

## Summary of Amended House Bill 86 JJ Provisions & Budget\*

**1. HB 86 promotes research-informed practices.** Specifically, in reference to how RECLAIM dollars should be spent, it adds new language that states: “Research-supported, outcome-based programs and services, to the extent available, shall be encouraged.”

**2. HB 86 extends juvenile court authority to allow for judicial release throughout a youth’s term of commitment.** Currently, judges can only grant an early release during a youth’s minimum sentence time period, after which any release decision rests solely with the Department of Youth Services (DYS). Under this reform, judges maintain jurisdiction to consider early release opportunities throughout a youth’s commitment, including juvenile’s serving mandatory sentences.

**3. HB 86 revises four of the existing mandatory sentencing specifications involving a gun (“gun specs”) to allow for judicial discretion in instances where the youth was not the main actor.** Specifically, juvenile judges have more discretion in sentencing for youth accomplices (complicity) under certain conditions where the youth did not possess, dispose of or otherwise use the weapon.

**5. HB 86 adopts a uniform juvenile competency code that applies to all delinquency proceedings using a juvenile specific standard.** A juvenile is incompetent if, “due to mental illness, intellectual disability, or developmental disability, or otherwise due to or a lack of mental capacity, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child’s defense.” A child who is 14 or older who is not otherwise found to be mentally ill, intellectually disabled, or developmentally disabled, is rebuttably presumed to “not have a lack of mental capacity” (for purposes of determining mental capacity only).

**6. HB 86 creates a reverse waiver provision for youth automatically transferred to adult court (mandatory bindover) that would permit transfer back to juvenile court.** This reverse waiver procedure would only apply in those circumstances where a youth is convicted of an offense that would not have originally qualified as a mandatory bindover offense. In this instance, the case would go back to juvenile court for juvenile sentencing or an amenability hearing to determine whether the adult sentence should be invoked.

**7. HB 86 creates an Interagency Mental Health Juvenile Justice Task Force to address the challenges of delinquent youth who “suffer from serious mentally illness or emotional and behavioral disorders.”** The six month Task Force has representation from the state Supreme Court, the Governors office, the House, the Senate, ODYS, ODMH, juvenile judges, public defenders, prosecutors, academic institutions and numerous other experts, such as NAMI. It must submit a report with findings and recommendations to the legislature by March 31, 2012.

\* The House and Senate-passed version of the budget (HB 153) included a significant reform provision regarding reallocation of institutional savings, specifically “**45% of the unspent amount allocated for juvenile correctional facility operations in GRF to be used to expand** evidenced-based community programs” (such as Targeted RECLAIM and BHJJ interventions). However, the final version of the budget removed the mandatory reapportionment of these savings, reading in full:

Delete lines 148800 through 148807 and insert "For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the **Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance** of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs."

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