prevented accessing a service provider. When they analyzed the data disaggregated by sex and controlling for sociodemographic and substance use indicators, researchers found that the relationship between a greater number of prior incarcerations and greater number of service barriers experienced remained significant only for men.

16. **Esposito Michael, Lee Hedwig, Hicken Margart, et al. The Consequences of Contact with the Criminal Justice System for Health in the Transition to Adulthood. *Longit Life Course Stud*. 2017;8(1):57-74.**

Esposito et al. examine the association between incarceration and health in the United States during the transition to adulthood. They applied the Bayesian Additive Regression Trees (BART) to data from The National Longitudinal Study of Adolescent to Adult Health dataset (n=10,785) to model incarceration's effect on health controlling for confounding variables (93 variables, and 36 covariates categorized as: demographic characteristics, prior health status behaviors, engagement in risky behavior, social connectedness, disposition characteristics, parental characteristics, and contextual residential characteristics). Authors examined three health outcomes: 1) an indicator for cardiovascular health (i.e. hypertension or raised blood pressure), 2) a measure of general health status (i.e. excellent/very good self-reported status), and 3) a measure of mental health status (i.e. depression). The analysis of two separate samples found individuals who had been incarcerated were more likely to suffer from depression, less likely to report being in excellent or very good health, and more likely to have hypertension than their peers with no history of incarceration. To examine if the health inequalities between previously

incarcerated and never incarcerated individuals was a product of incarceration rather than a product of features that occurred prior to incarceration, they used the BART methodology to estimate how different the health of individuals who had experienced incarceration would be had they actually never experienced incarceration. Results suggest that elevated risk of depression among incarcerated individuals is largely a consequence of their incarceration (~5% both before and after accounting for confounders). Similarly, a prior history of incarceration appears to decrease the probability of reporting excellent/very good health (~10%), roughly half of the decrease in probability before accounting for confounders. Results show no adverse effects of incarceration on hypertension.

**17. Massoglia M., Pridemore W.A. Incarceration and Health. *Annual Reviews of Sociology*. 2015;41:291-310.**

Massoglia and Pridemore conducted a review of literature to evaluate the impact of incarceration on a range of health outcomes, including chronic health conditions and mortality, for individuals who are incarcerated, family members, and communities. Specific to length of incarceration, the authors cite previous research suggesting that “the impact of the length of incarceration on health appears to be less important than the fact of incarceration itself.” As part of their agenda for future research, the authors state that more research should be done related to the “different types and lengths of correctional confinement.”

**18. Murray J, Farrington DP, Sekol I. Children's antisocial behavior, mental health, drug use, and educational performance after parental incarceration: A systematic review and meta-analysis. *Psychological Bulletin*. 2012;138(2):175-210.**

Murray et al. conducted a systematic review and meta-analysis of the literature on parental incarceration and impacts on children’s later mental, emotional, and social health. They identified 40 studies that met their strict inclusion criteria. The researchers pooled the odds ratios across all samples in order to determine if children with incarcerated parents had a greater risk of each outcome than children in the control group who did not have an incarcerated parent or parents. These pooled odds ratios indicated that parental incarceration was significantly associated with antisocial behavior among their children even after controlling for covariates. In some subpopulations parental incarceration was significantly associated with children’s poor academic performance, poor mental health, and drug use, but this association was not significant for every subpopulation and did not always remain significant after controlling for covariates.

**19. Swisher RR, Roettger ME. Father's incarceration and youth delinquency and depression: Examining differences by race and ethnicity. *Journal of Research on Adolescence*. 2012;22(4):597-603.**

Swisher and Roettger analyzed data from the in-home portion of the National Longitudinal Study of Adolescent Health. Due to insufficient sample size for other racial/ethnic groups, only white, black, and Hispanic respondents were included in this study. The researchers found that among all racial/ethnic groups father’s incarceration is associated with increased depression and delinquency for the children, even after controlling for other variables such as demographics and family background measures. In addition, when considering these results by race/ethnicity, the data indicate that among Hispanic respondents, having their father incarcerated is associated with a higher propensity for delinquency than among white and black respondents.

**20. Pediatrics American Academy of Health Care for Youth in Juvenile Justice System. *Pediatrics*. 2011;128(6):1219-1235.**

This policy statement from the American Academy of Pediatrics identified youth in the juvenile correctional system as a high-risk population, many of whom, "have unmet physical developmental, and mental health needs." Data from 2008 indicate that females comprise about one-third of juvenile arrests in the U.S. Additionally, "although minority youth represent only 39% of the US juvenile population, they represented 65% of the national juvenile custody population in 2006." Authors cite evidence that "overall, poverty is likely to be the underlying factor that most influences trends in juvenile crime." Moreover, "poorer health status is related to lower [socioeconomic status] SES, and lower SES is more likely to be found among minority youth." While AAP reported the categories of health needs are similar for both youth in the correctional system and their peers in the community, they note that "high-risk behaviors such as violence, substance abuse, and sexual activity, which may be more prevalent than those of their peers in the general population" influence certain health categories. Authors cited a 1991 study by the National Commission on Correctional Health Care (NCCHC). "The study included 1801 youth from 39 short-term or long-term correctional facilities in the United States. These youth had higher rates of substance abuse, trauma, unprotected sexual activity, history of sexually transmitted infections (STIs), suicidal ideation, and reported violence than those in a general high school population." As of 2012, the NCCHC study remained one of the best nationally representative samples evaluating sexual activity and contraceptive use among incarcerated youth. Overall, incarcerated youth reported higher rates of sexual activity, were more likely to report 4 or more lifetime sexual partners, and had much lower self-reported use of contraception or condoms at their most recent sexual intercourse. Data from the Centers for Disease Control and Prevention's (CDC) 2009 Sexually Transmitted Disease Surveillance Report demonstrated that youth ages 12 to 18 years in juvenile detention have high rates of STIs (e.g., Chlamydia: 14.8% of females and 6.6% of males; Gonorrhea: 3.9% of females and 1.0% of males). Additionally, the 2003 Survey of Youth in Residential Placement (SYRP) found that one-fifth of incarcerated youth were currently a parent (14%) or expecting a child (12%). "Males (15%) were more likely to have father a child compared with 9% of females who reported having a child." These rates are disproportionately higher than those of the general population of 12- to 20-year-olds, "in which 2% of males and 6% of females have children." Additionally, national data show incarcerated teens "report higher pregnancy rates than those in the general adolescent population; more than one-third of females report ever having been pregnant." The statement also discusses general physical health issues (i.e., dental, injury, and tuberculosis), mental health, and behavioral health issues. For example, "although [males and females] experience sexual (10-24%) and physical (11-58%) abuse, all forms of abuse, including emotional abuse, are more common in girls." Such abuse contributes to diagnoses of posttraumatic stress disorder in females, more common than males. Longterm outcomes for judicially-involved adolescent females "reveal greater persistence of emotional problems and worse outcomes complicated by relationship and parenting issues, drug problems, and suicidality." SYRP results show that about 20% of youth surveyed reported that they were not enrolled in school at the time they entered custody, which is 4 times higher than the rate for the general population. AAP provided recommendations to address the needs of youth in juvenile detention settings.

**21. Barnert E. S., Perry R., Morris R. E. Juvenile Incarceration and Health. *Academic Pediatrics*. 2016;16(2):99-109.**

Barnert et al. provide an overview of the health and healthcare needs of youth who are incarcerated. The authors summarize trends in juvenile justice involvement showing that 5% of juvenile arrests are for violent crimes, 22% are for non-violent property crimes, and the majority of others are for low-level, non-violent crimes (e.g. marijuana use). Youth of color are more likely to be arrested than white youth, and 38% of youth who are detained are Black. Youth who are incarcerated have higher morbidity and mortality compared to their counterparts who are not justice-involved. About 93% of youth involved with the juvenile justice system have experienced at least one adverse childhood experience (ACES). Youth who are incarcerated experience health inequities related to reproductive health, mental health, and exposure to violence and injury. In addition, “juvenile incarceration itself is an important determinant of health...[and] correlates with worse health and social functioning across the life course.” Youth incarceration has also been associated with worse adult health outcomes, including worse general health and functional limitations. The authors note a number of health disparities affected youth who are incarcerated, including “sexually transmitted infections; teenage pregnancy and parenthood; chronic conditions affecting [youth of color] and disadvantaged communities (e.g. asthma, type 2 diabetes, sickle cell disease); ADHD and learning disorders; behavioral problems (e.g. conduct disorder, anger management); posttraumatic stress disorder; mood disorders (e.g. depression); substance [use]; suicidality.” For example, “detained youth commit suicide at a rate more than 4 times greater than the general adolescent population.” They note that community, neighborhood, and familial situations play a large role in the health of youth who are incarcerated, including exposure to ACES, limited access to healthcare and information, low socioeconomic status, and familial experiences with incarceration. In addition to these general disparities, further health inequities by sex, sexual orientation, gender identity, youth involved in the foster care system, and youth who experience violence. Girls who are incarcerated have higher rates of reproductive health needs, sexually transmitted infections, pregnancy, anxiety, mood disorders, and history of physical and sexual abuse than boys who are incarcerated and than girls in the general adolescent population. Youth who identify as lesbian, gay, bisexual, or transgender have higher rates of depression, suicidality, substance use, other mental health concerns, and sexual abuse. For example, 12.5% of LGBT youth reported sexual victimization compared to 1.3% of heterosexual youth. Youth experiencing violence, including commercial sexual exploitation and child sex trafficking are more likely to experience violence-related injuries, physical violence, sexually transmitted infections, pregnancy, and mental health concerns, and suicidality. Youth who are also involved in the foster care system also face high rates of physical and mental health concerns. The authors also outline existing health care services available to youth who are incarcerated and provide recommendations for clinical care providers.

22. **Sussman N. I., Lee T.G., Hallgren K.A. Use of Manifest Injustice in the Washington State Juvenile Rehabilitation Administration. *Journal of the American Academy of Psychiatry and the Law*. 2019;47:42-47.**

Sussman, Lee, and Hallgren examine the use of manifest injustice in the Washington State Juvenile Rehabilitation Administration, for youth aged 15-19 years old and in custody as of January 2016. The Washington State juvenile justice system has disproportionate minority contact for all minority groups, which is consistent with previous and national research. For example, African American youth were seven times more likely, multi-racial youth were three times more likely, and Hispanic youth were 1.5 times more likely to be in Juvenile Rehabilitation Administration custody than white youth in the state. Washington State Juvenile Code includes a



"manifest injustice provision" allows judges to sentence youth outside standard sentencing guidelines. The provision states that, "if the standard sentencing guidelines yield a sentence that would be an injustice to the offender or risk the safety of the public, the judge can use [manifest injustice] to impose an alternative disposition" that results in either a shorter or longer sentencing range or in institutionalization to a residential detention facility. The authors hypothesized that judges would be more likely to use the provision to decrease sentences of white youth and to increase sentences of minority youth. The authors note that low numbers decreased the statistical power of their analyses, and required that they examine the impacts across five racial/ethnic groups: Caucasian, African American, Hispanic, multiracial, and "all minorities." Although not statistically significant, the authors found that African American youth had manifest injustice used less frequently to decrease their sentences than white youth. However, the authors also found that African American and multiracial youth were less likely to have manifest injustice used to increase their sentences than white youth (i.e. white youth were more likely to have their sentences increased or intensified than minority youth). The authors hypothesize that this is likely due to the fact that "African American youth reside in urban and liberal parts of the state where judges may be more progressive and less likely to use [manifest injustice] to intensify sentences. More diversion programs targeting minority youth exist in urban areas of Washington, and more African American youth are transferred to adult court; both reduce the likelihood of minority youth receiving [manifest injustice]. Judges in rural areas of the state, which have fewer treatment resources, may be using [manifest injustice] to access services only available to court-involved youth." The authors noted that 71.2 percent of the African American population in Washington State reside in King and Pierce Counties. They note that the King County Juvenile Detention Alternative Initiative has also focused efforts to reduce racial disparities by implementing restorative principles and expanding diversion programs. The authors also state that, [Manifest injustice up or manifest injustice institutionalization] are used more often with Caucasian youth, which effectively means they have services in the community for longer periods of time or their placements at residential facilities are extended. These outcomes both restrict freedom while also allowing for critical interventions." The authors also state that it the intent of judges in using manifest injustice is unclear; it is uncertain whether they use it for punishment or rehabilitation. However, when the authors looked at all youth residing in Washington State (including those not residing in juvenile justice facilities), "each of the minority groups had an increased risk of being adjudicated with [manifest injustice] to increase or intensify their sentence...This finding was greatest for African American youth, who were almost four times more likely than Caucasian youth to be sentenced with [manifest injustice intensified or manifest injustice institutionalization]." The article also notes that youth involved in the juvenile justice system have higher rates of mental illnesses compared to their peers.

23. **Barnert E. S., Abrams L. S., Tesema L., et al. Child incarceration and long-term adult health outcomes: a longitudinal study. *International Journal of Prison Health*. 2018;14(1):26-33.**

Barnert et al. conducted a longitudinal study to determine the impacts of youth incarceration on adult health outcomes. Using data from the National Longitudinal Study of Adolescent to Adult Health, they compared the health outcomes of youth incarcerated between 7 and 13 years of age; youth incarcerated at 14 years of age or older; and youth who were never incarcerated. The study included 14,689 individuals. Four waves of data were collected between 1994 and 2008, including Wave I with youth in grades 7-12 and Wave IV with adults aged 24-34 years. Survey

questions included demographic information, experience with the juvenile justice system, and adult health outcomes, including self-reported general health, ability to climb stairs, depression, and suicidality. Approximately 16% of the sample identified as ever being incarcerated, with 0.5% (56 individuals) being 7 to 13 years of age at first incarceration. Individuals who were 7 to 13 years of age at first incarceration were disproportionately male (84.3%), Black (33.1%) or Hispanic (22.4%) compared to individuals incarcerated at an older age. These youth were also more likely to be from families of lower socioeconomic status (48%) or raised in a single parent household (35.8%). Overall, they found that individuals who were ever incarcerated had worse health outcomes than individuals who had not experienced incarceration. In addition, “history of child incarceration [at ages 7 to 13 years] was associated with the highest rates of subsequent poor adult health across all four health variables.” These differences were significantly significant. For example, 21.1% of individuals aged 7 to 13 years at first incarceration reported poor general health, compared to 13% at 14 years of age or older and 8.4% never incarcerated. Further analysis also found that rates of suicidality were more pronounced for children 7 to 12 than for children 13 to 14 at age of first incarceration. The authors noted that this is the first study to examine the longitudinal health impacts of youth incarceration on adults, especially for youth with an age of first arrest younger than 14 years.

24. **Harris Alexes, Evans Heather, Beckett Katherine. Drawing blood from stones: Legal debt and social inequality in the contemporary United States. *American Journal of Sociology*. 2010;115 (6):1753-1799.**

Harris et al. analyze national and Washington state-level data to better understand the social and legal consequences of legal financial obligations (LFOs). The authors present a brief history of the use of monetary sanctions and the ways that they have changed over time. Findings show that the use of monetary sanctions is growing in the U.S. and that the dollar value assessed is substantial compared to expected earnings, which is something courts are supposed to consider when assessing LFOs but rarely do. These sanctions create long-term debt that has negative consequences such as: loss of income and heightened stress; constraint on opportunities for growth such as housing, education, and employment; and potential for further warrants, arrest, and reincarceration as a result of nonpayment. The authors conclude that additional research is necessary to better understand the magnitude of the legal debt that is created by the entire criminal justice system.

25. **Beckett Katherine, Harris Alexes, Evans Heather. The Assessment and Consequences of Legal Financial Obligations in Washington State. Washington State Minority and Justice Commission; 2008.**

In this report, Beckett et al. examine the assessment and consequences of legal financial obligations (LFOs) assessed by the Washington State Superior Court. The authors use two sources of data including 3,366 Washington State Superior Court cases from January and February 2004 as well as qualitative interviews with fifty Washington residents who were assessed LFOs in one of four selected counties. Data from court records indicate that Hispanic defendants, male defendants, and persons convicted of drug crimes have significantly higher fees and fines than their counterparts, including those convicted for violent crimes. Further, there is significant variation of median LFO by county, even among cases where the charges and prior criminal histories are identical. The authors found that counties with, "...smaller populations, higher drug arrest and violent crime rates, and/or comparatively small proportions of their

budgets devoted to law and justice assess significantly higher fees and fines." Findings from interview data demonstrate that LFOs exacerbate many difficulties that individuals face when trying to reintegrate into their community following a criminal conviction. Examples of some of these added difficulties due to LFOs include reducing income and worsening credit scores, hindering efforts to pursue education, training, and employment, and reducing eligibility for federal benefits. The authors conclude by presenting a number of recommendations that would reform the current LFO practices in Washington.

**26. Commission Washington State Supreme Court Minority and Justice. WA State Superior Courts: 2018 Reference Guide on Legal Financial Obligations (LFOs). Olympia, Washington 2018.**

This Washington State Superior Courts document serves as a reference guide on legal financial obligations (LFOs) imposed as part of a criminal judgment upon conviction in adult criminal court. LFOs include restitution, fees, fines, assessments, and costs imposed. Some LFOs are mandatory while others are discretionary. Statutes may differ in setting standards for imposition and waiver of associated LFOs. Mandatory LFOs (i.e., Victim Penalty Assessment: \$500 for cases involving one or more felony or gross misdemeanor conviction or \$250 for case including misdemeanor convictions; DNA Collection Fee: \$100; Restitution required for felony offenses unless extraordinary circumstances, discretionary for misdemeanors; and Crime-Specific LFOs) "shall be imposed in every case or for every conviction for a certain type of offense regardless of the defendant's ability to pay ([...]some can be partially waived)." Meanwhile, discretionary LFOs may be imposed or waived at the court's discretion. Discretionary costs are those expenses incurred by the state prosecuting the defendant or administering pretrial supervision (e.g., jury fees and costs of incarceration). Note, the court "shall not impose costs, including the cost of incarceration, if the defendant is indigent at the time of sentencing. RCW 10.01.160(3); 9.94A.760(3)." For defendants with a mental health condition, before a court can impose any LFOs beyond restitution or the Victim Penalty Assessment it must find the defendant has the means to pay the additional sums. The document goes on to outline collection, sanctions for non-payment, right to counsel, factors the court must consider before jailing a defendant for failure to pay (e.g., only willful noncompliance; defendants who are homeless or mentally ill cannot be sanctioned for willful noncompliance), burden of proof, and incarceration for failure to pay. Additionally, as of June 7, 2019, interest shall not accrue on non-restitution LFOs (RCW 10.82.090(1)). Upon release from confinement, adults defendants may petition for non-restitution interest accrued before the effective date to be waived, and the court shall grant the motion. Finally, after release, a defendant who is not in contumacious default may petition for remission of costs. If the court finds that payment would "impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the costs, modify the method of payment under RCW 10.01.170, or convert unpaid costs to community restitution hours [...] at no less than the state minimum wage for each hour of community restitution."

**27. Commission Washington State Supreme Court Minority and Justice. WA State Courts of Limited Jurisdiction (CLJs): 2018 Reference Guide on Legal Financial Obligations (LFOs) in Criminal Cases. Olympia, Washington 2018.**

This Washington State Supreme Court Minority and Justice Commission document details the legal financial obligations (LFOs) in the state's Courts of Limited Jurisdiction (CLJs). Mandatory LFOs in CLJs include the DNA Collection Fee (\$100, limited to specified crimes and imposed

once in a lifetime); Public Safety & Educational Assessments; and offense-specific fines. Discretionary LFOs in CLJs include fines; restitution (permitted but not mandatory for non-felony offenses); Criminal Conviction Fee (\$43, which may not be imposed on indigent defendants); DUI fines, fees, and costs; and criminal justice funding penalty (\$50 on Title 46 crimes related to motor vehicles, which can be waived in cases of indigency). Costs, fees, fines, forfeitures, and penalties imposed by CLJs for criminal offenses do not accrue interest. Before sanctioning an individual for non-payment, the court must inquire to learn if the defendant is willfully refusing to pay or if they are indigent. A court cannot jail a defendant for failure to pay if it finds them indigent. "As an alternative to incarceration, the court can reduce the amount of LFOs, modify its previous orders regarding payment of LFOs, or convert LFOs to community restitution at a rate of no less than the state minimum wage. RCW 10.01.180(5)." The document also details post-sentencing LFO relief options.

**28. Commission Washington State Supreme Court Minority and Justice. Reference Guide: Legal Financial Obligations (LFOs) Dispositional Orders. Olympia, Washington 2015.**

This document from the Washington State Supreme Court Minority and Justice Commission serves as a reference guide for legal financial obligations (LFOs) that apply to juvenile offenses. It provides information about imposing LFOs, collecting LFOs, and granting relief from LFOs. The Youth Equality and Reintegration Act of 2015 abolished most LFOs associated with juvenile offenses, including LFOs, fees, fines, or costs imposed at the city, town, or county level. Exceptions include the DNA Collection Fee (if not previously collected as the result of a prior offense), the Crime Victims Penalty Assessment (required when the offense is defined as a most serious offense [RCW 9.94A.030] or a sex offense [Chapter RCW 9A.44.128]), and Restitution (to any persons who have suffered loss or damage as a result of the offense committed by the respondent). Specific to restitution, "the court must consider [the] respondent's ability to pay and is afforded the discretion to determine (1) the conditions of payment, (2) whether to impose joint and several liability, (3) the practicability of community restitution, and (4) whether to relieve [the] respondent of the requirement to pay restitution to an insurance company" (RCW 13.40.190). In cases of nonpayment of restitution, "the respondent is entitled to the same due process of law as an adult probationer," and the court must inquire into their ability to pay. "If the court finds youth cannot pay, the court may convert certain debts into community service" (RCW 13.40.200). The document notes that in some instances the court may relieve respondents of the requirement to pay LFOs for good cause (e.g., inability to pay), the DNA Collection Fee, and/or Crime Victims Penalty Assessment (full or partial). Superior Court Clerks may not add a fee for collection efforts on juvenile LFOs.

**29. Vastine K., Chester L. Act 201 Implementation: Vermont's Raise the Age Initiative - Joint Justice Oversight Presentation. 2019.**

This presentation summarizes the background, findings, and recommendations related to implementing Vermont's Raise the Age Initiative. In 2018, the Vermont Legislature passed Act 201, which raised the age of juvenile jurisdiction to include 18 and 19 year olds. The presentation provides background information on merging adults and states that 18-25 year olds experience a distinct developmental stage marked by over-motivation to reward-seeking behavior, susceptibility to peer influence, and propensity toward risk-taking and impulsive behavior. The presentation notes that, "nearly all youth will mature and age out of crime." Data

showed that 18 to 19 year olds commit similar offenses to younger juveniles, and that "80% of potential cases are low-level and should be considered for diversion from the system." The presentation also states, "national data indicate emerging adults have the most racially disparate justice system outcomes of any age group."

**30. Ambrose Kim; Millikan, Alison. *Beyond Juvenile Court: Long-Term Impacts of a Juvenile Record*. In: Erickson JS, Travis; Yeanakkis, George, ed. *What Defense Attorneys Need to Know About Collateral and Other Non-confinement Consequences of Juvenile Adjudications*. 2nd ed. Washington 2013.**

In this manual, created for Washington State defense attorneys, their juvenile clients, and their clients' parents, Ambrose details many of the hidden penalties that may occur after juvenile court adjudications. For example, like adults, juvenile respondents are required to pay legal financial obligations including, restitution, fines, crime victim penalty assessments, court costs, and court appointed attorneys fees and costs of defense. Restitution cannot be waived, reduced or converted, and is enforceable up to 10 years after an individual's 18th birthday, and can be extended another 10 years. Fines may be converted into 'community restitution'; enforceable up to 20 years after 18th birthday). Crime victim penalty assessments cannot be waived and must be ordered in every juvenile disposition, regardless of whether there is a 'victim', and are enforceable for up to 20 years. Court costs and court appointed attorneys fees and costs of defense can be ordered against a youth, parent, or other legally obligated person and must be paid for up to 10 years. Unlike in adult court, such costs do not accrue interest for juvenile adjudications. Juvenile adjudications also have consequences for a youth's ability to keep or obtain a driver's license (specifically offenses related to drugs, alcohol, firearms, and driving), which in turn can affect their ability to access employment opportunities (e.g., license requirement). Juvenile adjudications can also result in ineligibility for a variety of jobs and occupational licenses. "Unless they have been sealed, juvenile adjudications are accessible to employers through the Washington State Patrol, the courts, and private companies that collect information from public databases." Moreover, "a juvenile's criminal history can discredit their entire household from housing [...] For federal housing laws, juvenile adjudications will be treated as convictions." Some bans are mandatory (e.g., lifetime ban of households with a registered sex offender [adult or juvenile], 3-year ban from the date of eviction against any household with an individual who was evicted from federal assisted housing for drug related activity). Others bans on admission or evictions are discretionary. Juvenile court adjudications can also affect schooling, immigration decisions, eligibility for military service.

**31. Bannon Alicia, Nagrecha Mitali, Diller Rebekah. *Criminal Justice Debt: A Barrier to Reentry*. New York University School of Law: Brennan Center for Justice; 2010.**

In this report, the authors examine criminal justice fees in the fifteen states (Washington was not one of the fifteen) with the highest prison populations, which account for over 60% of all state criminal filings in the United States. Evidence indicates that across the board, states included in this analysis are adding new fees, raising existing fee amounts, and intensifying their efforts to collect outstanding fees, fines, and restitution. One important finding noted that a defendant's inability to pay their debt leads to an endless cycle of additional late fees and interest that perpetuates poverty. Further, criminal justice debt in many states is associated with a loss of voting and/or driving privileges. The authors also found that at least some jurisdictions in all the included states have arrested offenders who failed to pay their debt or did not appear for a debt-

related hearing. They also indicated that many states use threat of probation or parole revocations as a tactic for collecting debts. Given the findings, the authors propose recommendations for reforming the use of fees in the criminal justice system including: exempting indigent defendants from user fees and allowing for payment plans; eliminating penalties for individuals who are unable to pay debt all at once; eliminating the ability for a person to be incarcerated for inability to pay debt; and offering community service programs as an alternative to repaying debt.

**32. Vander Giessen M.L. Legislative Reforms for Washington State's Criminal Monetary Penalties. *Gonzaga Law Review*. 2011;47.**

Vander Giessen describes Washington's legal financial obligation (LFO) system and the ways in which the assessment of LFOs disproportionately impacts racial and ethnic minorities. The author presents current Washington law surrounding LFOs and the way these laws create barriers for criminal offenders and their families. Evidence suggests that a large percentage of offenders have outstanding LFOs to pay and that the interest on these LFOs is one of the biggest impediments to successful re-entry into their community because it turns a seemingly modest obligation into an overwhelming financial burden. The interest, more so than the LFO itself at times, can exacerbate poverty for those who are already in vulnerable financial situations. The author goes on to present a summary of the historical responses to LFOs as well as potential legislative reforms that the state should consider.

**33. Modern-Day Debtors Prisons: The Ways Court-Imposed Debts Punish People for Being Poor. American Civil Liberties Union of Washington, and Columbia Legal Services; 2014.**

This report focuses on four counties in Washington state to highlight the legal financial obligation (LFO) practices used in the courts with the goal that this information will drive the legislature to reexamine and reform current policies. The authors observed court proceedings; reviewed court records; and interviewed debtors, attorneys, and community members in each of the four selected counties, which were Benton, Clark, Clallam, and Thurston counties. The findings show that many courts are not properly considering a defendant's ability to pay when imposing discretionary LFOs and this often then requires people to choose between buying basic necessities and paying off their debt. Further, the state's 12% interest rate continues to create insurmountable debt for individuals who are already living in poverty. In this way, LFOs are a barrier for successful re-entry into communities upon release from custody. The authors conclude by presenting a number of recommendations that will help relieve the burden of LFOs on indigent persons as well as save resources for counties who put tremendous effort into collecting debts.

**34. Harris Alexis. A Pound of Flesh: Monetary Sanctions as Punishment for the Poor. New York: Russell Sage Foundation; 2016.**

The focus of this book, written by sociologist Alexis Harris, is the rise of monetary sanctions as a tool of the criminal justice system and the ways in which these sanctions marginalize and penalize the poor. While Harris presents data from across the United States, she focuses her analysis on the court practices of five counties in Washington State. In order to illustrate how these monetary sanctions are perpetuating inequality, Harris draws conclusions from quantitative and qualitative data including sentencing data, legal documents, court hearing observations, and eighty-nine interviews with judges, clerks, attorneys, and defendants. Harris further uses this

evidence to support two main arguments throughout the book: "(1) monetary sanctions imposed by the criminal justice system create and sustain inequality in the United States and, (2) the system of monetary sanctions is enforced by criminal justice bureaucrats whose discretion is shaped by a culture of accountability."

**35. Bartelink V., Zay Ya K. , Gouldbrandsson K. , et al. Unemployment among young people and mental health: A systematic review. *Scandinavian Journal of Public Health* 2020;48:544-558.**

This systematic review examined the association between unemployment among young people and mental health. The initial publication search resulted in 794 articles, of which 52 articles were read in full post screening. Twenty reviews met inclusion criteria and were assessed on methodological quality by two reviewers. A total of 17 articles (5 cross-sectional studies and 12 cohort studies) were included in the systematic review. Authors concluded this review showed an association between unemployment among young people and mental health, but whether a causal relationship exists is less clear. For example, "when taking mental health at baseline into account as one of the confounders, only a minority of [cohort] studies (3/8) found a significant effect of unemployment on mental health." Thus, additional evidence from "natural experiments and longitudinal studies that control for confounding variables, especially mental health at baseline, is required to better understand the association and potential causation between unemployment among young people and mental health."

**36. Vasquez-Vera H, Palencia L, Magna I, et al. The threat of home eviction and its effects on health through the equity lens: A systematic review. *Social Science & Medicine*. 2017;175:199-208.**

This systematic review examined the evidence available (March 2016) on the effects of the threat of eviction on health and social equity. The literature review search yielded 2,208 articles which were reviewed by three independent pairs of researchers. Ultimately, 47 articles were reviewed, of which 86% were from Anglo-Saxon countries, mainly the U.S., and 75% were published after 2009. Most studies used either a cross-sectional (32%), cohort (28%), or qualitative (17%) design. Fifty-five percent assessed mental health as a key health indicator, 38% evaluated physical health, and 19% looked at health-related behaviors. Authors reported, "Evidence from these selected articles revealed a general consensus that individuals under threat of eviction present negative health outcomes, both mental (e.g. depression, anxiety, psychological distress, and suicides) and physical (poor self-reported health, high blood pressure and child maltreatment)."

**37. Bahrel M, Creaven B, Morris G, et al. Health Care Delivery Strategies: Addressing Key Preventive Health Measures in Homeless Health Care Settings. Nashville: Health Care for the Homeless Clinicians' Network, National Health Care for the Homeless Council, Inc.; 2011.**

Bahrel et al. present data and evidence-based recommendations in regards to clinical practices for preventive care for individuals who are homeless or marginalized. To create this report, clinicians from the Health Care for the Homeless (HCH) Clinicians' Network created a Preventive Medicine Task Force (PMTF). This task force conducted a literature review and further evaluated the U.S. Preventive Services Task Force (USPSTF) recommendations for their potential impacts and barriers for persons experiencing homelessness. Evidence from the

literature review shows that in addition to health issues such as nutrition disorders, higher rates of respiratory disorders, skin and dental problems, infectious diseases, and injuries due to environmental exposure, accident and violence, individuals experiencing homelessness also have high rates of mental illness. The National Alliance to End Homelessness estimates that, "approximately 50% of individuals experiencing homelessness have mental health issues, of which approximately 25% have serious mental disorders, including chronic depression, bipolar disorder and schizophrenia." Further, due to inadequate access to health care services, many individuals experiencing homelessness do not receive proper preventive care such as screening and treatment for chronic illness. Finally, based on the USPSTF recommendations and data from the literature, the authors put forth their own set of recommendations that they believe will contribute to the highest impact of care within homeless health care settings.

**38. Health Policy Snapshot: How Does Employment- Or Unemployment- Affect Health? : Robert Wood Johnson Foundation; 2013.**

This Health Policy Snapshot by the Robert Wood Johnson Foundation highlights research related to employment and health outcomes. Most notably, research indicates that, "[l]aid off workers are 54 percent more likely than those continuously employed to have fair or poor health, and 83 percent more likely to develop a stress-related condition, such as stroke, heart attack, heart disease, or arthritis." Further, unemployed Americans are more likely to be diagnosed with depression and report feelings of sadness and worry compared to their employed counterparts. The policy brief concludes with recommendations for employers about ways to be proactive in promoting health and safety on the job as a way to increase general well-being and retention of workers.

**39. Paul Karsten I., Moser Klaus. Unemployment impairs mental health: Meta-analyses. *Journal of Vocational Behavior*. 2009;74(3):264-282.**

This meta-analysis by Paul and Moser aimed to understand the effect that unemployment has on mental health using existing data from published literature. After applying strict inclusion criteria, the literature search yielded 237 cross-sectional studies and 87 longitudinal studies. The main finding from the meta-analysis was that, "the negative effect of unemployment on mental health has an effect size of  $d = 0.51$ , meaning that the health level of unemployed persons is half a standard deviation below the health level of employed persons." Results from the analysis of longitudinal studies demonstrated a relationship between losing a job and negative changes in mental health including indicators such as depression, anxiety, distress, and general well-being. Data also suggest that returning to employment after a period of being unemployed is associated with an improvement in mental health indicators. The authors noted that gender, occupational status, and unemployment duration were found to be significant moderators meaning that the effect sizes were larger among men, blue-collar workers and those experiencing short-term unemployment.

**40. Research Washington State Center for Court. Juvenile Recidivism in Washington State: A 2014 Court Cohort and 2015 Juvenile Rehabilitation Release Cohort. 2020.**

In this 2020 report, the Washington State Center for Court Research provides a summary of juvenile recidivism for a court and Juvenile Rehabilitation cohort. This is the second report on juvenile recidivism in Washington State. Overall, they found that 30.3% of juveniles in the court cohort recidivated and 49.6% of juveniles in the Juvenile Rehabilitation cohort recidivated.



Recidivism rates are higher for "groups with more severe case dispositions and sanctions" such that youth released from Juvenile Rehabilitation recidivate at a rate of 49.6%, youth with adjudicated court cases at 44% and youth that were diverted at 21.7%. These findings are consistent with research that has shown that "those who have committed serious offenses or have a record of prior crimes are more likely to receive more severe case dispositions and then are more likely to commit future offenses." Other demographic factors also make recidivism more likely; youth are more likely to recidivate if they are male, Black, and younger. Of note, "analysis of age at first disposition showed, generally, that the younger a person was at their first disposition, the more likely they were to recidivate." The report states that, "this observation is consistent with expected findings. Several criminological studies have identified a relationship between early age of onset for criminal behavior and longer and more severe criminal acts and careers." The report found that recidivism rates were highest among younger age groups such that recidivism decreased from 57.7% for youth with age of first disposition of 11 years old to 26.5% for youth with age of first disposition of 17 years old. They summarized that, "recidivism rates peak early (age 11 or 12) and are at half or less the peak rate for those whose first offense occurred at age 17." While the recidivism rates for those released from Juvenile Rehabilitation do not decrease as dramatically by age, the rates "do substantially fall from peak rates for those that commit their first offense later in life."

**41. Legislators National Conference of State. Juvenile Justice Guide Book for Legislators. 2011.**

This report presents an overview of the state and federal landscape surrounding juvenile rehabilitation as well as the current research that demonstrates areas for improvement within the juvenile justice system. The authors discuss neuroscience research that demonstrates that the average human brain is not fully developed until age 25, which means that young adults tend to have poor risk assessment skills, are vulnerable to peer influence, are more impulsive and emotional, and think about short-term rather than long-term consequences. The authors also report that young adults who were adjudicated as adults in New York were more likely to be re-arrested more often and for more serious offenses than those they were compared to in neighboring states.

**42. Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems. New York: The Council of State Governments Justice Center; 2015.**

In this report, the authors present a literature review about young adults in the justice system, research on brain and adolescent development and the impacts this has on education, employment, mental health, substance use, child welfare, and reentry. The literature review focused on young adults aged 18-24. Only the most relevant conclusions are discussed here. Data presented show that in 2013, 10% of the United States population was aged 18-24 but this age group accounted for nearly 30% of arrests for serious and non-serious crimes. Further, black males in this age category comprised nearly 40% of all young adults admitted to an adult state or federal prison in 2012. One study that the authors reported on found that 76% of young adults under the age of 25 released from prison were rearrested within 3 years and 84% were rearrested within 5 years. The authors recommend that the juvenile justice system should focus on tailoring services to address the needs of young adults and reduce barriers across service systems.

43. **Holman B, Ziedenberg J. The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities. Justice Policy Institute; 2011.**

This report focuses on the consequences of juvenile detention in the United States on young people, their families, and their communities. The authors cite a number of studies that have examined the impacts of prior incarceration on recidivism and all of the studies found that prior incarceration was the most significant predictor of rearrest. The authors also discuss the idea that the majority of youth will "age out" of crime on their own. Data from the Federal Bureau of Investigation demonstrates that a large number of crimes are committed by those between 16-18 years of age but after this, the rates of arrest dramatically start to decrease through the early 20's.

44. **V Schiraldi, B Western, K Bradner. Community-Based Responses to Justice-Involved Young Adults. Harvard Kennedy School and National Institute of Justice; 2015.**

This report aimed to present research in the area of criminal justice and young adult development as well as to present recommendations that focus on making the criminal justice system more developmentally appropriate for young adults. The authors refer to "young adults" as those ages 18-24. A robust body of evidence has suggest that the human brain continues to develop well into a person's 20's and that "adult-quality" decision-making ability continues to develop into adulthood. Researchers discuss what is known as the "maturity gap" where cognitive functioning develops faster than psychosocial capacities and because of this, young adults are more likely to, "...engage in risk-seeking behavior, have difficulty moderating their responses to emotionally charged situations, or have not developed a future-oriented method of decision-making." The authors further discuss that psychosocial development is further disrupted by additional factors such as involvement in the justice system, traumatic incidents, parental incarceration, poverty, foster care, substance abuse, mental health needs, and learning disabilities. Next, the authors present data regarding the current landscape in the United States for young adults in the justice system. In 2012, about 130,000 young adults were admitted to a state or federal prison (21% of all admissions) and another 97,500 were released back to their communities (15% of all releases). Among this population of young adults released from prison, rates of recidivism were significantly higher than the total prison releasee population and researchers estimate that 78% of young adults released will be rearrested within 3 years.

45. **Zane S.N., Welsh B.C., Mears D.P. Juvenile Transfer and the Specific Deterrence Hypothesis: Systematic Review and Meta-Analysis. *Criminology & Public Policy*. 2016;15(3):901-925.**

Zane, Welsh, and Mears conducted a systematic review of research looking at the impact of juvenile transfer to adult court on recidivism rates. They identified 9 studies meeting inclusion criteria, and conducted a meta-analysis. They found that, "juvenile transfer had no statistically significant effect on recidivism. However, the distribution of effect size was highly heterogeneous and, given the strength of the research designs, suggests that in some instances transfer may decrease recidivism and in others may increase it."

46. **Fowler Eric, Kurlychek Megan C. Drawing the Line: Empirical recidivism results from a natural experiment raising the age of criminal responsibility. *Youth Violence and Juvenile Justice*. 2018;16(3):263-278.**

Fowler and Kurlychek assessed differences in youth recidivism rates prior to and after Connecticut raised the age of juvenile jurisdiction from 15 to 16 years old on January 1, 2010.

This "natural experiment" allowed researchers to compare the outcomes of all 16 year olds tried as adults prior to 2010 to all 16 year olds tried as juveniles after 2010. Overall, they found that "16 year-olds processed in juvenile courts had substantially reduced rates of recidivism with odds of rearrest that were between 0.462 and 0.630 less than 16 year-olds processed in adult courts." Research from the 1990s suggested that youth processed in adult courts "go on to become more criminal" than youth processed in juvenile court. The authors explained that, "in addition to simply shielding youths from the negative influence of older more hardened criminals, there is widespread belief that adult system processing is simply not appropriate for youths based on their mental maturity and cognitive abilities." More recent research has found that the brain does not fully develop until age 21 for females and 24 for males. Notably, the left frontal cortex, responsible for rational decision-making and impulse control, is not fully developed in emerging adults "making them less likely to understand long-term consequences such as lengthy prison sentences...they are more likely to act on impulse than reason and to be highly influenced by their peers and social circumstances." The authors also presented information on delinquency and explain that "justice system involvement may increase delinquency through the stigmatization process that decreases positive social bonds and increases association with deviant others." Prior research on youth recidivism has had mixed results. Evidence has generally suggested that youth retained in juvenile court had lower rates of recidivism than youth transferred to adult court, and that youth transferred to adult court recidivated earlier, more frequently, and for more severe crimes. However, many of these early studies may not have adequately controlled for selection bias as youth that are transferred to adult court are typically those with the most violent or serious offenses. A 2016 meta-analysis of youth recidivism found, "that transfer to adult court has a small but statistically insignificant impact on recidivism" and may depend on state transfer laws. This study eliminated selection bias by using the natural experiment created by policy change in Connecticut. The authors evaluated immediate and 2-year outcomes for all 16 year olds processed as adults in 2009 and all 16 year olds processed as juveniles in 2010. The study used a dichotomous, categorical independent variable (i.e., adult; juvenile) and a dichotomous, categorical dependent variable of recidivism within 2 years of initial arrest (i.e. rearrest; no new arrest). The analysis controlled for type of offense, seriousness of prior offenses, conviction, sex, and race/ethnicity. Overall, about 42% of 16 year olds processed as adults recidivated compared to 26% of 16 year olds processed as juveniles. Controlling for variables, "youths processed as juveniles had an odds of rearrest that is about half the odds of youths processed as adults (coefficient= -0.758; odds ratio= 0.469)." Moreover, "regardless of whether the juvenile penetrated the system after arrest, youths processed as a juvenile did indeed have significantly lower rates of recidivism." Their analysis also found that, "the arrest rate of 16 year-olds dropped significantly immediately after the change in legislation, which may imply police were less likely to arrest 16 year-olds when defined as juveniles." After accounting for differences in police behavior, the authors found that the relationship between youth processed as juveniles and recidivism remained. The authors also found that arrest rates for felony charges did not change, even as arrest rates for 16 year olds decreased following the policy change. The authors noted that the generalizability of their study may be limited for other jurisdictions.

**47. Drake E. The Effectiveness of Declining Juvenile Court Jurisdiction of Youthful Offenders. Olympia, WA: Washington State Institute for Public Policy; 2013.**

In 1994 the Washington State Legislature passed the Youth Violence Reduction Act which established an “automatic decline,” automatically transferring certain youth (based on the charge and their prior criminal history) from the juvenile system to the adult court. In 1997 the Legislature directed the Washington State Institute for Public Policy (WSIPP) to evaluate the 11 February 2017 - Health Impact Review of HB 1743 impacts of automatic transfers. WSIPP published this original report in 2003 with inconclusive results due to the short time between implantation of the law and the analysis of the data. Drake compared the recidivism rates of youth who offended prior to the 1994 law (between 1993 and 1994) who would have been automatically declined had the law been in place (control group) to the rates of youth who were automatically declined after 1994. The author used WSIPP’s criminal history database and specific eligibility criteria. Follow-up continued through 2009 and included 446 youth in the control group and 770 youth in the automatic decline group. The author found some differences in the control and intervention groups, namely the youth who were automatically declined had lower criminal history scores than the control group indicating that they had lower risk of recidivating. The authors controlled for these factors during analysis. These data indicate that the automatic decline group had higher recidivism rates than the control group for all analyzed measures of recidivism; however none of these measures reached statistical significance. The author indicates that from the available data it is not clear if the higher recidivism rates are a result of youth being processed through the adult court, youth being housed in the adult system, or some other unknown factors. The report notes that the majority of automatically declined youth in the study period were physically housed at the Department of Corrections, but that in 2013 the majority of declined youth were housed in JR facilities. Drake also conducted a meta-analysis of the national literature on the impacts of transferring youth to adult court on recidivism. Three studies (including the WSIPP analysis of Washington data and two studies unique from those referenced in Redding et al.) met the strict inclusion criteria. All three studies found that declining youth to adult court is associated with an increase in recidivism. The weighted average effect size is statistically significant.

48. **K Johnson, L Lanza-Kaduce, J Woolard. Disregarding graduated treatment: Why transfer aggravates recidivism. *Crime & Delinquency*. 2011;57(5):756-777.**

Johnson et al. analyzed 1995-1996 data from the Client Information System maintained by the Florida Department of Health and Rehabilitative Services (which include information on referrals to the juvenile justice system) and 2002 data from the Florida Department of Juvenile Justice which was used to measure recidivism after age 18. These data included 693 cases and integrated both youth who had been transferred to the adult system and youth who were retained in the juvenile justice system. The authors found that youth transferred to the adult system had nearly 1.6 times higher odds of re-offending than their counterparts who remained in the juvenile justice system even after controlling for the severity of the offense, the number of prior referrals, sex, race, age at the time of offense, and the risk of recidivism (OR 1.557 95% CI 1.384-1.730). Risk of recidivism was calculated using a risk prediction scale that took a number of factors into account such as prior mental health, drug, or alcohol treatment; indication of fleeing from arrest; where offense occurred; and if the youth was represented by a public defender. The authors also found that youth who were “leapfrogged” (skipped over progressive steps in intervention intensiveness to deep-end placements) were significantly more likely to reoffend than their counterparts who were given graduated sentencing (OR 1.458 95% CI 1.226-1.690). Once leapfrogging was controlled for, transfer was not associated with increased recidivism. However,

the authors found that the majority of youth (60.2%) transferred to the adult system were leapfrogged.

49. **Robles-Ramamurthy B., Watson C. Examining Racial Disparities in Juvenile Justice. *Journal of American Academy of Psychiatry and the Law*. 2019;47(1):48-52.**

Robles-Ramamurthy and Watson provided commentary on research focusing on racial inequities in the juvenile justice system. Disproportionate minority contact and racial disparities are present at every level of processing within the juvenile justice system, including at arrest, referral, diversion, detention, filings, findings, probation, confinement, and transfer to adult court. The authors summarize data from Washington State, as well as provide discussion of theories used to explain racial disparities within the criminal justice selection. The "differential offending" theory suggests that minority youth commit crimes at greater rates than white youth. However, studies have found that "this difference would not explain the full picture of minority overrepresentation throughout the justice system." The "selection" theory suggests differential contact. For example, the National Longitudinal Survey of Youth found that Black youth were more likely to be arrested and arrested multiple times compared to white youth. The authors also cite evidence from a systematic review of 72 studies that found differential treatment of minority youth in 82% of studies and at 9 different decision points in the juvenile justice system. They summarize that, "evidence of a race effect was greater at the earlier stages of the process, including arrest, referral to court, and placement in secure detention." Robles-Ramamurthy and Watson state that, "the intricacies of racial disparities in the juvenile justice system are difficult to study because of the close relationship between crime and many of the social factors affecting communities in which minority youth are likely to be raised." Youth of color are more likely to experience higher poverty rates and lower socioeconomic status, to attend schools with zero-tolerance policies and law enforcement presence on campus, and to experience parental incarceration due to disparities in the larger criminal justice system. The authors also summarized long-term impacts of juvenile justice contact on youth, including lower high school graduation rates, higher rates of unemployment, higher rates of eviction and homelessness, and increased rates of recidivism. Overall, the authors concluded that, "addressing social factors that are at the root of disproportionate minority contact will result in significant benefit in reducing racial disparities within the juvenile justice system."

50. **Prevention Office of Juvenile Justice and Delinquency. Disproportionate Minority Contact: Literature Review, A product of the Model Programs Guide. 2014.**

The Office of Juvenile Justice and Delinquency Prevention published definitions and a summary of literature related to "Disproportionate Minority Contact" in the juvenile criminal legal system. Amendments to the Juvenile Justice and Delinquency Program Act of 1974 defined "Disproportionate Minority Contact" as "the rates of contact with the juvenile justice system among juveniles of a specific minority group that are significantly different from rates of contact for white non-Hispanic juveniles." States that receive federal funding from the Office must present data by the following race/ethnicities: white (non-Hispanic), Black and African American (non-Hispanic), Hispanic or Latinx, Asian (non-Hispanic), Native Hawaiian or other Pacific Islander (non-Hispanic), American Indian/Alaska Native (non-Hispanic), and Other/Multi-racial. They define "'minority' as youth who are American Indian/Alaska Native, Asian, Black or African American, Hispanic or Latino, or Native Hawaiian or other Pacific

Islander." Disproportionality must be reported for nine points of contact, including arrest, referral to court, diversion, secure detention, charges, adjudication, probation supervision, secure confinement, and transfer to adult court. They state that youth of color are more likely to have contact with the juvenile system than white, non-Hispanic youth. There are two main theories for disproportionate contact, including differential offending/involvement (e.g. differences in youth behavior, neighborhood factors) and differential treatment/selection (e.g. structure of criminal legal system decision-making). The report provides an overview of reasons for disproportionate contact and discusses differential opportunities available for prevention and treatment.

**51. Juvenile Justice and Racial Disproportionality. Washington State: The Task Force on Race and the Criminal Justice System; 2012.**

This report by Washington's Task Force on Race and the Criminal Justice System highlights data which indicate that youth of color in Washington are over-represented at every stage of the juvenile justice system. For example, youth of color are more likely than their white peers to be arrested, referred to court, prosecuted, adjudicated guilty, incarcerated, and transferred to the adult system. Further, data from statewide court records for 2009 show that with the exception of Asian/Pacific Islander youth, youth of color are less likely to receive a diversion, such as a Special Sex Offender Disposition Alternative (SSODA), relative to White youth.

**52. Legislature Washington State. Chapter 13.50.050 RCW: Records relating to commission of juvenile offenses-- Maintenance of, access to, and destruction. 2014.**

RCW 13.50.050 outlines the keeping, release, and destruction of records by the Washington State juvenile justice system.

**53. Puzanchera C., Sladky A., Kang W. Easy access to juvenile populations: 1990-2015. 2016.**

Washington state data indicate that about 20% of the population ages 18-24 in Washington were Native Americans and youth of color in 2015. These data indicate that in 2015 the age 12-20 population was 6.8% black, 2.9% Native American, and 10.3% Asian. These figures are derived from data collected by the U.S. Census Bureau and modified by the National Centers for Health Statistics.

**54. Research Working Group Task Force on Race and the Criminal Justice System. Preliminary Report on Race and Washington's Criminal Justice System. *Washington Law Review*. 2012;87(1).**

The Research Working Group, Task Force on Race and Criminal Justice System was Research Working Group, Task Force on Race and the Criminal Justice System convened in 2010 to address racial inequities in Washington's criminal legal system. The creation of the group was prompted by remarks of justices on the Washington Supreme Court that there was racial bias in the state's criminal legal system. Members of the Research Working Group include individuals from Washington State's schools of law. The larger Task Force includes representatives from a range of professional, legal, and community associations (e.g., Bar Association, Washington State Commission on Minority and Justice, prosecuting attorneys, advocacy organizations, etc.). In this report, the Research Working Group, Task Force on Race and the Criminal Justice System reports on disproportionality in Washington State's court, prison, and jail populations by race/ethnicity. The report concluded that, "Washington State criminal justice practices and

institutions find that race and ethnicity influence criminal justice outcomes over and above [crime] commission rates." The Task Force found that the disproportionality in Washington State's criminal justice system, "is explained by facially neutral policies that have racially disparate effects...facially race-neutral policies that have a disparate impact on people of color contribute significantly to disparities in the criminal justice system. We find that racial and ethnic bias distorts decision-making at various stages in the criminal justice system, contributing to disparities." Lastly, "race and racial bias matter in ways that are not fair, that do not advance legitimate public safety objectives, and that undermine public confidence in our legal system."

**55. Project The Sentencing. Policy Brief: Disproportionate Minority Contact in the Juvenile Justice System. 2018.**

This policy brief discusses Disproportionate Minority Contact, which "reflects both racial biases woven into the justice system ("differential selection") and differences in the actual offending patterns among [racial/ethnic] groups ("differential involvement")." Federally, juvenile justice system contact is defined as, "arrest, referral to court, diversion, secure detention, petition (i.e. charges filed), delinquent findings (i.e. guilt), probation, confinement in secure correctional facilities, and/or transfer to criminal/adult jurisdiction." The authors noted that disproportionate minority contact in the juvenile justice system is well-documented and the U.S. Justice Department has stated that juvenile disproportionate minority contact "is evident at nearly all contact points on the juvenile justice system continuum." Black youth are more likely to be arrested, referred to juvenile court, processed, sent to secure confinement, and transferred to adult facilities than white youth. Nationally, African American youth are twice as likely to be arrested than white youth. However, this disproportionality changes depending on the crime. For example, in 2011, Black youth were 269 percent more likely to be arrested for violating curfew laws than white youth. This disproportionality has also grown for some crimes (e.g. property crimes). In addition, "youth of color are overrepresented at many stages of the juvenile justice system as compared with their presence in the general population." For example, African-American youth comprise 14% of the general population, but account for 40% of secure placement. The authors also present data showing that most juvenile arrests are for non-violent, low-level, or non-criminal acts. Violent crimes account for only 5% of juvenile arrests. Property crimes are the most common offenses for juveniles, and account for 25% of arrests. The authors also note the intersectionality with geography. They state that, "given the realities of residential patterns by race, [differences in arrest rates by race for the same behaviors] may be reflected in higher arrest rates of minority youth than white youth for some offenses. As a result, juveniles behaving in the same way- for example, hanging out late at night- will be treated differently based on where they live, not on how they behave." This brief also outlines how policy choices can worsen disparities, including police presence in schools and the "criminalization of misbehavior," valid court orders that lead to detention, and policies impacting population density and segregated housing.

**56. Turney Kristin. Stress Proliferation across Generations? Examining the Relationship between Parental Incarceration and Childhood Health. *Journal of Health and Social Behavior*. 2014;55(3):302-319.**

Turney conducted a multivariate analysis that incorporates children into the stress process paradigm to examine the relationship between parental incarceration and children's health. The author used data collected through the 2011-2012 National Survey of Children's Health (NSCH),

a cross-sectional probability sample of non-institutionalized children ages 0-17 years in the U.S. Adjusted for demographic, socioeconomic, and familial characteristics, the analyses show parental incarceration is independently associated with 5 of 19 health conditions considered: learning disabilities, Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder, behavioral or conduct problems, developmental delays, and speech or language problems. Results suggest parental incarceration is more detrimental to behavioral or conduct problems and developmental delays than parental divorce or separations. Findings add to the literature that children's health disadvantages may be an unintended consequence of mass incarceration. In addition, household member mental health problems are associated with 15 of 19 indicators of children's health. The use of a cross-sectional dataset made it impossible to determine whether the association is due to shared genetics, shared environments, or some combination of the two. Further research is needed to determine how mental health, incarceration, and children's mental health are associated.

**57. Henning K. The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment. *American University Law Review*. 2018;67(5):1513-1576.**

In this law review, Henning presented arguments that the juvenile court system should modify the standard of "reasonable juvenile" that determines when law enforcement are justified to arrest youth under Fourth Amendment jurisprudence (search and seizure doctrine). The author argues that racial inequities in the criminal legal system, implicit racial bias, adolescent brain development, and current relationships between youth and law enforcement requires changes in the "reasonable juvenile" standard. They argue that there is a unique interplay between race and adolescence and that "race and age affect every critical decision in the Fourth Amendment inquiry." The article examines, "To what extent does the child's race affect the objective assessment of whether a police-youth encounter ventures from a 'contact' to a seizure? To what extent does the child's race affect the voluntariness of consent? To what extent should the child's race affect the officer's interpretation of a child's behavior in the reasonable articulate suspicion or probable cause analysis?" The article summarizes research and court case law for each of these sections.

**58. Legislative Washington State. Chapter 10.77 RCW: Criminally insane- Procedures. 2015.**

This RCW addresses competency to stand trial.

**59. Sugie Naomi F., Turney Kristin. Beyond Incarceration: Criminal Justice Contact and Mental Health. *American Sociological Review*. 2017;82(4):719-743.**

The authors examined associations between criminal justice contact and mental health using data from the National Longitudinal Survey of Youth (NLSY97). The nationally representative survey of a contemporary cohort includes information about criminal justice contact (including arrest, conviction, and incarceration) and mental health over time. Analysis showed arrest and incarceration—but not conviction—are independently associated with poor mental health. Arrests accounted for nearly half of the association between incarceration and mental health. Authors propose uncertainty and anticipatory stress are primary mechanisms that worsen mental health and deserve further study. Researchers document that criminal justice contact is socially patterned and is more common among non-Hispanic Blacks than non-Hispanic whites and Hispanics. However, the associations between criminal justice contact and mental health are



similar across racial/ethnic groups. Researchers found respondents' previous exposure to disadvantaged ecological contexts (i.e. counties with high proportions of residents with incomes below the poverty, unemployed civilians, female-headed households, and households receiving public assistance income) had negative consequences for mental health. The authors asserts the importance of mental health for other life course outcomes (e.g. physical health, socioeconomic status, children's wellbeing) and conclude that the consequences of criminal justice contact may extend beyond mental health and have broad intra- and inter-generational consequences.

**60. Natapoff Alexandra. Misdemeanor Decriminalization. *Vanderbilt Law Review*. 2015;68(4):63.**

This law review found that full decriminalization, defined as reclassification of misdemeanors as civil infractions, of non-violent offences may reduce arrests, days of incarceration, and fines associated with offenses like driving while license suspended in the third degree (DWLS 3). However, Natapoff noted outcomes may vary dependent on how local jurisdictions apply the provisions. Defendants with the resources to pay fines can terminate contact with criminal justice system quickly and without the lasting effects of a criminal record. However, because Washington State incarcerates defendants for failure to pay fines, a fine-only model may translate into jail time for indigent individuals through the use of contempt proceedings (pay or appear). Incarceration due to failure to appear may exacerbate disparities in incarceration rates by disproportionately affecting people with low-incomes and people of color who may be less likely to find the time and transportation required to appear than offenders with more time and resources. Failure to pay may also negatively impact an individual's credit rating and their ability to rent an apartment, buy a car, or secure employment. An individual's records (arrest and criminal) and/or inability to reinstate their driver's license may also negatively affect employment (current and future prospects). Jurisdictional use of citations to measure performance or fines to fund the criminal justice systems and general budgets could exacerbate disparities by further racializing enforcement and serving as a regressive tax.

**61. Yi Youngmin, Turney Kristin, Wildeman Christopher. Mental Health Among Jail and Prison Inmates. *American Journal of Men's Health*. 2017;11(4):900-910.**

Yi et al. analyzed a sample (n = 3,139) from the Fragile Families and Child Wellbeing Study (FFCWS), a longitudinal survey commonly used to study the individual and spillover consequences of incarceration, to assess how the relationship between current incarceration and self-reported mental health varies across jail incarceration and prison incarceration. Researchers found fathers incarcerated in jails "...have higher odds of depression (OR=5.06), life dissatisfaction (OR = 3.59), and recent illicit drug use (OR=4.03)" compared to those not incarcerated. While fathers incarcerated in prisons "...have higher odds of life dissatisfaction (OR=3.88) and lower odds of heavy drinking (OR=0.32) compared with those not incarcerated." Results confirm the negative associations between incarceration and mental health and provide new insight into between-facility differences in mental health of currently incarcerated fathers. Authors conclude that further research is needed to better understand the effects of incarceration in jails and the implications for the well-being of current and former inmates' children and families.

**62. Legislature Washington State. RCW 72.23.210: Persons under eighteen--Special wards and attendants.**

This RCW outlines mental health treatment options for individuals under 18 years of age.

**63. Felson RB, Cundiff P, Painter-Davis N. Age and sexual assault in correctional facilities: A blocked opportunity approach. *Criminology*. 2012;50(4):887-911.**

Felson et al. cite five studies which indicate that younger inmates in adult facilities are at greater risk than older inmates in these facilities of being sexually assaulted by staff and other inmates. The authors evaluated how age impacted the risk of being a victim of sexual and physical assaults in prisons and jails using 2000 to 2007 National Incident Based Reporting System (NIBRS) data. NIBRS data is compiled by multiple law enforcement agencies across the nation and only captures crimes reported by prison authorities. The authors only included male-on-male offenses in their analysis. The analysis included 12,188 incidents of assault, 674 of which were sexual assaults. The authors found that teenagers had the greatest risk of being assaulted with 18-19 year olds being 7.7 times more likely to be victimized than 30-34 year olds. The age category with the second highest risk of being a victim of sexual assault is ages 20-24. When considering sexual assault only, the data also show that offenders of all ages target young victims (under age 25). Assaults involving victims younger than 25 (particularly teenage victims) are the most likely to be sexual assaults. The odds that an assault is sexual is 390% higher for teenage assault victims than victims over 40. Assaults committed by older perpetrators are also more likely to be sexual than those committed by younger perpetrators.

**64. Ng IY, Shen X, Sim H, et al. Incarcerating juveniles in adult prisons as a factor in depression. *Criminal Behavior and Mental Health*. 2011;21(1):21-34.**

Ng et al. compared rates of depression among four groups in Michigan: youth incarcerated for serious offenses in adult facilities (n=47), those incarcerated for serious offenses in juvenile facilities (n=45), youth incarcerated for less serious offences (n=69), and non-incarcerated and non-offending youth (n=676). They controlled for nature of the offence, public assistance history, caregiver incarceration, sex, age, and race/ethnicity. The authors analyzed interview data from a previous study and longitudinal data from the Panel Study of Income Dynamics. Ng et al. found that youth who had been placed in adult facilities were significantly more likely to be depressed than youth incarcerated in juvenile facilities or youth in the community after controlling for confounding factors. For example youth in adult facilities had 64 times higher odds of being depressed than youth in the community, 22 times higher odds than minor offenders, and 37 times higher odds than serious offenders placed in juvenile facilities.

**65. Serafin M. Health of Washington State Report: Self-reported Health Status. Data Update 2016. Washington State Department of Health; 2016.**

Serafin presents data from Washington state on self-reported health status. The data show that after accounting for age, education, race and ethnicity, household income was a strong predictor of self-reported health status. Health status varied by race and ethnicity, with close to 35% of Hispanics, 30% of American Indian/Alaska Natives, and 20% of Native Hawaiian/Other Pacific Islander reporting fair or poor health. Washington Behavioral Risk Factor Surveillance System (BRFSS) data from 2012-2014 also show that education was a strong predictor of self-reported fair or poor health after adjusting for age.

**66. Legislature Washington State. RCW 13.40.0357: Juvenile offender sentencing standards. 2020.**

RCW 13.40.0357 provides standard sentencing ranges for juveniles charged of a crime.

**67. Rights USCoC. Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities. Washington, DC: United States Commission on Civil Rights; June 2019 2019.**

This briefing report from the U.S. Commission on Civil Rights (The Commission) "provides an overview of the relevant data and arguments for and against the imposition of collateral consequences on people with criminal records." It defines the collateral consequences as "sanctions, restrictions, or disqualifications that attach to a person because of the person's criminal history." Of particular relevance to this Health Impact Review, it discusses barriers to securing employment, obtaining housing, and receiving public assistance faced by formerly incarcerated persons. It also discusses disproportionality and how collateral consequences inequitably impact those with intersectional identities that are marginalized and oppressed. The Commission also provides recommendations based on its findings to address collateral consequences that "do not serve public safety, bear no rational relationship to the offense committed, and impede people convicted of crimes from safely reentering and becoming contributing members of society."

**68. Collateral Costs: Incarceration's Effect on Economic Mobility. Washington, DC: The Pew Charitable Trusts; 2010.**

This report by the Pew Charitable Trusts is an analysis of the impacts of incarceration on economic mobility. The authors utilized a diverse array of data sources to compile this analysis including data from the Bureau of Justice Statistics, National Longitudinal Survey of Youth, and March Current Population Survey. Data show that in the United States, the criminal justice system has a particularly high overrepresentation of men, young people, people with low education levels, and racial/ethnic minorities. Further, incarceration has a negative impact on a former inmate's economic prospects and these individuals experience less upward economic mobility in their lifetime than those who are never incarcerated. Data show that being incarcerated reduces the total earnings of males by 2%, 6% and 9% for white, Hispanic, and black males respectively. Recommendations from the authors include strategies such as connecting former inmates with the labor market to increase job training and employment, and capping the percent of a previous offender's income that can be subject to deduction for unpaid financial obligations.

**69. Strully Kate W. Job Loss and Health in the U.S. Labor Market. *Demography*. 2009;46(2):221-246.**

Strully used data from the U.S. Panel Study of Income Dynamics (PSID) to "estimate the effects of job loss on health, reducing the risk of selection bias by first isolating job losses that resulted from establishment closures, and then focusing on specific health conditions that should be the most sensitive to a recent stressor like job loss." Data analyzed in the study were from the 1999, 2001, and 2003 waves of the PSID, a nationally representative longitudinal survey of American families. The dataset is "well-suited to this analysis because it provides detailed employment information and regularly collects data on health." The author also considered potential differences across occupations (i.e., blue-collar jobs vs. white-collar jobs). "Isolating respondents who held blue-collar (i.e., operative or labor) or white-collar (i.e., professional or managerial) jobs in January of the year prior yields 3,359 white-collar respondents (5,954 person-years) and

1,851 blue-collar respondents (2,870 person-years)." The author used 4 mutually exclusive categories for job losses/separations (i.e., no-fault job loss; fired/laid off; voluntary job separation; and miscellaneous job separation). Health measures included 3 variables: fair/poor health, likely health conditions (i.e., stroke, hypertension, heart disease, heart attack, arthritis, diabetes, and emotional/psychiatric problems should all be sensitive to recent job losses), and unlikely health conditions (i.e., lung disease, cancer, and loss of memory or mental ability should not be sensitive to a recent event like job loss). The author controlled for: age, gender, race, education, family income, health insurance, and occupational category. Changes in marital/relationship status and moving to a new residence were more challenging to control for within the analysis. Modeling results showed, "Losing a job because of an establishment closure increased the odds of fair or poor health by 54%, and among respondents with no preexisting health conditions, it increased the odds of a new likely health condition by 83%." The author noted, results suggest "there are true health costs to job loss, beyond sicker people being more likely to lose their jobs." For respondents who "lost jobs because of establishment closures but were reemployed by the survey do not appear to have assessed their health in worse terms than their stably employed counterparts; however, they do appear to have faced an increased risk of new likely health conditions." Additionally, the analysis provides "no evidence that job loss effects differ for white- and blue-collar workers."

**70. Aidala Angela A. , Wilson Michael G. , Shubert Virginia , et al. Housing Status, Medical Care, and Health Outcomes Among People Living With HIV/AIDS: A Systematic Review. *The American Journal of Public Health* 106(1).**

Aidala et al. conducted a systematic review to examine available evidence on "the association between housing status (broadly defined), medical care, and health outcomes among people with HIV and analyzed results to inform future research, program development, and policy implementation." Authors searched 8 electronic health and social science databases from January 1996 through March 2014 using search terms related to housing, dwelling, and living arrangements and HIV and AIDS. Searches yielded 5,528 references, and authors included 152 quantitative studies (2 randomized controlled trial housing interventions, 64 cohort or case-control studies, and 86 cross-sectional studies; representing 139,757 HIV-positive participants). The majority of studies occurred in the United States (n = 112) or Canada (n = 27). Study populations included a mix of general samples of people living with HIV as well as studies with substance using, recently incarcerated, or other socially marginalized HIV-positive people. Studies examined "access and utilization of HIV medical care [n = 35 studies], adherence to antiretroviral medications [n = 30], HIV clinical outcomes [n = 27], other health outcomes [n = 27], emergency department and inpatient utilization [n = 13], and sex and drug risk behaviors [n = 22]." Authors rated studies as "poor" for undefined or ill-defined housing status or for lack of adjustment for confounders. Studies that were not rated as "good" or "fair" on all criteria were excluded. "Overall, findings from included studies [n=111] show that worse housing (i.e., stability, structure, or quality of housing) is associated with poorer access to and engagement in health care and treatments, lower adherence to ARV therapy, worse health outcomes, and higher rates of HIV risk behaviors." Of the 35 studies that examined housing status and HIV healthcare access or utilization, 29 studies (82.9%) reported statistically significant associations between unstable housing and not receiving appropriate HIV care. Of the 30 studies that examined housing status and antiretroviral (ARV) adherence, 24 studies (80%) reported statistically lower ARV adherence among those who were homeless or unstably housed. Of the 27 studies that

examined housing status and HIV clinical health outcomes, 20 studies (74.1%) reported worse housing status was statistically significantly associated with worse health outcomes for people with HIV. Of the 27 studies that examined housing status and other health outcomes, 25 studies (92.6%) reported that homelessness or unstable or inadequate housing was associated with “statistically significantly poorer outcomes on 1 or more indicators of physical or mental health functioning and quality of life, mental health symptoms or diagnoses, or diagnosed with physical health comorbidities” (e.g., hepatitis C and tuberculosis). Of the 13 studies that examined housing status and ED visits or inpatient stay, 12 studies (92.3%) reported that people with HIV in unstable living arrangements or who were homeless had statistically significantly higher utilizations of hospital based ED or inpatient care than did those with HIV who were stably housed. Of the 22 studies that examined housing status and HIV risk behavior, 18 studies (81.8%) reported statistically significant associations between housing need (homelessness or unstable or inadequate housing) and risk behaviors for forward transmission of infection. Authors noted, “Poor health, loss of income, stigma, and policy restrictions on housing assistance for people with drug use or incarceration histories, as well as preexisting social disadvantage, make it difficult if not impossible for many people with HIV to secure or maintain adequate housing.” Authors conclude, “Evidence supports considering housing status as a contextual factor that influences consistent, appropriate HIV medical care, adherent antiretroviral medications use, and sustained viral suppression.”

71. **RE Redding. The effects of adjudicating and sentencing juveniles as adults: Research and policy implications. *Youth Violence and Juvenile Justice*. 2003;1(2):128-155.** Redding conducted a review of the literature on the impacts of sentencing youth as adults including the impact on recidivism rates. The author cites seven studies conducted across varying jurisdictions between 1996 and 2001 and concludes that the evidence indicates that juveniles tried in criminal courts have higher recidivism rates after release than juveniles tried in juvenile courts. Two of these studies found that this trend was not true for all offenses (e.g. burglary). Several of these publications also found that even among those that did reoffend, youth who had been transferred to the adult system reoffended more quickly after release than their counterparts. Many of these studies controlled for potential confounding factors such as prior offenses, current offense severity, prior offense severity, race, gender, age at first and current offense, use of a fire arm, age of onset of offending, and detention status. The author notes some of the potential limitations of these studies including that they did not control for every potential confounding factor such as family background, drug use history, mental health status, and personality characteristics. Several of these studies found that being tried in the adult system versus the juvenile justice system was associated with a range of 11 to 18% higher recidivism rates. Other studies reported that recidivism rates ranged from 1.5-4.9 times higher for youth transferred to the adult system than those retained in the juvenile justice system. Redding summarizes the evidence in a discussion of why recidivism rates may be higher for these youth and indicates that this trend may be a result of less effective rehabilitation efforts for youth incarcerated in adult prisons; “stigmatization; humiliation; loss of self-respect; attenuation of guilt or shame; hardening of the delinquent self-concept; weakening of ties to families, prosocial peers, and community; and diminishment of job and educational prospects;” and youth to attributing greater injustice to the court system

72. **Cutuli J. J., Goerge Robert M., Coulton Claudia, et al. From foster care to juvenile justice: Exploring characteristics of youth in three cities. *Children and Youth Services Review*. 2016;67:84-94.**

Cutuli et. al. conducted a prospective, longitudinal cohort study to estimate the rate of criminal legal system involvement for youth involved in foster care. They estimated that 7% to 24% of youth involved in the foster care system are dually-involved in the juvenile criminal legal system.

73. **Prevention Office of Juvenile Justice and Delinquency. LGBTQ Youths in the Juvenile Justice System: Literature Review, A product of the Model Programs Guide. 2014.**

The Office of Juvenile Justice and Delinquency Prevention summarized literature pertaining to youth who identify as LGBTQ and the juvenile criminal legal system. They found that youth who identify as LGBTQ are twice as likely to be arrested and detained for status offenses compared to youth who identify as heterosexual. The report noted that, "available research has estimated that LGBT youths represent 5 percent to 7 percent of the nation's overall youth population, but they compose 13 percent to 15 percent of those currently in the juvenile [criminal legal] system."

74. **Justice Coalition for Juvenile. Youth Homelessness and Juvenile Justice: Opportunities for Collaboration and Impact. Issue Brief. 2016.**

This report cites research finding that 44% of youth experiencing homelessness had "stayed in a jail, prison, or juvenile detention center, nearly 78% have had at least one interaction with police, and nearly 62% had been arrested at some point in their lives." These interactions may be due to the criminalization of homelessness. In addition, youth who have been involved with the juvenile system are at greater risk of homelessness as "families [may be] unwilling to let young people return due to family discord or because of restrictions imposed by landlords or public housing authorities."

75. **Centers for Disease Control and Prevention. Behavioral Risk Factor Surveillance System Prevalence And Trends Data: Washington-2014. 2014; Available at: <http://apps.nccd.cdc.gov/brfss/page.asp?cat=XX&yr=2014&state=WA#XX>. Accessed August 16, 2016.**

Behavioral Risk Factor Surveillance System data from 2011 indicate that young adults of color experience worse health outcomes than their white counterparts on a number of health indicators. While there were too few respondents in this age category to report rates at the state level, nationally these data indicate that black respondents between the ages of 18 and 24 were significantly more likely than white respondents to report that frequent poor physical or mental health prevented them from doing their usual activities. These rates were also higher for Native Hawaiian and other Pacific Islander, American Indian/Alaska Native (AI/AN), and Hispanic participants as well as those that reported multiple races or "other race," however these differences did not reach statistical significance using one year of data.

76. **QxQ Analysis. 2016. <http://www.askhys.net/Analyzer>. Accessed January 18, 2018.**

Washington State Healthy Youth Survey data from 2016 indicate that youth of color experience worse health outcomes than their peers. Data suggest that in Washington State, American

Indian/Alaska Native and Black youth have disparately high rates of cigarette use across all grades. For example, among 12th graders, AI/AN youth (18.3% [95% CI 12-24.6%]) and Black youth (15% [95% CI 8.9-21.1%]) reported higher smoking rates than their peers with 11.9% (95% CI 10-13.8%) of White youth smoking. Data also show that 8th, 10th, and 12th graders who identified as AI/AN or Hispanic were also significantly more likely than their White peers to report symptoms of depression.

**77. Prather Cynthia, Fuller Taleria R., William L. Jeffries IV, et al. Racism, African American Women, and Their Sexual and Reproductive Health: A Review of Historical and Contemporary Evidence and Implications for Health Equity. *Health Equity*. 2018;2.1:249-259.**

Prather et al. examined how historical racism negatively influences present-day health outcomes of African American women. racism is a fundamental determinant of health status, contributing to "social inequalities (e.g., poverty) that shape health behavior, access to healthcare, and interactions with medical professionals." Authors conducted a literature review of peer-reviewed sources and books (English only) to characterize the link between historical and current experiences of racism and sexual and reproductive health outcomes. Specifically, authors looked at Slavery (1619-1865), Black Codes/Jim Crow (1865-1965), Civil Rights (1955-1975), and Post-Civil Rights (1975-2018) eras. Results indicate "[t]he legacy of medical experimentation and inadequate healthcare coupled with social determinants has exacerbated African American women's complex relationship with healthcare systems." Additionally, authors found social determinants of health associated with institutionalized and interpersonal racism "may make African American women more vulnerable to disparate sexual and reproductive health outcomes." They conclude that historical and enduring legacy of racism in the U.S. should inform the development of culturally appropriate programs, research, and treatment efforts to achieve health equity.

**78. US Department of Education Office for Civil Rights. Civil Rights Data Collection Data Snapshot: School Discipline, Restraint, & Seculsion Highlights. 2014.**

A report from the U.S. Department of Education (2014) found that Black children and boys were more likely to be expelled from preschool than other students. For example, Black children represent 18% of preschool enrollment, but 48% of preschool children receiving more than one out-of-school suspension. Conversely, white students represent 43% of preschool enrollment but 26% of preschool children receiving more than one out-of-school suspension. Overall, students of color and students with disabilities are more likely to be suspended from school. With the exception of Latino and Asian-American students with disabilities, children of color with disabilities experience higher rates of out-of-school suspensions (more than one out of four boys and nearly one in five girls). However, preschool students with limited English proficiency do not receive out-of-school suspensions at disproportionately high rates.

**79. Gilliam Walter S. Prekindergarteners Left Behind: Expulsion rates in state prekindergarten systems. Yale University Child Study Center; 2005.**

Gilliam analyzed data from a study of 3,898 prekindergarten classrooms across the United States. These classrooms represent 81% of all 52 state-funded prekindergarten systems operating across 40 different states. This study found that 6.67 preschoolers per 1,000 prekindergarten

students were expelled, which is 3.2 times the rate of expulsion for all students in grades K-12. Rates of expulsion were highest for African American students and boys.

**80. Iselin Anne-Marie. Research on School Suspension. Duke University, Center for Child and Family Policy; No date.**

This research brief was prepared by Duke University's Center for Child and Family Policy as part of the 2010 North Carolina Family Impact Seminar, which provides educational briefings for state policymakers. The brief summarizes the research on school suspension, the impact of suspension on students, and the effectiveness of alternatives to suspension. Based on a review of available literature, the author states that suspension may be effective in removing a problematic student from school, providing temporary relief to frustrated school personnel, and raising parental attention about student misconduct. However, zero-tolerance policies do not improve overall school safety and are associated with lower academic performance, higher dropout rates, decreased likelihood of graduating on time, and further disciplinary action. Male students, students with disabilities, and Black or African American students are more likely to be suspended than other students.

**81. Education The Washington State Board of. Statewide Indicators of Education System Health. 2016.**

In this 2016 Biennial Report the Washington State Board of Education (Board) recommends the Legislature add exclusionary discipline rates to the list of indicators evaluated to determine the system's health. The recommended indicator addresses disproportionality in discipline practices. The report states, "[t]his indicator focuses on the lost educational opportunity caused by exclusionary discipline practices, which likely contributes to opportunity and achievement gaps." According to the SBE, the goal for this indicator would be the "alignment of discipline events and rates and enrollment rates for each student group." The Board indicates that it will continue to engage the Accountability and Achievement Workgroup (AAW) to determine whether of Office of Superintendent of Public Instruction's (OSPI) Disproportionality Composition Index (CI) is the most appropriate indicator measure. CI is a measure of whether students assigned to a student group are suspended at a rate proportionate to their representation in the total student population. A [CI] greater than 1.00 indicates the group makes up more of the suspensions and expulsions than their representation in the student population generally. Conversely, a CI less than 1.00 indicates the group makes up less of the suspensions and expulsions than their representation in the population generally. A CI of 1.00 for all student groups means that "no group is being subjected to suspensions and expulsions at a disproportionately high or low rate. Authors cite OSPI data from the three most recent years ending with the 2014-15 school year, which show Black/African American, Native American/Alaskan, Hispanic/Latino, Hawaiian/Pacific Islander, and Two or More Races students experience disproportionately high suspension and expulsion rates. Additionally, students with a disability and students participating in the Free and Reduced Price Lunch program are also experiencing disproportionately high suspension and expulsion rates. For example, Black students and students with a disability are more than twice as likely to be subject to exclusionary discipline in school when compared to all students in Washington State.



82. **Noltemeyer A.L., Mcloughlin C.S. Patterns of Exclusionary Discipline by School Typology, Ethnicity, and their Interaction. *Perspectives on Urban Education*. 2010;Summer:27.**

This study used 2007-2008 school year data (disciplinary incidents) from 326 Ohio school districts (55% of all school districts in the state) to examine patterns of exclusionary discipline by school typology (i.e., urban, suburban, rural), student ethnicity, and their interaction. Analyses revealed significant differences in the use of exclusionary discipline (i.e., suspensions, expulsions, and other disciplinary actions) based on ethnicity. The average rate of both suspension and expulsion was over two and a half times greater among African American students as compared to white students. Researchers found that ethnicity accounted for 16.6% of the variability in disciplinary actions. Meanwhile, school typology accounted for 4% of the variability in exclusionary discipline. Researchers found the mean number of expulsions per 100 students was significantly greater among Major Urban—Very-high-poverty schools than that for all other school types. Results indicate that when controlling for student poverty level (an identified covariate): "(a) African American students are disproportionately represented as recipients of exclusionary discipline; (b) major urban very-high-poverty schools utilize these practices most frequently; and (c) disciplinary disproportionality was most evident in major urban districts with very-high-poverty and was least evident in rural districts with a small student population and low poverty."

83. **Force American Psychological Association Zero Tolerance Task. Are Zero Tolerance Policies Effective in the Schools? : 2008.**

The American Psychological Association convened a Zero Tolerance Task Force to examine the effectiveness of zero tolerance policies on school discipline. They looked at 20 years worth of literature, and provided recommendations for future policy directions. They explain that zero tolerance policies gained widespread use in schools in the 1990s with the assumption that removing disruptive students from classrooms would improve the overall learning environment. They state that the policies were "intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context. The task force found that zero tolerance policies disproportionately impact students of color and students with disabilities. They state, "overrepresentation in suspension and expulsion has been found consistently for African American students...The evidence shows that such disproportionality is not due entirely to economic disadvantage, nor are there any data supporting the assumption that African American students exhibit higher rates of disruption or violence that would warrant higher rates of discipline." The task force also found that zero tolerance in schools resulted in more referrals to the juvenile justice system, and that policies do not align with best practices for adolescent development.

84. **Achilles Georgianna M., McLaughlin Margaret J., Croninger Robert G. Sociocultural Correlates of Disciplinary Exclusion Among Students With Emotional, Behavioral, and Learning Disabilities in the SEELS National Dataset. *Journal of Emotional and Behavioral Disorders*. 2007;15(1):33-45.**

Researchers analyzed selected participant data (n=1,824) from the Special Education Elementary Longitudinal Study (SEELS) to identify factors associated with higher likelihood of exclusion (HLE) among students (ages 7 to 14 years) in three high-exclusion disability groups: emotional/behavioral disorders (EBD), other health impairment (OHI) with a diagnosis of

attention-deficit/hyperactivity disorder (ADHD), and learning disability (LD). Researcher cite evidence that disciplinary exclusion disproportionately affects students with disabilities despite protections afforded students with disabilities under the Individuals with Disabilities Education Improvement Act (IDEIA; 1997 and 2004). One study reported suspension rates of approximately 20% for special education students compared to 10% for the overall student population. State and national studies indicate that "students with EBD and LD are suspended or expelled at rates that double or even triple rates for the school population as a whole." Authors found HLE was more likely among students with EBD and ADHD compared to students with LD. HLE was also associated with African American ethnicity, older age, male gender, lower socioeconomic status, multiple school changes, urban schooling, and having parents who expressed low satisfaction. When socioeconomic status and family-structure (i.e., lived with two parents or did not) were controlled for, Hispanic ethnicity was no longer a statistically significant predictor of HLE. Researchers found that "later age of disability onset, shorter lapse in time from disability onset to service initiation, and receipt of early intervention or Head Start were unrelated to exclusion history."

**85. Lamont J. H., Devore C. D., Allison M., et al. Out-of-school suspension and expulsion. *American Academy of Pediatrics*. 2013;131(3):e1000-e1007.**

This Policy Statement from the American Academy of Pediatrics (AAP) examines the rationale for out-of-school suspension and expulsion, discusses prevention strategies and alternatives to such exclusionary forms of discipline, and recommends physicians play a role in guiding school districts to find more effective and appropriate alternatives to these policies. Traditionally, the goals for out-of-school suspension and expulsion were to promote a safe environment for students and discourage inappropriate, violent behavior by removing those who participated in such behavior. However, research has demonstrated that "schools with higher rates of out-of-school suspension and expulsion are not safer for students or faculty." AAP notes that zero-tolerance policies gained recognition with the passage of the *Gun-Free Schools Act* (1994), which was "prompted by violent acts perpetrated by white students." Yet, many school districts use these policies to address a variety of infractions, including nonviolent offenses, and the vast majority of out-of-school suspensions and expulsions involve black or Hispanic students. Authors cite data that suggest that "students who are involved in the juvenile justice system are likely to have been suspended or expelled." Additionally, students who experience out-of-school suspension and expulsion are as much as 10 times more likely to drop out of high school than those who do not. Dropping out of high school can have lasting consequences for an individual's earning potential (reduce lifetime earnings by an average \$400,000 females and \$485,000 for males). Compared to the average high school graduate, the average high school dropout experiences worse health outcomes and has a life expectancy that is 6 to 9 years shorter. Furthermore, exclusionary discipline policies have collateral consequences beyond those students suspended. "Research indicates a negative relationship between the use of suspension and expulsion and school-wide academic achievement, even when controlling for demographics such as socioeconomic status." Authors conclude that research demonstrates that out-of-school suspension and expulsion are used too readily, are ineffective deterrents to inappropriate behavior, and are harmful and counter productive to the student, the family, the school district, and the community as a whole, both short- and long-term. AAP maintains that these exclusionary disciplinary practices "should not be considered as appropriate discipline in any but the most

extreme and dangerous circumstances, as determined on an individual bases rather than as a blanket policy."

**86. Morris Edward W., Perry Brea L. The Punishment Gap: School Suspension and Racial Disparities in Achievement. *Social Problems*. 2016;63(1):68-86.**

Authors propose that school punishment is a logical explanation for achievement differences between black and white students for three reasons: 1) punishment varies widely by race, which suggests it may be related to racial variation in achievement; 2) suspension and expulsion exclude students from the learning environment, which can impede academic progress; and 3) "school suspensions increased markedly beginning in the 1990s at the same time that progress on narrowing the achievement gap waned." Researchers used longitudinal data from the Kentucky School District Discipline Study (KSDS). The sample of students grades 6 through 10 with complete records (n=16,248) includes children identified as white (59%), black (25%), Latino (10%), Asian (4%), and self-reported other race (3%). The sample population is comprised of 51% boys and 49% girls. The rates of out-of-school suspension in the KSDS and nationally representative National Household Education Surveys (NHES 2007) are the same with 22% reported as ever been suspended. Findings from the 17 schools indicate that black students are estimated to be 7.57 times as likely to be suspended as white students ( $p < .001$ ), and Latinos are over twice as likely as whites ( $OR = 2.39$ ;  $p < .001$ ). Additionally, students of other races are estimated to be 2.61 times more likely to be suspended than whites ( $p < .001$ ), while Asians are less likely than whites ( $OR = .20$ ;  $p < .001$ ). Furthermore, when school-level differences are controlled for, black students are still estimated to be nearly six times as likely to be suspended as their white peers ( $OR = 5.91$ ;  $p < .001$ ), Latinos are about twice as likely ( $OR = 1.87$ ;  $p < .001$ ), and students of other races are 2.47 times more likely ( $p < .001$ ). Asian students are less likely to be suspended than white students ( $OR = .23$ ;  $p < .001$ ). These findings suggest that "racial segregation into different schools explains about 12% of the effect of being black on the odds of suspension, and supplemental analyses confirm that schools with larger concentration of black students have significantly higher rates of out-of-school suspension." Analyses of covariates found: 1) Students who qualify for free/reduced lunch are predicted to be 6.36 times more likely to be suspended as those who do not ( $p < .001$ ); 2) students who receive special education services are estimated to be 3.19 times more likely than those who do not ( $p < .001$ ); and girls are less likely to be suspended than boys ( $OR = .36$ ;  $p < .001$ ). Controlling for each of these and family structure (one parent or two parent household), black students are predicted to have nearly 2.46 times the odds of suspension compared to whites students ( $OR = 4.46$ ;  $p < .001$ ). Students of other races are 57% more likely than whites to be suspended ( $p < .05$ ). However, the association becomes non-significant for all other races or ethnicities when controlling for all other factors suggesting that the elevated risk of suspension can be entirely explained by groups' lower levels of socioeconomic status and family structure. Analyses of the effect of suspension on academic achievement in reading and math suggest that "20% of the effect of being black on reading achievement ( $b = -2.07$ ;  $p < .001$ ) and 17% on math achievement ( $b = -2.24$ ;  $p < .001$ ) works indirectly through inequalities in exclusionary discipline experiences." Therefore, findings suggest disproportionate rates of suspension experienced by black students in public schools contribute to the racial achievement gap.

**87. Perry Brea L., Morris Edward W. Suspending Progress. *American Sociological Review*. 2014;79(6):1067-1087.**

This multivariate analysis of longitudinal data collected as part of the Kentucky School Discipline Study (KSDS) assesses the effects of high use of suspension on reading and math achievement. Authors note prior research focuses on students who experience suspension and expulsion but does not evaluate the effects on other students in the learning environment. The sample includes students in grades 6 through 10 (middle and high school) enrolled in a district public school during the study period from August 2008 to June 2011. Authors found exclusionary discipline patterns in the KSDS data are representative of national trends (e.g., race and ethnicity and gender). For example, 42% of Black students in the sample had ever been suspended compared to 43% in the nationally representative sample (a non-significant difference). In order to provide an estimate of school-level effects on individual achievement, researchers excluded 749 students with out-of-school suspensions from the analysis sample (n=16,148 students). Consistent with national trends, students with suspensions were disproportionately male, Black, Hispanic, and eligible for free/reduced lunch. Results indicate a statistically significant, curvilinear relationship between school-level out-of-school suspension over time and student academic achievement. Researchers found low levels of school suspensions (below the mean = 93.97) do not affect non-suspended students' reading or math achievement. However, in schools with low levels of violence (one standard deviation below the mean) high levels of out-of-school suspension has a strong negative effect on predicted reading scores for non-suspended students (54th percentile at mean level of suspension; 28th percentile at very high levels of suspension [two standard deviations above mean]). Analyses of the association between suspension and math achievement follow the same trend. The effect is less pronounced in disorganized and violent school environments. This relationship is unaffected by the addition of demographic student- and school-level characteristics, and the time-ordered nature of the variable (suspensions occurred before or during the testing period) suggests a causal relationship. Findings suggest that higher levels of exclusionary discipline within schools over time negatively affect the academic achievement of non-suspended students in punitive contexts.

**88. Petras Hanno, Masyn Katherine E., Buckley Jacquelyn A., et al. Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences. *Journal of Educational Psychology*. 2011;103(1):223-237.**

This study uses an advanced longitudinal modeling technique, multilevel discrete-time survival analysis, to examine the occurrence and the timing (i.e., grade) of school removal (i.e., suspension and expulsion), while "accounting for clustering of students within the classroom and explicitly incorporating the estimate of covariate effects at both the student level and classroom level on the event history process." Authors cite evidence that students who are removed from school are "at higher risk for several negative outcomes, including academic failure, grade retention, negative school attitude, and, consequently, high school dropout, juvenile delinquency, and incarceration." Researchers use data from a larger randomized prevention trial study of preventive interventions targeting early learning and aggression in first and second graders in Baltimore City public schools. The analysis includes participants from the control group who had complete records of variables of interest. The sample (n=1,169) is representative of all students entering first grade in the 1986-1987 school year in urban areas comprised of neighborhoods at high risk (due to high rates of financial poverty and crime) for many negative outcomes. The majority of the sample is African American (65.1%) and Caucasian (33.6%). Results may not be generalizable to other racial and ethnic groups. Overall, the study shows that race and ethnicity, sex, financial poverty level, and early individual levels of aggression all have strong

relationships to school removal. Additionally, researchers found risk differences remain when controlling for early individual levels of aggressive/disruptive behavior. For example, "African American students had 2.02 times the hazard odds of first school removal at any given grade compared with White students, controlling for the effects of SES, sex, and aggression." Similarly, students on free or reduced lunch had "1.68 times the hazard odds of first school removal at any grade compared with students of higher SES levels, holding the effects of race, sex, age, and aggression constant." Authors conclude that "boys compared with girls, African-American students compared to Caucasian students, and students living in financial poverty compared with those not living in poverty are at much greater risk for school removal, and this phenomenon is not fully accounted for by differences in students' initial levels of aggression."

**89. Rausch M.K., Skiba R.J. The Academic Cost of Discipline: The Relationship Between Suspension/Expulsion and School Achievement. Indiana University, Center for Evaluation and Education Policy; 2005.**

The author summarizes past research suggesting that zero-tolerance policies were implemented to deter future misconduct for students and their peers, and to improve the learning environment for students that are not suspended or expelled. This study looked at two related hypothesis: 1. Does student suspension and expulsion increase academic achievement for students that are not suspended or expelled? And 2. Does student suspension and expulsion decrease academic achievement for students that are disciplined? The author states that there is "little available research and no published evidence in peer reviewed journals that has demonstrate a positive impact of student removal on student learning or academic achievement." The author analyzed school-level suspension and expulsion data for all public elementary and secondary schools in a Midwestern state to look at the relationship between academic achievement, race, and discipline. They controlled for other sociodemographic variables, including socioeconomic status, race, and grade level. At the elementary school level, after controlling for poverty, they found that African American students were significantly more likely to be expelled than another other racial group and that White students scored significantly higher on standardized tests. The author concluded that, after controlling for sociodemographic factors, out-of-school suspension significantly predicted school achievement. The author states that, "after accounting for the influence of a school's poverty rate, out-of-school suspension is the next strongest predictor of achievement, even stronger than a schools percent minority enrollment and level (elementary vs. secondary)."

**90. Management Washington State Office of Financial. Estimates of April 1 population by age, sex, race, and Hispanic origin. 2020.**

The Washington State Office of Financial Management provides annual estimates of Washington State's population and demographics. On April 1, 2020, OFM released state population estimates for 2019. In 2019, 25% of the Washington State population was 19 years of age or younger. Of these youth, 73% were white, 11% were two or more races, 8% were Asian, 5% were Black, 2% were American Indian/Alaska Native, and 1% were Native Hawaiian/Pacific Islander.

**91. Alhusen J. L., Bower K. M., Epstein E., et al. Racial Discrimination and Adverse Birth Outcomes: An Integrative Review. *J Midwifery Womens Health*. 2016;61(6):707-720.**

Alhusen et al. conducted an integrative review of literature published from 2009 to 2015 examining the relationship between racial discrimination and adverse birth outcomes. Fifteen studies met the inclusion criteria (4 qualitative, descriptive studies; 11 quantitative studies - 8

convenience samples, 3 population-based studies using quota sampling and stratified sampling), and articles were assessed using the Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) 2009 framework. The majority of studies were conducted to assess the relationship between racial discrimination and adverse birth outcomes in African Americans. Three studies discussed experiences of institutionalized racism in both accessing and receiving prenatal care, and two studies examined racial discrimination during prenatal care and racial discrimination as a barrier to accessing prenatal care. African American women in one qualitative study described experiencing both interpersonal level (e.g., racial slurs directed at them) and institutionalized racism during prenatal care (e.g., differential treatment based on receipt of public assistance). One study reviewed used a biological marker to examine the effects of race and racial discrimination. Results indicate that at every point, African American women exhibited higher antibody titers than white women ( $P < .001$ ). "The effect was most pronounced among African American women who reported experiencing higher levels of racial discrimination in the first and second trimesters ( $P = .03$  and  $P = .04$ , respectively), supporting a role that chronic stress is related to this association." Authors conclude there is a significant need for the development and testing of interventions addressing racial discrimination at the provider level (i.e., students and professionals). They recommend interventions adapt a community-based participatory research framework to establish mutually respectful relationships grounded in learning, shared responsibilities, and capacity building. Additionally, relationship-based services like home visiting may be beneficial for individuals who experienced delayed access to prenatal care.

**92. Poel A. Health of Washington State Report: Mortality and Life Expectancy. Data Update 2015. Washington State Department of Health; 2015.**

Poel presents Washington state data on mortality and life expectancy. The data show that age-adjusted death rates were higher in Washington census tracts with higher poverty rates. The state data also show that American Indian/Alaska Natives, Native Hawaiian/Other Pacific Islanders, and black residents had the highest age-adjusted death rate and shortest life expectancy at birth compared to other groups in the state.

**93. Health of Washington State: Mental Health. Washington State Department of Health; 2008.**

Washington Behavioral Risk Factor Surveillance System (BRFSS) data from 2004-2006 indicate that American Indians and Alaska Natives and non-Hispanic black individuals reported significantly higher rates of poor mental health compared to other groups. These relationships persisted after adjusting for additional factors such as age, income, and education. Washington BRFSS data also show an association between lower annual household income and poor mental health, a relationship that was also shown with education. It is well understood that mental health is also closely related to other areas such as employment opportunities, physical health, substance abuse. This report also highlights a Washington state study from 2002 that reveal that 16% of individuals in the state who were receiving publicly funded mental health services had at least one felony conviction, a rate over twice that of the general population.

**94. Christensen Trevor, Weisser Justin. Health of Washington State Report: Tobacco Use. Washington State Department of Health; 2015.**

Christensen et al. report Washington state Behavioral Risk Factor Surveillance System (BRFSS) data from 2012 to 2014 indicate that prevalence of smoking decreases as income and levels of education increase. Further, American Indians and Alaska Natives (AI/AN) and Native Hawaiian/Other Pacific Islander populations have significantly higher smoking rates than white, black, Hispanic, and Asian populations.

**95. Kemple Angela. Health of Washington State Report: Diabetes. Washington State Department of Health; 2016.**

Kemple presents data from Washington regarding diabetes in the state. Washington data from the Behavioral Risk Factor Surveillance System (BRFSS) from 2012-2014 show that among adults, the percentage of persons with diabetes increased as household income decreased. This relationship was also true for education. Further, BRFSS data also show that age-adjusted diabetes prevalence is highest among those who are Hispanic, American Indian/Alaska Native, and black.

**96. VanEenwyk J. Health of Washington State Report: Socioeconomic Position in Washington. Washington State Department of Health; 2016.**

VanEenwyk presents data about socioeconomic position in Washington State including differences within the state as well as statewide differences compared to national data. Data indicate that compared to the United States as a whole, fewer Washington residents are living in poverty and a higher percentage of residents ages 25 and older have college degrees. However, these economic resources are not evenly distributed among all Washington residents. Females in Washington were more likely to be living in poverty than males and were also more likely to have lower wages. Further, American Indian and Alaska Native, Hispanic, and black residents had higher percentages of living in poverty and lower median household incomes compared to other groups. Data also indicated that counties in eastern Washington were more likely to have high poverty rates and high rates of unemployment than counties in western Washington.

**97. Child Weight and Physical Activity. Washington State Department of Health; 2013.**

The authors present Washington state data on child weight and physical activity. The data show that in 2012, around 10% of Washington students in grades 8, 10, and 12 were obese and another 13-14% were overweight. Among 10th grade students, American Indian/Alaska Natives, Blacks, Hispanics, and Pacific Islanders were more likely than their white counterparts to be overweight or obese. Nationally, the authors indicate that the percentage of children and adolescents who were defined as overweight has doubled since the early 1970's and in 2012, around 42% of Washington students in grades 8, 10, and 12 reported that they were trying to lose weight.

**98. Ebbeling Cara B., Pawlak Dorota B., Ludwig David S. Childhood obesity: public-health crisis, common sense cure. *The Lancet*. 2002;360(9331):473-482.**

Ebbeling et al. present a global literature review on the scope of the childhood obesity problem and developments in the establishment of a cause, prevention, and treatment for obesity. Rates of childhood obesity have grown across the globe, with a nearly 2 to 3 fold increase in the rates in the United States over the last 25 years. Most relevant to this review, the authors examined extensive literature that demonstrates the association between childhood obesity and hypertension, high blood lipids, chronic inflammation, increased blood clotting tendency,

endothelial dysfunction, hyperinsulinaemia, sleep apnea, asthma, and type 2 diabetes. Further, type 2 diabetes presents additional risks such as heart disease, stroke, kidney failure, and blindness. In addition to the physical health risks from childhood obesity, many studies have indicated substantial psychosocial consequences such as negative self-image and stereotyping. The authors note that Black and Hispanic youth in the United States are at a greater risk for type 2 diabetes and cardiovascular disease than their white counterparts.

**99. Ellings Amy. Health of Washington State Report: Obesity and Overweight. Washington State Department of Health; 2015.**

Ellings reports Washington state Behavioral Risk Factor Surveillance System (BRFSS) data from 2002-2014, which shows that obesity rates are the highest among low income families and that as income increase, rates of obesity decrease. Further, individuals that graduated college or attended some college had lower rates of obesity than those who had a high school education or less. Black, American Indian and Alaska Native, and Hispanic Washington residents had higher rates of obesity even after accounting for gender, income, education, and age.

**100. Jay Shubrook Jr. Childhood Obesity and the Risk of Diabetes in Minority Populations American Osteopathic Association Health Watch; 2011.**

Shubrook presents data on childhood obesity and diabetes among children in the United States. Data shows that childhood obesity increases the risk of adult obesity with estimates indicating that obese children as young as age 6 have a 50% chance of being obese as an adult. Further data indicates that childhood obesity increases the risk of coronary heart disease and mortality as an adult. Data from the National Health and Nutrition Examination Survey (NHANES) show that Hispanic and non-Hispanic black children have the highest rates for childhood obesity in the United States. There also appears to be a disproportionately higher incidence of type 2 diabetes among minority children with the highest incidence found among Navajo Indian females (38.42 cases per 100,000 people compared to 3.7 cases per 100,000 white females). Shubrook concludes that the burden of obesity is of great concern, particularly among minority populations in the U.S. and this increased risk needs to be acknowledged in order to address the problem effectively.