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## **Incarceration of Juveniles in West Virginia**

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### Summary

Can two of West Virginia's problems be solved simultaneously? Current concern abounds regarding how to deal with the ever-growing number of adult offenders placed in the State's correctional facilities. At the same time, there is growing concern about the quality of correctional services provided for the youth of the state. Consideration should be given to a shorter and longer-term solution to both problems. In the short to medium term facilities now dedicated to juvenile detention could be closed and reopened for the adult population. This assumes that appropriate alternative to youth incarceration exist. The longer-term solution is to expand childcare and Pre-K education programs as these have a positive effect on reducing the incidence of juvenile delinquency and perhaps recidivism.

A report released last month found West Virginia as one of only six states where the rate of juvenile incarceration had increased between 1997 and 2010.<sup>1</sup> By reducing the number of youth placed in custody and having a portion of these facilities available for adult offenders, it may be possible for the State to deal with both issues.

This "White Paper" discusses the substantial research demonstrating juvenile incarceration to be both counterproductive as well as expensive. The paper also:

- Reviews policies in other states which have reduced the rate of juvenile incarceration
- Looks behind the aggregate numbers to give a detailed analysis of the statistics
- Indicates what potential steps should be taken to reduce youth incarceration in the State while easing the burden of building more beds for the growing adult prison population
- Suggests that consistent with the research, expanded childcare and Pre-K education programs would reduce the level of future juvenile delinquency.

Specifically, the findings of this paper are:

- West Virginia is one of only six states which have increased the number and rate of juvenile incarceration in the past 15 years
- The majority of those children confined did not commit violent or major crimes
- Incarceration of juveniles is costly and counterproductive
- The possibility of closing some of the existing juvenile facilities and reopening them for adults rather than building new adult prisons deserves consideration
- Among those longer-term alternatives with the highest payoff in reducing juvenile crime is improved and expanded early child and Pre-K programs.

There are proven alternatives to youth incarceration which would reduce the prison population, ease the burden on the state budget while improving the lives and prospects of West Virginia's children.

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<sup>1</sup> Annie E. Casey Foundation. (2013). "Reducing Youth Incarceration in the United States." Annie E. Casey Foundation.

## Juvenile Incarceration in West Virginia

The report prepared by the Anne E. Casey Foundation and released by West Virginia Kids Count, found incarceration of juveniles over the past 15 years on a nationwide basis had decreased rapidly and now stood at a 35 year low. Using Census Bureau and Department of Justice data the report notes: "...youth confinement peaked in 1995 at 107,637 in confinement on a single day. Since then the number of youth confined has dropped by 37,000 to 70,792...over the same period the rate of youth in confinement dropped by 41 percent, from 381 per 100,000 youth to 225..."

Not so in the Mountain state. In 1997, the one-day snapshot found 399 juveniles incarcerated and 561 in 2010 for an increase of 60 percent. Only Idaho demonstrated poorer performance with an 80 percent increase. When considered on a per 100,000 juveniles basis the West Virginia rates were 198 and 318 in 2007 and 2010 respectively. Little comfort is found by viewing results in surrounding states all of whom except Pennsylvania experienced declines. The results are as follows:

- Kentucky -21%,
- Maryland -46%,
- Ohio -31%,
- Pennsylvania +7%,
- Virginia -42%.

## Implications of Juvenile Incarceration

The shorter-run solution is to begin ending the rate of incarceration for juveniles by adopting policies that have worked in other states. This alternative would open up the possibility that some of the juvenile facilities could be converted into adult facilities reducing the need to add more adult capacity to the prison system. There is impressive research supporting the proposition that incarceration of juveniles is poor public policy. The Annie E. Casey Foundation, in a 2007 report, summarized that research.<sup>2</sup>

We now have overwhelming evidence showing that wholesale incarceration of juvenile offenders is a counterproductive public policy. While a small number of youthful offenders pose a serious threat to the public and must be confined, incarcerating a broader swath of juvenile offender population provides no benefit for public safety. It wastes vast sums of taxpayer dollars. And more often than not, it harms the well-being and dampens the future prospects of troubled and law breaking youth who get locked up.

As that report notes, other states are recognizing facilities confining youth are:

- Dangerous
- Ineffective
- Unnecessary
- Obsolete

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<sup>2</sup> Mendel, R. (2011). "No Place for Kids: The Case for Reducing Juvenile Incarceration." Annie E. Casey Foundation.

- Wasteful
- Inadequate

Further support comes from the Justice Policy Institute, which concluded after reviewing the research:

- States needlessly spend billions of dollars a year incarcerating nonviolent youth
- States are realigning fiscal resources away from ineffective and expensive state institutions and towards more effective community-based services
- Holding more youth in secure juvenile facilities can lead to costly litigation for states
- Imprisoning youth can have severe detrimental effects on youth, the long term economic productivity and economic health of communities
- Policies that lock up more youth do not necessarily improve public safety
- Community-based programs increase public safety
- Community-based programs for youth are more cost effective than incarceration<sup>3</sup>

A report from the US Department of Justice confirmed these findings:

...incarceration may not be the most appropriate or effective option even for many of the most serious adolescent offenders. Longer stays in juvenile facilities did not reduce reoffending, institutional placement even raise offending levels in those with the lowest level of offending. Youth who received community-based supervision and aftercare services were more likely to attend school, go to work, and avoid further offending.<sup>4</sup>

### Workable Alternatives to Youth Incarceration

Over the past years, other states<sup>5</sup> have discovered effective ways to reduce the number of confined juveniles while at the same time reducing juvenile crime and improving outcomes such as high school graduation rates using the Juvenile Detention Alternative Initiative (JDAI).<sup>6</sup> While this short paper should not be viewed as exhaustive, it does provide a review of effective programs.

- Reserve commitment only for those who have committed serious offenses. As the data presented later indicates most of those young people confined in West Virginia are there having committed no major crime and pose no threat to public safety. Many states, through legislation, have eliminated placement of those who commit “low level” crimes and are non-violent offenders. This solution assumes that there are alternative places and programs that address the causes of delinquency. Without these this option is not viable as judges are forced to incarcerate as other options are unavailable.

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<sup>3</sup> Petteruti, A, Walsh, N. & Tuzzolo, E. (2009). “The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense.” *Justice Policy Institute*.

<sup>4</sup> Slowikowski, F. (2011). “Highlights from Pathways to Distance: A Longitudinal Study of Serious Adolescent Offenders.” *Juvenile Justice Fact Sheet*.

<sup>5</sup> For example see programs in Texas, Louisiana, California, Oregon, New Mexico, Illinois, Pennsylvania and Ohio.

<sup>6</sup> Mendel, R. (2009). “Two Decades of JDAI: From Demonstration Project to National Standard.” Annie E. Casey Foundation.

- Create Non-Residential Alternatives. Among these are programs to reduce truancy, expand vocational training, counseling and community-based centers for drug abuse and mental health services. These programs are labor-intensive requiring significant numbers of trained personnel with adequate compensation.
- Improve state funding to community based programs instead of state confinement. The lack of local resources to develop and maintain community-based facilities is viewed as a major reason for the unavailability of these services. With the restrictions placed on county and local government's ability to raise revenue under the State Constitution and law it is unlikely these facilities will be developed principally in rural areas.
- Reduce the size of correctional facilities. Smaller facilities dispersed around the state have demonstrated keeping the youth close to home better engages families, increased the availability of mentors and creates a more hospitable treatment environment. The goal is to have no more than 50 youth in any facility.

### West Virginia Juvenile Services

Programs related to juvenile incarceration are based primarily in the West Virginia Division of Juvenile Services (DJS) of the Department of Military Affairs and Public Safety. See Exhibit 1 for location of all facilities. The DJS manages ten day and evening reporting services across the state.<sup>7</sup> These are community-based alternatives to detention for minor offenders aged 10-18 who otherwise might be detained. The program lasts for 120 days in lieu of placement outside of the home. New facilities are underway or planned for Jefferson and Mason Counties.

In addition, the DJS operates eight detention facilities designed to provide temporary residential placement for youth awaiting court ordered placement at a correctional facility.<sup>8</sup> In addition, there are two correctional facilities where offenders serve the sentences provided by circuit courts.<sup>9</sup> Further, the Jones Sexual Offender Treatment Program in Harrison County provides intensive treatment for youthful sexual offenders.

The average cost per resident for the correctional centers is \$263.60 per day (\$96,214 per resident year). For the juvenile centers, the average daily cost per resident is \$351.02 (\$128,122 per resident year).<sup>10</sup> No easily accessible information on the effectiveness of these programs is available.

### Early Childhood and Pre-K Programs

The shorter-term projects described above will bring results, but focus needs to be on prevention of youth offenses not just dealing with delinquencies after they happen. In the longer-run the way to prevent and reduce the number of youth offenders is expanded child-care and Pre-K programs.

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<sup>7</sup> Berkeley, Boone, Brooke, Cabell, Kanawha, Harrison, Marion, Mercer, Putnam and Wood.

<sup>8</sup> Yeager in Wood, Kuhn in Boone, Morton in Kanawha, Douglas in Berkeley, Shell in Cabell, Perdue in Mercer, Buckbee in Hampshire, Northern Regional in Ohio.

<sup>9</sup> West Virginia Industrial Home for Youth in Harrison and Rubenstein in Tucker.

<sup>10</sup> Office of the Governor. (2013). "State of West Virginia FY 2014 Executive Budget." State of West Virginia.

These programs have the highest “payoff” per dollar invested of any other youth and education programs. A report from Marshall University Center for Business and Economic Research (CBER) commented:

The most recent studies in child development find that different stages of the life cycle are important in the development of intelligence and abilities. Most of these develop prior to the child’s entry into school. When the opportunity to provide for the formation of these capacities is not realized then remediation in later life must transpire. Such remediation is more costly than preventive action and less effective. Put in economic terms, the returns to investment in early child development are significantly higher than waiting.<sup>11</sup>

Among the demonstrated results of effective early childhood programs are:

- Higher school completion rates
- Reduced juvenile delinquency
- Declines in teen pregnancy
- Greater lifetime earnings
- Healthier lifestyles
- Less drug and substance abuse

Gaining these benefits for West Virginia could provide a return of \$5.20 for each dollar invested. Young people who are not involved in early childhood programs are 70 percent more likely to commit violent crimes by age 18. This reduction in juvenile crime has been cited as one of the earliest payoffs to expanded and improved childhood programs.

### West Virginia Childcare and Pre-K Programs

In 2002 West Virginia passed legislation requiring preschool education programs be made available to all 4-year-old children. Each county school district was responsible for this access. Fifty percent of the classrooms are to be collaborations with community partners. Pre-K programs are funded under State School Aid Funding Formula where over \$85 million was allocated in 2012.

West Virginia Pre-K ranks fifth in the nation for access for 4-year-olds, eighth for state spending and fourth for total spending on Pre-K. Approximately 70 percent of those eligible have been enrolled in the program with a goal of 80 percent.<sup>12</sup> The participation rate for Pre-K in each county is provided in Exhibit 2. Governor Tomblin has included an additional \$17 million in his budget request to further implement and improve Pre-K offerings.

Pre-K programs must work in concert with childcare programs. There is a continuing push for raising the quality of childcare programs and the establishment of more childcare facilities in rural counties. There are two problems: access and quality. Access to child care can be limited by

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<sup>11</sup> Kent, C., Price, J., et.al. (2009). “Comprehensive Improvements in Early Childhood Policies for West Virginia.” Center for Business and Economic Research, Marshall University.

<sup>12</sup> West Virginia Early Care and Education. (2013). “WVBE Policy 2525: West Virginia’s Universal Access to a Quality Early Education System.” WVDE & WVDHHR.

the distance which must be traveled to reach the facility. In many counties there are only limited centers available as those which exist are clustered in the more populated areas. Access also is limited by the cost of securing child-care. For West Virginia, despite the low pay for workers, childcare is sufficiently expensive that low and middle-income families are excluded particularly if there are two or more children.

Quality of childcare facilities also should be addressed as there are only a relatively small number of these facilities in West Virginia which meet national standards. (Exhibit 3 provides a map of accredited centers). Upgrading these centers is part of the Quality Rating and Improvement System (QRIS).<sup>13</sup> West Virginia has established this program but funding has not been sufficient for implementation.

### Pending Activity

In addition to the changes and increase funding for Pre-K, Governor Tomblin has proposed legislation to revamp the justice program. Those actions, if passed, will have positive effects on reducing the overcrowding of detention facilities.

One of the most positive developments is coming from the West Virginia Supreme Court under Justice Workman. In June 2011, the Adjudicated Juvenile Rehabilitation Review Commission was established.<sup>14</sup> Its goal was to “do the very best we can to provide safety and effective rehabilitative services to young people who are detained as a result of court orders.”<sup>15</sup> While originally focused on the Industrial Home for Youth and the Rubenstein Center, the Commission has now embraced the entire field of juvenile justice and will be reporting to both the executive and the legislature on its findings and recommendations.

### Conclusions

Potential exists for West Virginia to deal with two of its major concerns; how to house a growing number of adult offenders and to improve the wellbeing of its youth particularly those who are facing incarceration. At a time when the state experiences increasing fiscal pressure and continues to rank near the bottom in measures of youth outcomes, policy changes effectively implemented in other states are worthy of close scrutiny. Following the examples of other states to reduce the number of juveniles placed in confinement would allow these facilities to be converted into adult institutions saving the state from constructing new prisons. Spending more on youth incarceration policies that are of limited effectiveness while neglecting the potential to increase the economic vitality of the state by expanded and improved child and youth programs appears to be a less than desirable option.

Steps that should be considered include:

- Juvenile Incarceration

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<sup>13</sup> McDonald, D. (2009). “Elevating the Field: Using NAEYC Early Childhood Program Accreditation to Support and Reach Higher Quality in Early Childhood Programs.” National Association for the Education of Young Children (NAEYC).

<sup>14</sup> Workman, M. (2011). “Ensuring the Well-Being of Juvenile Delinquents.” *The West Virginia Lawyer*, 10-11.

<sup>15</sup> *Ibid.* p.10.

- Provide a comprehensive analysis on the costs and benefits of existing programs.
- Investigate the practices in other states which have been successful in reducing the level of juvenile incarceration.
- Review laws and protocols determining when minor offenders should face incarceration.
- Insure there are alternative programs and places short of incarceration available.
- Consider closing some existing youth facilities and converting them for adults.
- Early Childhood and Pre-K programs
  - Provide increased funding for early childhood programs so that more centers can meet national standards.
  - Expand Pre-K programs to increase access to all West Virginia children particularly those living in rural areas.
  - Continue to expand Pre-K programs so at least 80 percent of those eligible are enrolled.

It is acknowledged that moving forward will require a period of transition. Too often short term “fixes” are substituted for longer range but more desirable alternatives. The necessary study should begin now. The State has the potential to create a better and less costly environment that should not be overlooked.

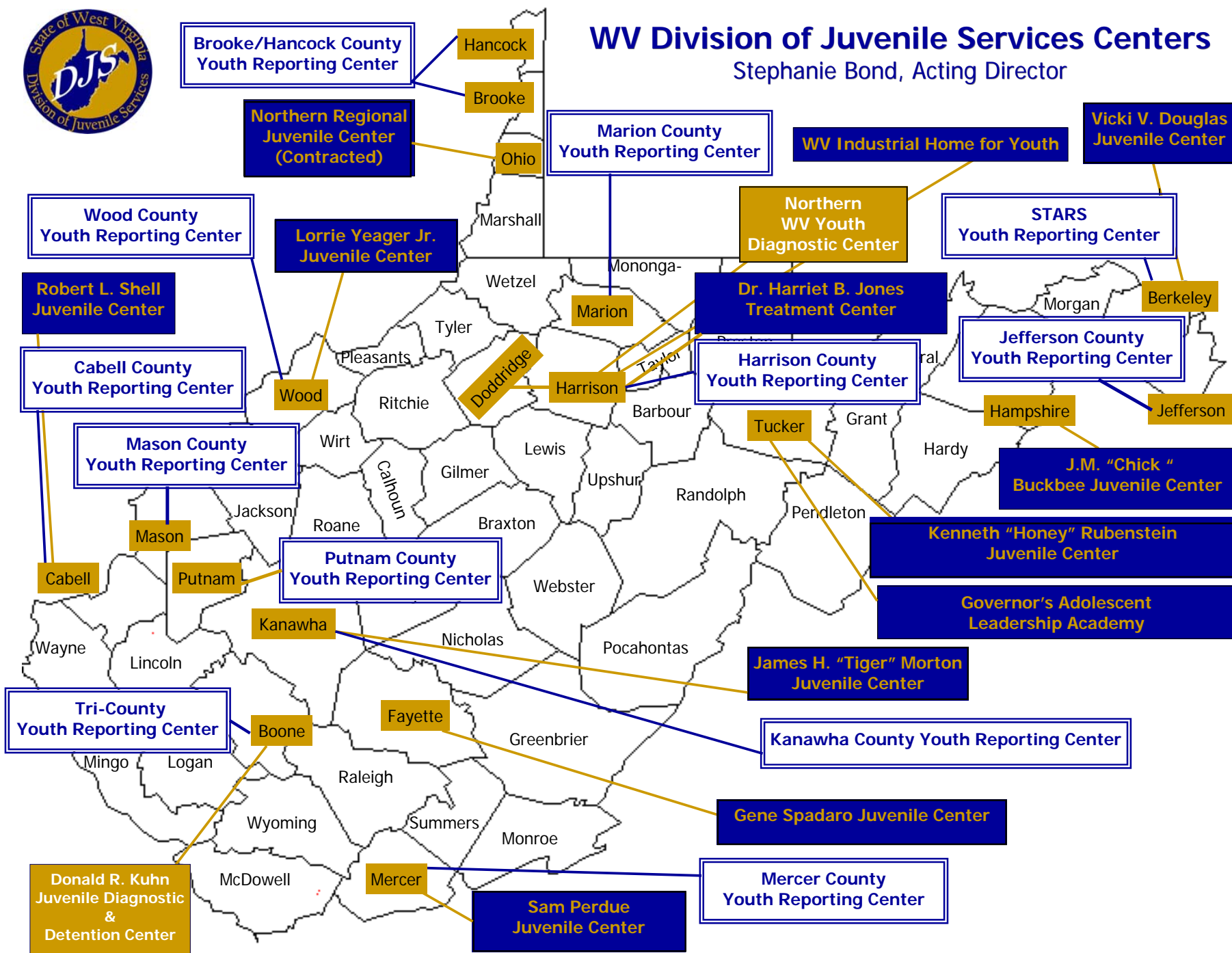


Exhibit 1



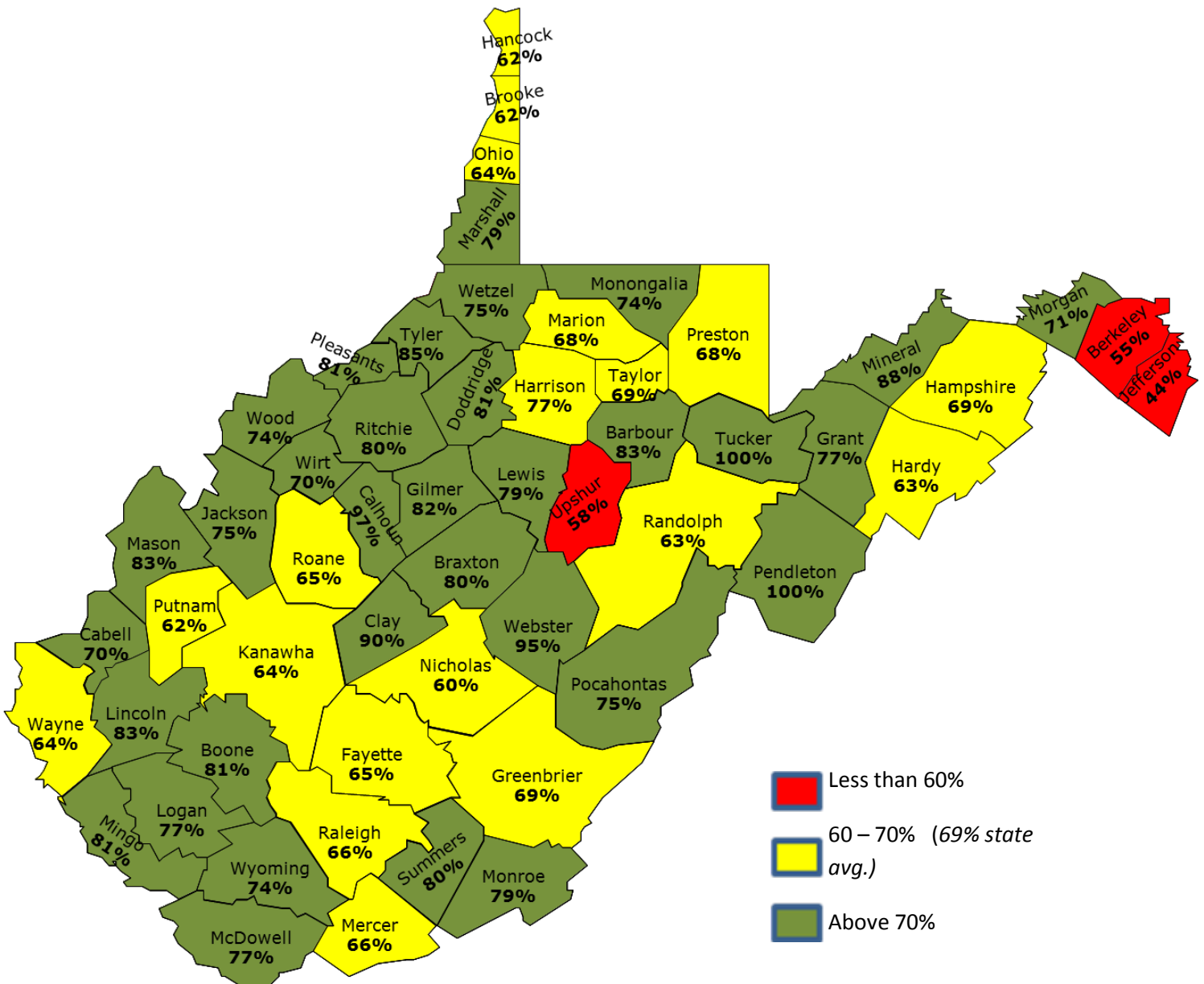
# WV Division of Juvenile Services Centers

Stephanie Bond, Acting Director



**Exhibit 2 WVBE POLICY 2525 – WEST VIRGINIA’S UNIVERSAL ACCESS  
TO A QUALITY EARLY EDUCATION SYSTEM**

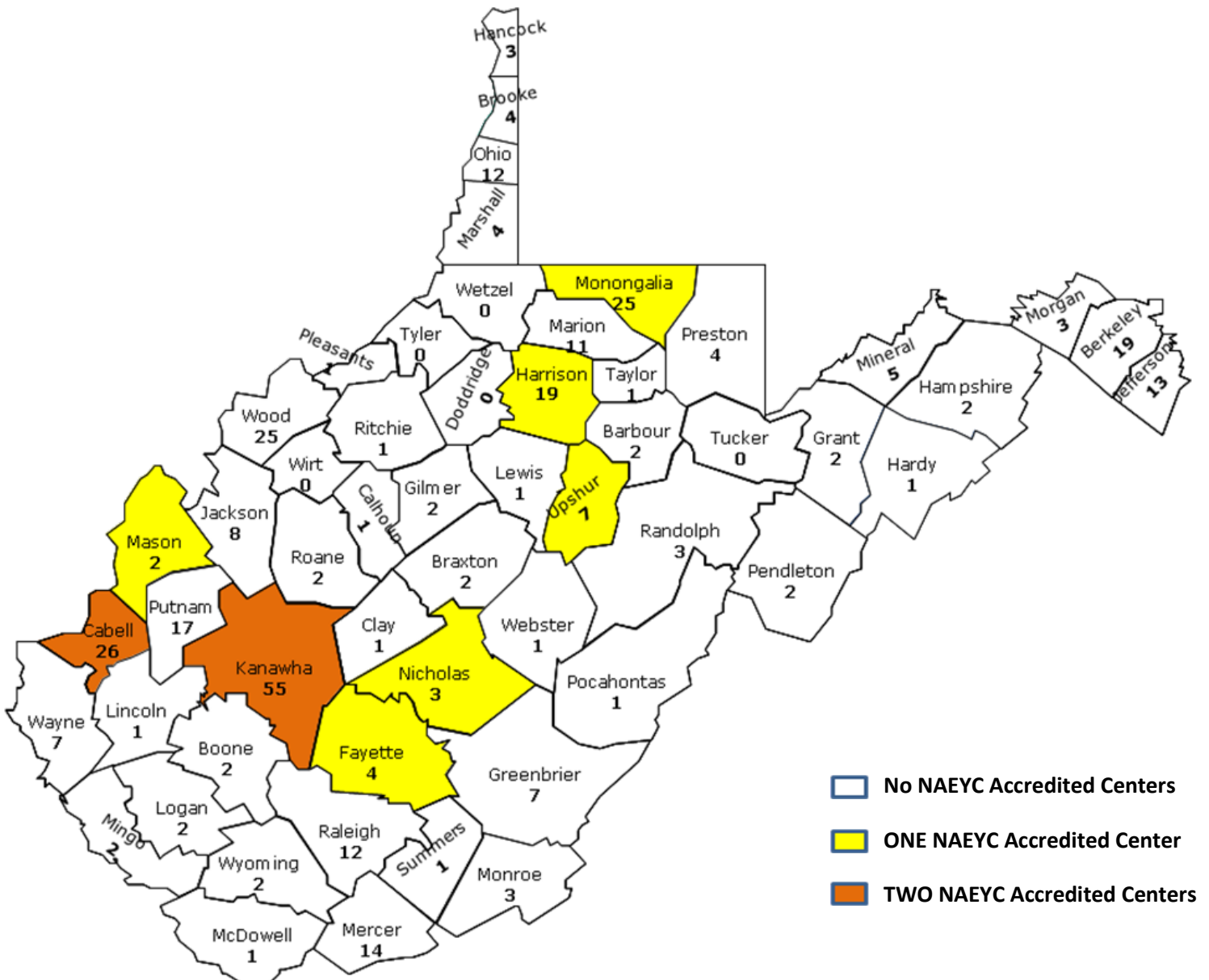
**West Virginia Universal Pre-K  
2011-12 4 Yr. Old Participation Rates\***



\* Percent Participation is the comparison between the 5 yr. old kindergarten enrollment and the 4 yr. old population enrolled in pre-k from the previous year. This is used as a rough estimate for participation and needs.

Exhibit 3 WVBE POLICY 2525 – WEST VIRGINIA’S UNIVERSAL ACCESS  
TO A QUALITY EARLY EDUCATION SYSTEM

West Virginia Licensed Child Care Centers  
2012 WVDHHR WV Child Care Centers



## Appendix A

### Details on Juvenile Incarceration for West Virginia

The Department of Justice provides a breakdown for West Virginia by offense. This data should be viewed with a bit of skepticism. The data is reported by the states and how states classify and record crimes may have changed between the dates of the survey. In addition, differences in how the data is reported make state-to-state comparisons difficult. Nevertheless, the total numbers in “residential placement” (juvenile facilities, training schools, shelters and detention centers) is most likely accurate and should be viewed with concern.

- Crimes against persons resulting in incarceration increased from 32 percent to 35 percent of all offenses. While the incidence of homicide, robbery, aggravated assault all showed decreases. Sexual and simple assault showed marked increases.
- Crimes against property, which led to juvenile confinement, showed a decrease from 34 percent to 26 percent of all offenses. Auto theft and arson were down, but burglary and theft showed significant increases.
- The overall incidence of drug crimes committed by confined juveniles fell from 11 percent to 8 percent of all offenses.
- Public order offenses were 5 percent of incarcerations in 1997 and rose to 9 percent in 2010. The most significant increases were weapons related offenses. Among the other crimes under public order are: escape from confinement, perjury, contempt of court, cruelty to animals, disorderly conduct or traffic violations.
- Technical violations rose from 5 percent to 15 percent. Technical violations include: probation and parole violations consisting of failures to report, participate in specific programs, take drug tests, attend meetings or non-payment of restitution.