



State of New Hampshire

Office of the Child Advocate



Moira O'Neill
Child Advocate

December 8, 2021

Justice Patrick E. Donovan
Chair, Advisory Committee on Rules

Lorrie Platt
Secretary, Advisory Committee on Rules
One Charles Doe Drive
Concord, NH 03301

RE: Proposed Revision to Circuit Court—Family Division Rule 3.6

Justice Donovan and Secretary Platt:

We are writing in support of the proposed revision to Circuit Court—Family Division Rule 3.6, Conditions of Release, more familiarly known as our juvenile probation rules. Pursuant to RSA chapter 21-V, the Office of the Child Advocate provides advice and information to promote the best interest of children. The Office supports the proposed revision because it would be in children's best interest. Unfortunately, we have a previously scheduled meeting and will be unable to attend the hearing. Thus, we write to be sure you are aware of the Office's support. We would also welcome the opportunity to answer any questions or provide information prior to, or following, the hearing.

The Office of the Child Advocate is a member of the New Hampshire Juvenile Probation Transformation Team, sponsored in part by the Annie E. Casey Foundation. The focus of the initiative is to capitalize on advancements in the science of brain development to transform the probation system to one that will be effective in influencing pro-social behavior and accountability. To that end, the Team collaborated extensively with judges, prosecutors, defense attorneys, law enforcement, diversion coordinators, policy makers, providers, and, most importantly, children and DCYF's Juvenile Probation and Parole Officers who supervise them. The overarching aim of the transformation is to prevent children from entering the juvenile justice system at all. This rule change represents a key logistical point of the transformation for those children who will require court oversight in their rehabilitation. The rule changes emphasize meaningful accountability and effective, individualized interventions most likely to produce positive outcomes.

Changing the rules as we have proposed, to emphasize individualized plans of treatment informed by a strengths-based needs assessment, will better meet a child's identified needs. When children's needs are met, the incidence of re-offending is lowered, thereby lessening risk to the community. This is consistent with what we know about children's brain development. Because the brain is still developing well into their mid-20s, especially the frontal lobe where critical thinking and insight happen, children can learn and adjust their anti-social behavior in

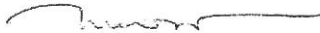
the right conditions.¹ The growth of neuropsychological pathways in the brain is stimulated by positive reinforcement like rewards and incentives. It is stifled by arbitrary rules and sanctions in punitive models.² This information about brain function and development is information we did not have available when the current rules were set forth.

The majority of children in the juvenile justice system have a diagnosable mental health disorder.³ In fact, many end up in the system because of a lack of understanding of their needs, or the inability to access services and treatment in their community. Although a recognized problem since the early 2000s, a recent advisory from the U.S. Surgeon General indicates an unprecedented prevalence in mental health challenges among children.⁴ In the four years of the Office's existence, we have seen this borne out in the children we work with in the juvenile justice system. In fact, in the past month alone we have seen 5 children in the juvenile justice system go to the emergency department where they await care for significant mental health needs. The Surgeon General's recommendations include focusing interventions on access to high-quality and trauma-informed mental health care for children on probation who need it. The new, focused, and relevant rules of probation providing for individualized plans will target rehabilitative efforts toward what a child most needs to improve most rapidly and be successful.

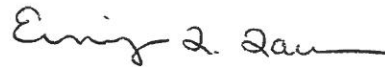
Ultimately, healing children, whether from mental illness or other adverse childhood experiences, and supporting achievement of developmental milestones will improve community safety and minimize the need for cumbersome probation infrastructure and unnecessary burden on the courts. We urge you to approve the proposed revision to Circuit Court—Family Division Rule 3.6, Conditions of Release, or juvenile probation rules.

Thank you for your attention to this matter. Your contemplation of the value of this change is much appreciated. Please do not hesitate to contact us with questions or if the Office can provide any further information.

Very truly yours,



Moira O'Neill, PhD
Child Advocate



Emily Lawrence, JD
Associate Child Advocate and Legal Counsel

¹ Arain, M., Haque, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R. & Sharma, S., Maturation of the Adolescent Brain, *Neuropsychiatr Dis. Treat.* 2013; 9: 449-461. <https://doi.org/10.2147/NDT.S39776>.

² The Annie E. Casey Foundation. (2018). *Transforming Juvenile Probation: A Vision for Getting It Right*. Baltimore, MD, at 10.

³ Cocozza, J.J., Skowrya, K.R., & Shufelt, J.L. (2010). *Addressing the Mental Health Needs of Youth in Contact with the Juvenile Justice System in System of Care Communities: An Overview and Summary of Key Issues*. Washington, D.C.: Technical Assistance Partnership for Child and Family Mental Health.

⁴ The U.S. Surgeon General, (2021). Protecting Youth Mental Health: The U.S. Surgeon General's Advisory.