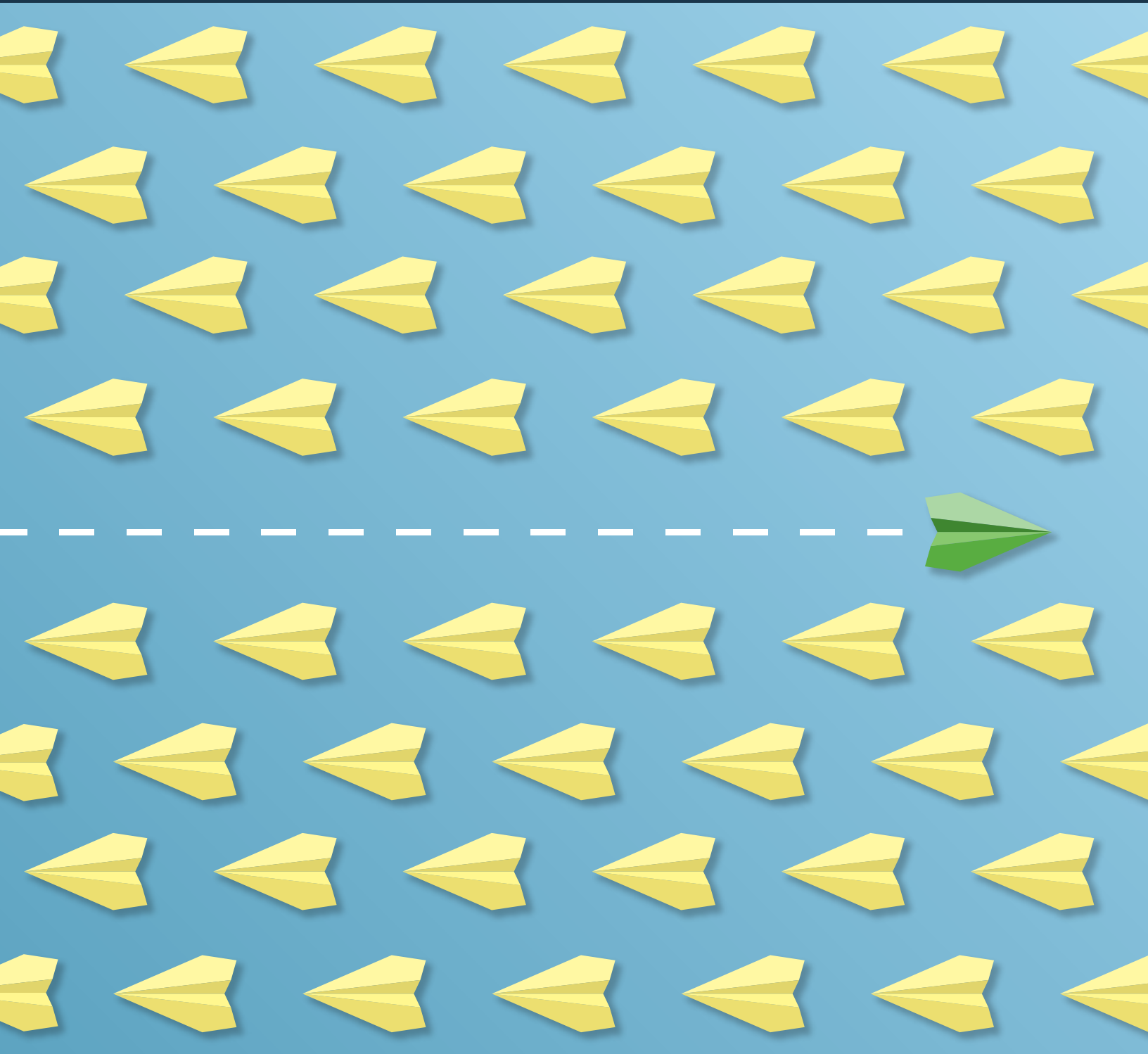


# Breaking the Rules

**50-State Findings: Juvenile Probation  
Condition and Enforcement Policies  
by the Numbers**



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Research over the last decade consistently shows that the most effective way to reduce recidivism for youth in the juvenile justice system is to identify and address the needs (substance use, negative peers, etc.) driving individuals' delinquent behavior.<sup>1</sup> Yet probation—the most common juvenile justice intervention—is typically based on monitoring youth's compliance with a broad set of rules, conditions, and court orders that are generally not oriented around what research shows works to promote youth behavior change, individual and system accountability, and system equity. As a result, these conditions can undermine, rather than promote, public safety and outcomes for youth by setting up youth for failure, making them feel like they are being treated unfairly, and distracting courts and probation agencies from focusing on individual youth's specific risks and needs.

Juvenile court and probation practices are often implemented at the local level and can vary widely. At the same time, state laws and court rules—or lack thereof—can heavily shape and sometimes dictate the underlying culture, policies, and practices of how youth are supervised and served statewide. To better understand this issue, The Council of State Governments (CSG) Justice Center conducted a 50-state landscape analysis of whether and how juvenile probation conditions and/or related court orders are codified in statute and court rules. We also examined whether state policies guide the enforcement of these conditions, including the use of incentives, graduated sanctions, and detention and incarceration as a response to youth's condition compliance. Finally, given that both federal data and our own data analysis with select counties and states show that probation violations are a significant driver of new probation cases, detention placements, and incarceration in state custody, we reviewed whether states require public entities to collect and report data on these violations.

This brief summarizes the findings from our analysis and highlights key takeaways. In addition, we provide a set of key questions that we hope policymakers, courts, probation agencies, and other state leaders and advocates will use to inform statewide policy reforms on condition setting and enforcement. We encourage states and locales to use these questions, in conjunction with the Breaking the Rules toolkit, to guide and align a broad transformation in juvenile probation laws, court rules, and judicial and probation agency practices that will improve public safety and youth outcomes.

## Juvenile Probation Nationwide

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6%

In 2019, proportion of juvenile arrests nationwide that were for violent offenses.<sup>2</sup>

245,925

In 2019, approximate number of youth placed on some form of juvenile probation.<sup>3</sup>

33%

In 2019, proportion of youth disposed to probation for committing an offense against a person.<sup>4</sup>

13.4% vs.  
33.5%

In 2019, proportion of nationwide juvenile population that was Black vs. the proportion of youth placed on probation that was Black.<sup>5</sup>

## Probation Conditions

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Over 60%

States that require or authorize juvenile courts and/or probation agencies to impose a standard set of conditions or related list of rules and sanctions for youth placed on probation.

### Of these states...

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1–25

The range of separate conditions and sanctions that different states require or authorize courts and agencies to impose on youth, with an average of 8–10 different conditions per youth.

Top 7

Type of conditions and penalties that are most commonly applied:

1. Obey all laws and refrain from possession of firearms and other weapons.
2. Attend school daily.
3. Participate in any court-ordered assessments, treatment, and other programming.
4. Forfeit driver's license privileges.
5. Submit to regular drug and alcohol tests.
6. Complete community service hours and victim restitution payments.
7. Pay additional court and probation fines and fees.

# Top 3

Primary concerns with how conditions are often detailed, including conditions being:

## 1. Overly broad

Compliance measurement and enforcement are subjective and potentially set up youth for failure and deeper system involvement. Examples from current state statutes:

“Obey all reasonable commands of the parent or other person legally responsible for the respondent’s care.”

“Any person found encouraging, causing, or contributing to the delinquency of the child to do or omit to do any act deemed reasonable and necessary for the welfare of the child pursuant to this section.”

“Participate in programs designed to develop competencies to enable the child to become a responsible and productive member of the community.”

“Participate in any program of medical or psychological or other treatment found necessary for his rehabilitation.”

“Refrain from entering into a designated geographic area except upon terms as the court finds appropriate.”

## 2. Arbitrary

Goals, terms, and methods, especially if applied in standardized ways, are unrelated to youth’s risks, needs, circumstances, and reasonable expectations given their behaviors and stage of development. Examples from current state statutes:

“Undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.”

“Order that the juvenile participate in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking, and other appropriate activities.”

“That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades.”

“Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year.”

“A period of community service of up to five hundred hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to two hundred hours for an act that would be a misdemeanor of the second, third, or fourth degree if committed by an adult, or up to thirty hours for an act that would be a minor misdemeanor if committed by an adult.”

### 3. Punitive

Without a clear connection to the specific harm the youth may have caused to victims/communities, or what research shows works to promote behavior change, conditions are punitive. Examples from current state statutes:

“A probation program for an adjudicated delinquent child must include a penalty component.”

“The court may impose a fine not to exceed one thousand dollars.”

“Prohibited from cell phone use.”

“An order suspending such child’s driver’s license for a period not to exceed the date on which he or she reaches 18 years of age.”

“When a child fails to completely perform the mandatory community service, the name and address of the child’s parent or legal guardian shall be published in a newspaper of general circulation, accompanied by a notice that the parent or legal guardian is the parent or legal guardian of a child adjudicated delinquent for committing graffiti.”

#### Conditions in Context

< 10%

States that require that conditions/penalties are imposed in a manner that is one or more of the following: individualized; developmentally appropriate; based on youth’s risk of reoffending; or based on youth or their families’ specific needs or circumstances.

< 15%

States that require the amount and type of restitution or community service imposed is determined in consultation with the victims or communities harmed and/or that youth are afforded the opportunity to participate in direct victim mediation that, if successful, can stand in lieu of court-ordered restitution or community service.

30%

Approximate proportion of states that require or authorize courts to impose conditions on youth’s parents, most often including required participation in any program or service deemed necessary by the court.

0

States that require courts and/or probation agencies to assess and address youth and family’s barriers to condition compliance and adjust conditions accordingly, other than ability to pay.

## Condition Enforcement

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16.4% and 11.9%

In 2019, proportion of youth nationwide who were detained and committed to state custody whose most serious offense was a technical violation of supervision conditions (i.e., not a new delinquent offense).<sup>6</sup>

4, 8, 19, 24

Rate that White youth are detained for a technical violation compared to Hispanic, Black, and American Indian youth per 100,000 youth nationwide.<sup>7</sup>

10, 16, 38, and 39

Rate that White youth are committed to state custody for a technical violation compared to Hispanic, Black, and American Indian youth per 100,000 youth nationwide.<sup>8</sup>

< 30%

Of all 50 states that authorize or require the statewide use of incentives and graduated sanctions as a response to youth's non-compliance with probation conditions.

50%

Approximate proportion of all 50 states that have discontinued the practice of detaining youth solely for status offenses such as truancy, running away, and disobeying curfew.

< 15%

Of all 50 states that restrict the use of detention and long-term incarceration solely for youth who commit technical violations of probation conditions such as truancy, running away, and disobeying curfew.

## Data Collection and Reporting

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National databases that track or report how many youth are on probation nationwide and in specific states at a given point in time, for what offenses including technical violations, for how long, and their outcomes.

< 5%

Of all 50 states that require at least annual reporting on technical violations for youth on probation, let alone an analysis of such rates by race, ethnicity, geography, risk level, or reason.

## In Sum

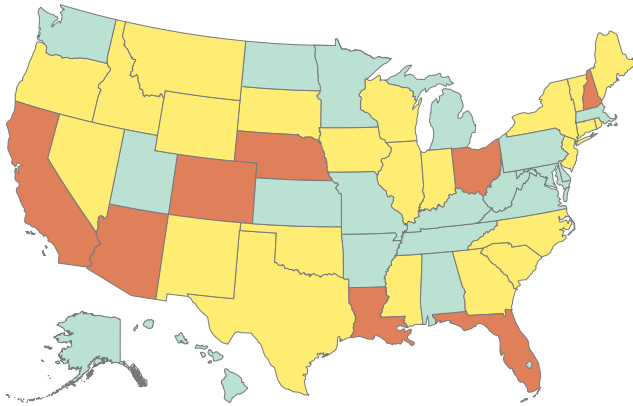
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State that doesn't require or authorize statewide probation conditions, requires the use of incentives and graduated responses, restricts both detention and incarceration for technical violations, and requires annual reporting on technical violations.

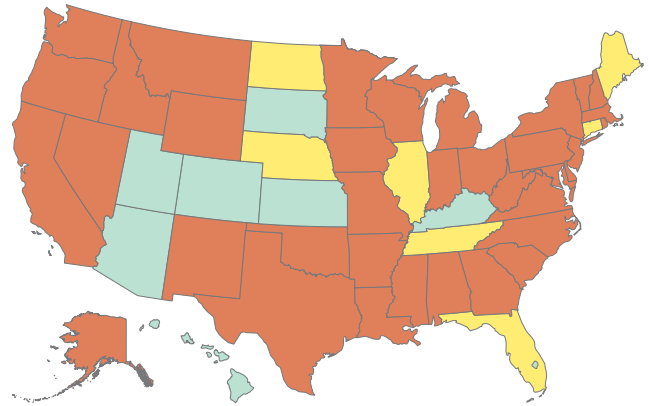
# 50-State Maps: State Policies on Conditions and Enforcement

The 50-state landscape analysis demonstrates whether juvenile probation conditions and/or related court orders are codified in statute and court rules, including whether state laws guide the enforcement of these conditions. Additionally, the analysis includes whether states require public entities to collect and report data on technical violations for youth on probation. The maps below highlight where states stand—focusing only on statute and court rules and not administrative policy or local practice—and classify states along a general continuum given the ambiguity in some states’ laws. Policymakers and advocates can use these maps to identify opportunities to align state statute and court rules with effective juvenile probation practices.



## Establish statewide probation conditions and/or related sanctions for youth on community supervision in the juvenile justice system

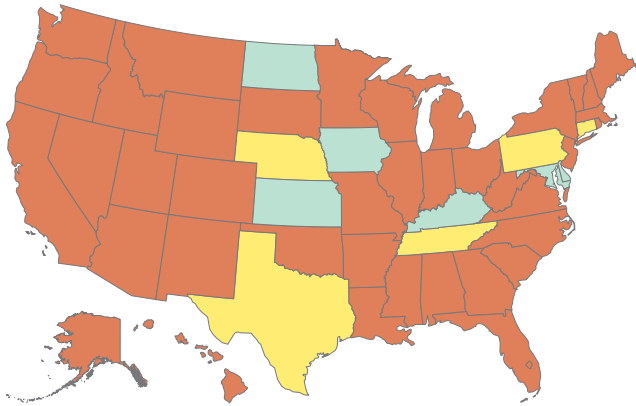
- Conditions/sanctions generally not established in statute/court rules
- Some conditions/sanctions established in statute/court rules
- Conditions/sanctions required by statute/court rules



## Employ graduated responses statewide for youth who don't comply with probation conditions

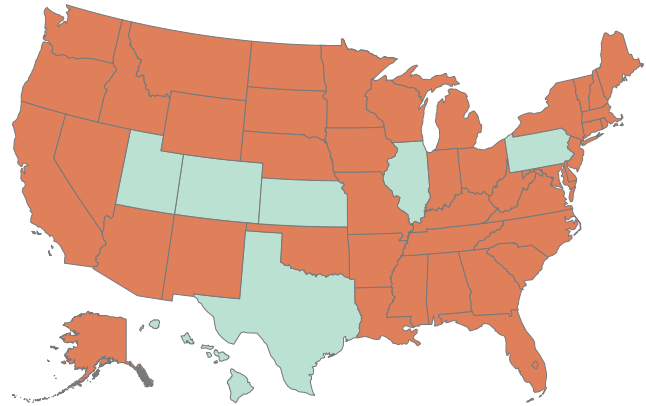
- Graduated responses required by statute/court rules
- Graduated responses outlined in statute/court rules
- Graduated responses not included in statute/court rules





**Directly restrict or limit youth from being detained or incarcerated due to a technical violation (not a new offense) of probation conditions**

- Restrict/limit both detention and incarceration for a technical violation in statute/court rules
- Restrict/limit detention or incarceration for a technical violation in statute/court rules
- Don't directly restrict/limit detention or incarceration for a technical violation in statute/court rules



**Report statewide data on juvenile probation violations**

- Reporting on statewide juvenile probation violations is required by statute/court rules
- Reporting on statewide juvenile probation violations is not required by statute/court rules

## Key Questions to Guide Reforms

### State Policies on Probation Conditions

1. Does your state have standard probation conditions in statute or court rules? Are such determinations better left to the discretion of individual courts and agencies on individual cases?
2. Has your state established a standardized set of principles (e.g., what works to promote positive youth or family behavior change, individual and system accountability, and equity) and processes (e.g., based on an individualized assessment of risks and needs, determined with input from youth, families, and victims, etc.) for guiding condition setting?
3. Should courts and agencies have legal discretion to order any conditions or penalties they deem necessary, or should such discretion be guided by research-based principles and protocols?
4. Are probation conditions the best method for repairing the harm caused to victims and communities? Are any such conditions in your state typically directly related to the specific harm caused? What opportunities does your state provide to youth and victims for mediation?
5. Are legal orders mandating family participation likely to enhance or discourage long-term family involvement and positive outcomes? Do such court orders motivate or undermine probation agencies' culture and commitment to partnership and relationship building with families?

## State Policies on Condition Enforcement

- 1.** What proportion of extended and new juvenile probation cases, detentions, and long-term out-of-home placements in your state are the direct result of technical violations of probation?
- 2.** How does your state ensure statewide responses to youth's noncompliance with probation conditions are proportional to their risk level, the nature and frequency of their behavior, timely, equitable, and effective in motivating positive behavior change?
- 3.** Does your state allow youth to be detained or incarcerated as a response to technical violations of probation? If so, is there research or regularly collected and reported data that supports the use of these costly interventions as effective public safety responses? And that they are used equitably in terms of gender, race, ethnicity, and geography?
- 4.** How much time and resources (including staff and court time, interventions, and use of facilities) does your state invest in surveillance or sanction-oriented responses to youth's behavior vs. service or support responses?
- 5.** In what ways does state law hold courts and probation agencies accountable for producing successful and equitable outcomes for youth on probation? How is this tracked and reported?

# 50-State Study Methodology

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With support from Arnold Ventures, staff from the CSG Justice Center conducted a 50-state analysis in 2022 about whether and how state statute and court rules include requirements and/or authorize courts to do the following:

1. Impose probation conditions and related penalties for youth in the juvenile justice system
2. Employ graduated responses for technical violations of probation conditions
3. Detain or incarcerate youth due to a technical violation
4. Collect data and report on probation and violation outcomes

To conduct the study and identify key findings, we engaged in the following activities:

1. Reviewed state statute and court rules in all 50 states using the following methods:
  - a. Surveyed and/or interviewed state court administrative staff and judges, people from state juvenile justice agencies, legislative liaisons, and/or other stakeholders in every state who were familiar with state juvenile probation laws and court rules.
  - b. Reviewed legislative language and court rules pertaining to the identified topics, including leveraging the existing [statutory scans](#) conducted by the National Conference of State Legislatures.
2. Analyzed policies in each state to classify all 50 states across the four areas of focus listed above:
  - a. Some states have a required list of juvenile probation conditions in statute or court rules. A far greater number of states have a standardized set of rules or penalties that courts and probation agencies are authorized to impose without expressly identifying these rules or penalties as “probation conditions.” In such cases, we still classified these states as having a form of juvenile probation conditions in statute or court rules in our classification of states.
  - b. For this study, we defined graduated responses strictly in terms of a system of incentives and sanctions used in response to youth’s noncompliance with the conditions of their probation, as opposed to the broader definition of graduated responses used by some locales to refer to a range of supervision and service strategies employed in lieu of incarceration. We classified states as having graduated responses in statute or court rules if they were explicitly referenced, regardless of whether the use of these responses was required or simply authorized. Additional states may have administrative policies on the use of statewide graduated responses, but we only counted those states whose policies are codified in statute and/or court rules.
  - c. Similarly, states may have administrative policy restrictions on the use of detention or incarceration as a response to technical violations and/or on the collection and reporting of violation data. However, we only counted states for these areas of inquiry when they had appropriate statute or court rules.
  - d. Due to the interpretation required for some of the state classifications, we felt most comfortable expressing our findings as broad percentages rather than specific numbers and not publicly classifying specific states, hence the absence of state-specific information.

## Endnotes

1. Elizabeth Seigle, Nastassia Walsh, and Josh Weber, *Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System* (New York: The Council of State Governments Justice Center, 2014), <https://csgjusticecenter.org/wp-content/uploads/2014/07/Core-Principles-for-ReducingRecidivism-and-Improving-Other-Outcomesfor-Youth-in-the-Juvenile-Justice-System.pdf>.
2. Office of Juvenile Justice and Delinquency Prevention, *Statistical Briefing Book, Juvenile Arrest Rates* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2019), <https://www.ojjdp.gov/ojstatbb/crime/jar.asp>.
3. Sarah Hockenberry and Charles Puzanchera, *Juvenile Court Statistics 2019* (Pittsburgh, PA: National Center for Juvenile Justice, 2021), <https://www.ojjdp.gov/ojstatbb/njcda/pdf/jcs2019.pdf>
4. Ibid.
5. Ibid.
6. Office of Juvenile Justice and Delinquency Prevention, *Easy Access to the Census of Juveniles in Residential Placement* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2019), <https://www.ojjdp.gov/ojstatbb/ezacjrp/>.
7. Ibid.
8. Ibid.