



**Testimony Submitted to the Joint Committee on the Judiciary  
In Support of S.940/H.1495  
An Act promoting diversion of juveniles to community supervision and services  
By Nancy Bettinger, LWVMA Criminal Legal System Legislative Specialist  
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The League of Women Voters of Massachusetts asks the Joint Committee on the Judiciary to support S.940/H.1495 and to report it favorably. The bill aims to build upon the provisions of the 2018 Criminal Justice Reform Act (CJRA) allowing judges to divert young people to community-based interventions prior to arraignment. If passed, this bill would expand the types of offenses eligible for diversion, burden fewer young people with juvenile records and reduce the harmful consequences of deeper involvement in the juvenile system.

This bill aligns with policy positions adopted by the League of Women Voters of the United States (LWVUS, 2023) which support:

- Consideration of community-based treatment programs when appropriate;
- Reliance on evidence-based research in decision making about criminal justice programs and policies;
- The elimination of systemic bias, including the disproportionate policing and incarceration of marginalized communities; and
- Collaboration between government and community throughout every stage of the criminal justice system

Formal processing through the juvenile system (e.g., arraignment, trial, adjudication and detention) can have serious, long-lasting negative effects on a young person. Extensive research and policy analysis strongly support expanding the diversion of juveniles into community-based programs.

**Researchers have shown that formal processing for an adolescent charged for the first time with a relatively moderate offense can do more harm than good (Cauffman, et al., 2020).** A rigorous investigation known as the Crossroads study was conducted to evaluate whether differences in processing (informal diversion versus formal processing through the juvenile system) affect subsequent illegal behavior, justice system involvement and other developmental outcomes. The “findings indicated that youth who were formally processed during adolescence were more likely to be re-arrested, more likely to be incarcerated, engaged in more violence, reported a greater affiliation with delinquent peers, reported lower school enrollment, were less likely to graduate high school within 5 years, reported less ability to suppress aggression, and had lower perceptions of opportunities than informally processed youth” (Cauffman, et al., 2020). In contrast, community-based interventions can be provided within supportive social environments, which play a crucial role in positive development (NRC 2013).

**Arraignment is a tipping point in justice involvement that can lead to irreversible negative consequences for many young people.** When young people are arraigned in court, a juvenile record is established, which can have long-term consequences. In some cases, a juvenile record may limit a person’s ability to pursue educational opportunities, military service, and public housing placement. After arraignment, the young person must return to court for a trial, and may even be securely detained until the

trial. Even in cases that are ultimately dismissed, this level of involvement in the system can be traumatizing and will inevitably disrupt the young person's education, financial stability and family and social relationships. Pre-arraignment diversion can avoid this collateral damage.

**Among young people who come into contact with the legal system, Black and Latino youth are grossly overrepresented.** The Massachusetts Juvenile Justice Policy and Data Board compared arrest rates for Black, Hispanic and white youth. In 2021 Black youth were over 3 times more likely than white youth to be arrested or summoned to court, and Latino youth were almost twice as likely (JJPAD, 2022). The data also showed that Black youth were 4 times more likely and Latino youth were 3 times respectively more likely than white youth to be arrested (handcuffed) by the police (JJPAD, 2023). Based on their data, the Board concluded that these disparities could be attributed to a combination of societal differences and differences in treatment by police. To reduce the disparities, the Board recommended investing in community-based programs aimed at reducing system involvement and expanding the state Diversion Learning Labs, a program initiated to improve access to diversion and community-based interventions.

**In fiscal year 2022, 59% of youth who were arraigned in juvenile court ultimately had their charges dismissed (JJPAD, 2023),** clearly showing that many more young people could be diverted before arraignment, thus sparing them from the negative impacts of further involvement in the court system.

**Many youth in the juvenile system have underlying unmet needs that may be the cause of their system involvement (JJPAD 2023).**

- “More than half of the youth detained pretrial had an individualized education plan (IEP), twice the rate of Massachusetts’ students generally.”
- “A quarter of the youth detained pretrial had previously been subjected to physical or sexual abuse or had been sexually exploited.”
- “About one third of youth detained pretrial experienced feelings of depression and/or anxiety, almost twice the rate of Massachusetts’ youth population.”

These needs should be addressed by services provided in the community, avoiding further trauma from formal juvenile system involvement.

Experts have long recognized that most adolescent illegal activity represents risk-taking behavior that is part of the normal development process, and that most young people, will mature out of such behavior (NRC, 2013). Involvement in the formal juvenile justice system can do more harm than good, and involvement in the system should be minimized. In addition to harm reduction, cost effectiveness should be a consideration. Experts have noted that “...formally processing youth not only is costly, but it can reduce public safety” (Cauffman et al., 2013). Expansion of diversion opportunities can reduce both the likelihood of re-offending and the cost of addressing illegal activity by juveniles. The League of Women Voters of Massachusetts, representing 44 local Leagues across the Commonwealth, urges this committee to report S.940/H.1495 favorably in a timely manner.

Thank you for your consideration.

## References

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