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AP: Some states disregard juvenile justice law

AP Associated Press

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CHEYENNE, Wyo. — When Erica Olivares ran away from home at age 16, the penalty was not a stern lecture — it was a month in Laramie County jail. Soon, under the tutelage of adult criminals, she was addicted to drugs. "Methamphetamine, I'd never even heard about that. And I heard about that in there," said Olivares, now 26.

Legally, she should never have been in position to learn such harsh lessons. Runaways are not supposed to be put in jail, let alone meet adult lawbreakers on the inside, under a 34-year-old federal law called the Juvenile Justice and Delinquency Prevention Act.

Yet year after year, some states disregard key parts of the law with little consequence, an Associated Press examination has found. Those states included Wyoming, Mississippi, South Carolina and Washington in 2006, according to documents obtained by The Associated Press under the Freedom of Information Act.

The federal law provides funds for compliance, money that can be withheld for failure to comply, just as millions in federal highway funds can be lost by states not setting a drinking age of 21. But the Juvenile Justice and Delinquency Prevention Act provides far less grant money — from \$600,000 to about \$7.5 million annually per state. This is less than the cost of building juvenile lockups and hiring guards trained to work with juveniles. States feel less public pressure to comply, juvenile advocates say.

The U.S. Department of Justice, which administers the act, has a policy of not naming publicly the noncompliant states and not disclosing how those states have run afoul of the law. As a result, many kids become victims, advocates say.

"Kids' lives are literally at stake," said Liz Ryan, executive director of the Campaign for Youth Justice, a Washington, D.C.-based group that lobbies to keep youths out of jail. "They can be harmed in adult jail, they can be harmed in juvenile correctional facilities."

The Senate Judiciary Committee began debating renewal of the Juvenile Justice and Delinquency Prevention Act in 2008. The process bogged down but is expected to resume in the new Congress. Ryan said she's hopeful that the Obama administration will be on board to improve the law significantly and release to the public more information gathered under the act.

Advocates say the law's renewal is a good time to open up procedures, require every state to have a full-time compliance monitor and reverse steep cuts in federal funding for juvenile justice programs.

The law contains four core areas:

- First, juveniles generally should not be held in adult jail.
- Second, if they are put in an adult jail — for an adult felony or if space isn't immediately available at a juvenile facility — they must be separated from adult inmates.
- Third, juveniles should not be locked up for age-specific crimes, such as running away or possessing alcohol.
- Finally, states should not lock up minority youth at a higher rate than other kids.

The states in violation have remained largely unknown over the years — to advocates and even elected officials. U.S. Sen. Edward Kennedy, D-Mass., a member of the Judiciary Committee, has said he's had trouble obtaining information.

"Congress does not receive reports on whether a state has met the standards in the act, and states are not required to publish their state plans. The result has been a serious lack of transparency and accountability in compliance," Kennedy said in a statement to the AP.

It was only after a six-month, back-and-forth process under FOIA that the AP obtained records of states' compliance from the Justice Department's Office of Juvenile Justice and Delinquency Prevention.

The office said it doesn't routinely name noncompliant states because it doesn't want to embarrass them.

"I don't think it's ever a good customer-friendly service to embarrass somebody, do you?" said Greg Thompson, an office administrator who works with states to comply with the law. "I think we achieve more by working collegially with the states rather than trying to work adversarially with them."

Records released to AP show Mississippi has complied with fewer areas of the law than any other state — except perhaps Wyoming, which hasn't participated in the law since 1993.

In 2006, Mississippi locked up nearly twice as many youths for crimes related to their age and sent eight times as many youths to adult jails as the federal standard allows. In addition, Mississippi has run into trouble year after year for jailing too many minority youths.

Sheila Bedi, former director of the Mississippi Youth Justice Project who now heads the Justice Policy Institute in Washington, D.C., said for years, Mississippi wasn't committed to developing a modern approach to juvenile justice.

For not complying, the federal government annually reduces part of Mississippi's federal juvenile justice funding by 20 percent for each area in violation. For fiscal year 2007, the state received \$240,000 instead of \$600,000.

"It all comes down to resources," Bedi said. "They're not getting resources because they're not in compliance. They can't get in compliance without the resources."

Mississippi officials said they're working to get the state back on board. They're hoping to get more state funding for new facilities and employees to work with troubled kids.

"I'm not going to tell you everything's perfect here. But I can tell you we're doing our best," said Sam Albritton, executive director of the planning office in the Mississippi Department of Public Safety.

Officials with the South Carolina Department of Public Safety said a jail in Greenville is responsible for nearly all their violations for keeping juveniles in adult jail. They said a planned 50-bed juvenile facility would handle those youths and bring South Carolina into compliance.

In Washington state, a law allows runaways to be kept for up to five days in a facility called a "secure crisis residential center." The idea is to allow time for evaluation of drug, mental health and abuse problems, according to Mary Williams, Washington's juvenile justice coordinator.

But four of the state's crisis centers are inside juvenile jails, and those runaways are considered jailed under the federal act.

Previously compliant Wisconsin and Oregon ran into trouble in 2006. Wisconsin locked up too many youths for age-specific crimes. Oregon put too many juveniles in adult jails. Officials in both states blamed reporting errors by local jurisdictions.

Thompson with the Justice Department said keeping states compliant and bringing others back requires a year-in and year-out effort.

"It's frustrating for us sometimes that we can't fine the states or we can't get every state into compliance," he said. "But the reality is there are going to be changes within a state system from year to year that are going to result in some states falling out of compliance and some states coming back into compliance."

One reason Wyoming hasn't participated in the law for 15 years is rural police want to be able to put kids who get in trouble in jail if their parents can't be found, according to Byron Oedekoven, executive director of the Wyoming Association of Sheriffs and Chiefs of Police.

"What do you do with the juvenile that has committed the crime at 3 in the morning and you cannot locate the parents?" Oedekoven said, adding officers cannot afford to baby-sit kids and be distracted from more urgent issues. "We have a responsibility to keep everybody safe."

As it is, Wyoming locks up youth at a rate 2 1/2 times the national average and has the second-highest rate of jailing juveniles in the nation.

Oedekoven said more funding for alternatives — such as recruiting volunteers to watch kids who get picked up — would help.

Yet total federal funding for juvenile justice programs — including post-conviction alternatives to jail, such as mentoring and probation — declined from \$565 million in 2002 to \$384 million in 2008, according to the Congressional Research Service.

Ryan, the juvenile justice advocate, said states need more funding and should be required to have a full-time employee dedicated to compliance.

"You have to have someone whose name you can tell me, who works on this full-time, who's in and out of these facilities, who's looking at the data, who's reporting on the data, who's accountable," Ryan said.

The goal is to keep an eye out for more youths like Olivares, who said jail didn't scare her into shape but ruined her life.

After leaving jail, Olivares' meth use and friends landed her in trouble. She racked up a state drug possession charge and a federal counterfeiting charge.

She recently finished two years of probation, has kicked her meth habit and now mentors troubled youth through Casey Family Programs, a national nonprofit that works with troubled youth in foster care.

But her two felonies have made finding jobs difficult.

Had she not been exposed to the jail experiences, she doubts "I'd be as ruined as I am."

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