

KEEPING KIDS OUT OF JAIL: SOME LESSONS FROM VIRGINIA



Virginia Governor Robert McDonnell (R) signs the bill into law. Key players in the bill's passage included the bill's patron, Sen. L. Louise Lucas (D) (seated), Melissa Goemann, then director of the Mid-Atlantic Juvenile Defender Center and co-chair of the Virginia Coalition for Juvenile Justice (VCJJ) (third from left), Andy Block, then legal director of the JustChildren program of the Legal Aid Justice Center and co-chair of the VCJJ (standing, center), as well as Carlos Hopkins of the Virginia Indigent Defense Commission (far left) and Guy Tower of the Virginia Bar Association (2nd from left). Also present: Nancy Shepherd, widow of prominent child advocate Robert (Bob) Shepherd (third from right); Margaret Bacigal, chair of the Virginia Bar Association's Commission on the Needs of Children (behind governor); Virginia DJJ Director Helivi Holland (second from right) and Deputy Director Sam Abed (far right).

PASSING A "JAIL BILL:" THE PROCESS

In early 2010, Virginia's General Assembly unanimously passed a bill that says that youth who are being held while awaiting trial in Circuit Court should be placed in a juvenile detention center, unless there has been a hearing and a judge has found them to be a safety or security risk in the juvenile facility. (See the attached pages for more specifics about the bill.)

This was the culmination of a process that advocates set in motion a couple of months earlier when they approached state Senator L. Louise Lucas and asked her to patron (sponsor) the bill. Sen. Lucas accepted the task without hesitation.

When the General Assembly session started in January, Senator Lucas and advocates Andy Block

and Kate Duvall of JustChildren and Melissa Goemann of the Mid-Atlantic Juvenile Defender Center began the work of getting the bill through the Senate.

The bill passed through the Senate subcommittee and committee levels without controversy. The Senate, which was controlled by the Democrats, then passed the bill unanimously as part of a block vote.

Once the bill crossed to the Republican-controlled House of Delegates, it faced a tougher path. Advocates met individually with subcommittee members to get them on board.

At the House subcommittee hearing, several community members were present, including parents of youth who had been transferred and held in jail pre-trial. A legislator

Here is the official Bill Summary:

Detention of transferred or certified juveniles. Provides that a juvenile whose criminal case has been transferred to circuit court or certified be placed in a juvenile secure facility unless the court determines that he is a threat to the security or safety of the other juveniles detained or the staff of the facility, in which case he may be moved to an adult facility.

who opposed the bill was absent from this hearing. Several advocates and one parent spoke, and another parent sent written comments. One legislator made a point of thanking the parent who spoke, saying that it was good to hear from “real people.”

The original bill had specified that youth could not be placed in jail based solely on the charges they faced. The subcommittee passed the bill unanimously, after amending it to take out that provision. The full committee amended the bill again before passing it, and it then passed the House unanimously in a block vote.

At the signing ceremony for the bill, the governor echoed advocates’ talking points. This is the same person who was a chief patron of Virginia’s tough juvenile transfer laws in the 1990s!

KEY LESSONS

Some “tough on crime” legislators will support jail removal! As JustChildren’s Kate Duvall and Andy Block noted, most legislators “got it” about the need to keep kids out of adult jails. Some focused on the fact that the bill addressed *pre-trial* detention, with its presumption of innocence. Some legislators who otherwise supported long sentences for youth were uncomfortable with kids being housed with adults before they were “big enough” to handle it.

Start early and find a good sponsor. With a part-time legislature like Virginia’s, it’s important to approach legislators well in advance of the session.

Get to know your state legislature and team up with people who do. Learn who the key legislators are, and the key committee processes. In Virginia, almost all of the action takes place in small subcommittee meetings. Meet individually with the key committee members and **keep track of votes.**

Build on a strong foundation. This success built on years of advocacy on juvenile transfer issues. The allies and networks were in place so that when the time came, supporters understood the issue. Also, JustChildren released a key report on transfer a couple of months before the session, and spent a lot of time meeting with legislators on transfer issues.

Be strategic, focused, and willing to compromise. In Virginia, advocates opted to introduce the bill in the Senate, where it would have an easier route to passage. This gave it some momentum, and positioned it for re-introduction in a later session if it became clear that it would not pass the House.

Advocates focused their time on meeting with key House subcommittee members and recruiting people to attend and speak at the subcommittee hearing. By being willing to compromise, advocates gained credibility and — most importantly — votes.

Stories are extremely important! Find them, tell them to legislators, and get the media to tell them if possible. **This is where families can play a key role.** In Virginia, previous media coverage had focused on youth who were acquitted after being held in adult jail. Advocates also told stories when they met with legislators.

Warning: if *you* don’t have stories, legislators may rely on their own hypothetical stories or remember sensational crimes, and then vote accordingly.

Consider how a full-blown public campaign might affect your legislators. At least one delegate who voted for the bill was turned off by a prominent newspaper editorial supporting it. Know your audience and figure out what resonates with them.

Emphasize the differences between juvenile detention and adult jails. In Virginia, *all* juvenile detention centers have school and staff trained to work with adolescents. As a rule, the jails do not, although some have GED programs.

JDAI sites have an edge in arguing for youth charged as adults to be held in juvenile detention. In Norfolk, where many youth had been held in jail pre-trial a few years ago, JDAI efforts reduced the detention population, making room for youth who might otherwise have been placed in the jail.

Spread the word when the law goes into effect. JustChildren prepared fact sheets for defense attorneys and families (see attached).