

Revised 300

Adopted by voice vote as amended

AMERICAN BAR ASSOCIATION
COMMISSION ON YOUTH AT RISK
CRIMINAL JUSTICE SECTION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

- 1 RESOLVED, that the American Bar Association urges the federal, territorial, and tribal
2 governments to revise laws, court rules, policies, and practices related to “dual jurisdiction”
3 youth (abused and neglected youth with juvenile “dependency” cases who are charged with acts
4 of delinquency) to:
- 5 a) Use diversion and intervention services for minor or low level acts of misbehavior
6 committed while a youth is in foster care;
 - 7 b) Eliminate statutory and legal restrictions inhibiting dual jurisdiction;
 - 8 c) Create a legal preference enabling youth to have their dependency proceedings remain
9 open with continued child and family support;
 - 10 d) Provide, when feasible, that a single judge hear post-adjudication dispositional matters
11 involving dual jurisdiction cases and that continuity of legal representation for the child in both
12 court proceedings be secured;
 - 13 e) Promote training for all juvenile defense counsel on foster care issues;
 - 14 f) Ensure that an adult responsible for the youth attend hearings in both proceedings to
15 address issues related to the child and family;
 - 16 g) Encourage information-sharing among dependency and delinquency courts and
17 agencies, establish confidentiality protections for all child welfare information shared, and
18 restrict the use of information gathered from foster youth as part of screening, assessment, or
19 treatment in the pending or future delinquency or criminal proceedings;
 - 20 h) Promote the prompt post-arrest involvement of providers, caseworkers, or advocates
21 acting on the youth’s behalf; ensure fair treatment of foster youth in juvenile detention,
22 incarceration, or probation decisions; and eliminate practices that result in detention or prolonged
23 incarceration of youth due to foster care status or an absence of suitable placement options;
 - 24 i) Provide clear authority for continued social services/child welfare support for children
25 and families when youth cross from dependency to delinquency court/juvenile justice, and
26 eliminate funding barriers that inhibit multiple agency support of these youth and their families;
 - 27 j) Apply protections afforded foster youth under Titles IV-E of the Social Security Act to
28 youth placed through delinquency or status offense proceedings, in foster care or other non-penal
29 settings, under court authority or under the auspices of juvenile justice agencies; and
30 k) Fully implement 2002 and 2003 amendments to the Juvenile Justice and Delinquency
31 Prevention Act and the Child Abuse Prevention and Treatment Act to: 1) make youths’ child
32 welfare records known to the juvenile court for effective treatment planning; 2) provide effective
33 treatment and service continuity when youth transition between child welfare and juvenile justice
34 systems; 3) assure that when youth are placed in settings funded through Title IV-E of the Social

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35 Security Act they receive full protections afforded under that law; and 4) collect state data on all
36 youth transferred from one system to another.