

2022

ADDRESSING BARRIERS TO SERVICE FOR EMERGING ADULTS IN SOUTH DAKOTA

Interim Report

**Teri Deal
National Center for State Courts
December 2022**

FOREWORD

Emerging adults - those between the ages of 18-25 - make up less than 10% of the total U.S population yet are responsible for nearly one-fourth of arrests.¹ This trend holds in South Dakota where emerging adults made up 9.8% of the population² and 22% of arrests.³ This segment of the population is also the largest age group incarcerated, and more likely than other age groups to re-offend after release⁴

Recent research suggest that emerging adulthood is a distinct period of brain development, characterized by increased risk-taking behavior, diminished foresight, and increased vulnerability to peer influence⁵. During this period of development, emerging adults are shifting incrementally toward social and financial independence and reaching critical developmental milestones, including living independently and transitioning from a focus on school to a focus on work.⁶ Their brains are described as malleable, and they are more likely to learn from their mistakes than younger adolescents and better able to change their behaviors compared to older adults.⁷

Despite this distinct developmental stage, the justice system draws a strict line between youth and adults at the age of majority, resulting in the justice system responding to emerging adults in the same way as it responds to fully grown adults. Most justice system responses are not designed with emerging adults in mind.⁸ There are no risk assessments specifically validated for this population, and often program eligibility criteria or disqualifying factors limit their ability to participate in existing programs. These barriers to effectively serving emerging adults who come into contact with the justice system hinder accessibility to protective factors that reduce the likelihood of continued criminal activity, such as gainful employment, stable housing, and financial assistance.⁹ As this segment of the population garners more attention, many states are exploring policy and practice changes that reduce the input of emerging adults into the justice system and better serve those who are justice-involved so that they are less likely to return.

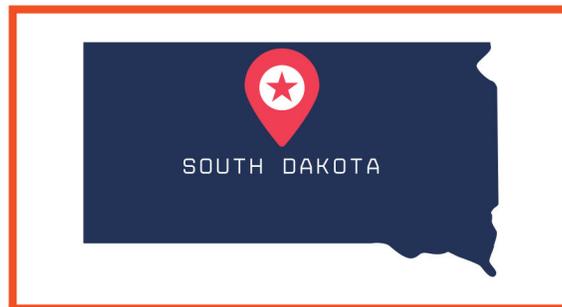
On October 19 and 20, 2021, a team from South Dakota attended the 2021 Young Adults in the Justice System Multi-Branch Meeting facilitated by the National Center for State Courts (NCSC) and the National Conference of State Legislatures (NCSL) and supported by the John D. and Catherine T. MacArthur Foundation's Safety and Justice Challenge. South Dakota's team was comprised of Chief Justice Steven Jensen, Judge Natalie Damgaard, Senator Michael Rohl, State Representative Tamara St. John, and State Court Administrator Greg Sattizahn. The two-day event featured various speakers on emerging adults' unique developmental needs and allowed time for state teams to meet to discuss state needs, interests, and objectives related to reducing young adult involvement in the justice system.

"Most justice system responses are not designed with emerging adults in mind"

Following the Multi-Branch meeting, South Dakota partnered with NCSC to learn more about and plan to address barriers to effectively serve emerging adults in the justice system. This report summarizes efforts thus far to identify opportunities for improvement, generate an action plan, and implement improvements.

The report, “Assessment of Barriers to Service for Emerging Adults in South Dakota,” produced from NCSC’s series of focus groups and interviews with key stakeholders and a desk review of reports, policies, and performance measures, is attached as an Appendix. The report sets forth nine recommendations for South Dakota stakeholders for supporting emerging adults while protecting public safety and reducing recidivism.

One of the recommendations was to “Convene a statewide planning body to address the needs of emerging adults in the juvenile and criminal justice system,” and since the report was issued, the “Barriers Workgroup,” co-chaired by Ryan Brunner and Greg Sattizahn, has met three times. This interim report summarizes the outcomes of those meetings and proposed next steps.



1 https://www.ncsl.org/Portals/1/Documents/cj/front_end_young-adults_v04_web.pdf

2 <https://data.census.gov/table?q=jail&g=0400000US46>

3 <https://atg.sd.gov/docs/CrimeInSD2020.pdf>

4 <https://bjs.ojp.gov/content/pub/pdf/18upr9yfup0514.pdf>

5 Farrington, D.R., R. Loeber, and J.C. Howell (2012). “Young Adult Offenders: The need for more effective legislative options and justice processing.” 11 *Criminology and Public Policy*, 729.

6 Wood, D., Crapnell, T., Lau, L., et al. Emerging Adulthood as a Critical Stage in the Life Course. 2017 Nov 21. In Halfon, N., Forrest, C.B., Lerner, R.M., et al., editors. *Handbook of Life Course Health Development*. Available: <https://www.ncbi.nlm.nih.gov/books/NBK543712/#ch7.Sec2>

7 Schiraldi, V., Western, B., & Bradner, K. (2015). Community-based responses to justice-involved youth adults. *Bulletin*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.

8 <https://csgjusticecenter.org/wp-content/uploads/2020/01/Dos-and-Donts-for-Reducing-Recidivism-among-Young-Adults-in-the-Justice-System.pdf>

9 https://stoneleighfoundation.org/wp-content/uploads/2021/08/Emerging-Adult-Collateral-Consequences-Guide_2021_Final.pdf

BARRIERS WORKGROUP MEETINGS

September 26, 2022

The goal of the first meeting of the Barriers Workgroup was to strategize opportunities to improve outcomes and reduce recidivism for emerging adults involved in the justice system. The objective was to identify priorities and form subgroups to develop a roadmap to implementation. The Barriers Workgroup was intentionally multi-disciplinary, including UJS, probation, and DOC, as well as representatives from the executive branch, behavioral health, and the Department of Labor.

During the meeting, Teri Deal from NCSC presented the findings of the report, “Assessment of Barriers to Service for Emerging Adults in South Dakota.” She was joined by Liz Hassett, the Safety and Justice Challenge Grant Manager from Pennington County, who provided context from past and ongoing efforts in South Dakota. The workgroup members had the opportunity to ask questions and discuss the recommendations. They then identified what they see as the greatest priorities for South Dakota to improve service to emerging adults and what they see as first steps in each area. The workgroup members then had the opportunity to vote for the priority areas they felt were most important, resulting in the subgroups: Community Resources, Expanding Diversion, Expungement and Record Sealing, and Joint Training. Workgroup members self-selected which subgroup they would like to join, and the subgroups met to discuss what additional information they needed, what resources were available, key stakeholders, potential barriers, and ideal outcomes. Each subgroup was asked to meet at least once before the next meeting. One key element missing from this meeting was the inclusion of emerging adults with lived experience in the justice system. There will be efforts to include emerging adults with lived experience in future meetings.

November 1, 2022

The goal of the second meeting of the Barriers Workgroup was to advance the priorities identified at the last meeting and to identify the next steps for each subgroup. Subgroups met to discuss recommendations, identify what is needed to move recommendations forward, and identify which agency is best positioned to lead. During the workgroup, each subgroup had an opportunity to share and discuss recommendations with the group.

This session also featured a live interview with an emerging adult who was involved in the justice system. During the interview, he shared positive experiences, including the benefits of immediacy and online groups, and negative experiences, including meeting drug dealers in treatment, relapsing, and being treated poorly by a treatment provider. Several Workgroup members mentioned how valuable the emerging adult’s perspective was when discussing plans to move the priorities forward.

December 5, 2022

The Barriers Workgroup met briefly so that Mr. Sattizahn could present a draft of proposed legislation to require UJS to assemble a task force to address barriers to services for emerging adults involved in the justice system in South Dakota. The Joint Training Subgroup also provided an update on the proposed date and agenda for a summit to educate system stakeholders on this population.

WORKGROUP PARTICIPANT LIST

Unified Judicial System

- Greg Sattizahn, State Court Administrator-UJS
- Mike Day, Presiding Judge-Fourth Judicial Circuit
- Natalie Damgaard, Judge-Second Judicial Circuit
- Rebecca Altman, Deputy Chief Court Services Officer-First Judicial Circuit

Prosecutors

- Mark Vargo-Attorney General
- Daniel Haggar- Minnehaha County State's Attorney

Governor's Office

- Ryan Brunner, Senior Policy Advisor-Governor's Office
- Dave Flute-Secretary of Tribal Relations
- Tiffany Wolfgang-Division of Behavioral Health Services
- Kellie Wasko- Secretary of Corrections
- Laura Scheibe- Department of Education
- Marcia Hultman-Secretary of Labor and Regulation

Legislators

- Rep. Tamara St. John, District 1
- Rep. Chris Karr, District 11
- Sen. David Wheeler, District 22

Law Enforcement

- Jordan Majeske, Detective-Brown County

Providers

- Terry Dosch, SD Council of Community Behavioral Health
- Belinda Nelson, CEO, Community Counseling Services
- Erik Bringswhite, I.Am.Legacy

Diversion

- Allison Morrisette, Young Adult/Adult Diversion Caseworker-Pennington County

Defense Attorney

- Betsy Doyle, Chief Deputy Public Defender-Minnehaha County
- Eric Whitcher, Director-Pennington County Public Defender's Office

SEPTEMBER AGENDA

Emerging Adults in the Justice System
Stakeholder Group

September 26, 2022

9:00 AM – 4:00 PM

Clubhouse Hotel/Red Rosa Conference Center
Hills Room

Goal of the Meeting To strategize opportunities to improve outcomes and reduce recidivism for emerging adults (aged 18-25) who are involved in the justice system. The meeting will result in the formation of workgroups focused on identified priorities who will collaboratively develop a roadmap to implementation.

Please read: [Attached Report]

9:00 – 9:30 Welcome and Framing of the Day

9:30 – 10:45 Presentation of Findings and Recommendations
Teri Deal, National Center for State Courts

10:45-11:00 Break

11:00-11:45 Connecting to Related Efforts in South Dakota
Erin Srstka, University of South Dakota

11:45-12:00 Q&A and Preparing for the Afternoon
Teri Deal, National Center for State Courts

12:00-1:00 Lunch

1:00-2:30 Identifying Priority Areas

2:30-2:45 Break

2:45-3:45 Workgroup Planning

3:45-4:00 Wrap-Up and Next Steps

NOVEMBER AGENDA

Emerging Adults in the Justice System Stakeholder Group, Meeting #2

November 1, 2022

10:30 AM – 4:00 PM

Goal of the Meeting To move forward priorities related to improving outcomes and reducing recidivism for emerging adults (aged 18-25) who are involved in the justice system. The meeting will result in refined recommendations for the next steps from each of the four workgroups.

10:30 – 10:45 Welcome and Introductions

10:45 – 11:15 Team Meetings

Each workgroup will meet to review recommended next steps and add details to include what individuals or agencies that are best positioned to lead the suggested recommendation, what additional information is needed to inform the suggested recommendation, and the potential source of that information.

11:15 -11:45 Record Sealing Workgroup

11:45-12:15 Joint Training Workgroup

12:15-1:00 Lunch

1:00-1:45 Emerging Adult Panel
Moderated by Becky Altman

1:45-2:30 Expanding Diversion Workgroup

2:30-2:45 Break

2:45-3:45 Community Connections Workgroup

3:45-4:00 Wrap-Up and Next Steps

DECEMBER AGENDA

Barriers Workgroup Meeting Agenda

Monday, December 5

10am



<https://us06web.zoom.us/j/81168391465?pwd=Q3UwUHhUVjhUTGg0Nm5ZbGdoV0Npdz09>

1. Training Group Update
2. Expungement Group Update
3. Draft Legislation Review
4. Next Steps

PROPOSED LEGISLATION FOR TASK FORCE

2023 Proposed Legislation

An Act to require the Unified Judicial System to assemble a task force to address barriers to services for emerging adults involved in the justice system in South Dakota.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The Unified Judicial System shall assemble a task force consisting of at least eleven members to examine barriers to service for emerging adults involved in the justice system in South Dakota.

Section 2. “Emerging adults” are defined as individuals age eighteen to twenty-five years old.

Section 3. The membership of the task force shall include members of the Unified Judicial System, Department of Corrections, Department of Education, Department of Labor and Regulation, Department of Social Services, prosecutors, law enforcement, defense attorneys and community-based providers.

Section 4. The task force examination shall include the following:

- (1) Recommending best practices for supporting emerging adults that are involved in the adult criminal justice system;
- (2) Creating joint training opportunities for justice system professionals and partners related to emerging adults;
- (3) Identifying opportunities to expand diversion programming for emerging adults;
- (4) Exploring ways to overcome barriers to housing and employment for emerging adults;
- (5) Exploring supervision practices utilized through probation and parole for emerging adult offenders;
- (6) Recommending ways to develop culturally-responsive, community-based mentoring programs for emerging adults; and
- (7) Recommending alternative or additional funding structures for supportive services for emerging adults.

Section 5. The Unified Judicial System shall present the findings of the task force to the Governor and to the Legislature no later than November 15, 2023.

Section 6. All expenses incurred in carrying out the work of the task force shall be paid out of funds appropriated or otherwise provided to the Unified Judicial System.

SUBGROUPS



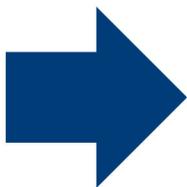
Community Resources

Members: Tiffany Wolfgang, Erik Bringswite, Jordan Majeke, Mark Vargo, Belinda Nelson, and Annie Brokenleg

The goal of this subgroup is to identify and elevate community-based service providers who have expertise in serving emerging adults, or who may be able to build that expertise, with a specific focus on programming that is culturally responsive and provides social support such as mentoring. The subgroup emphasized that these opportunities should not be limited to diversion and probation, but also be available to emerging adults reentering their community after incarceration. The subgroup has also explored other barriers for this population, including housing, behavioral health, and vocation training.

There is not currently an available comprehensive listing of community-based programs in South Dakota, and few known programs would serve emerging adults in this capacity. Many community-based programs are not eligible for government funding because they do not meet the requirements to implement evidence-based programming. Often, community-based organizations develop "homegrown" programming for and with their community and cannot sustain the staffing and capacity necessary to implement evidence-based programs. Their programming may reflect some evidence-based practices, but they often lack the resources to evaluate their efforts.

NEXT STEPS



This workgroup will continue discussing and gathering information about available community-based services and potential sources for funding such programming.

SUBGROUPS



Expanding Diversion

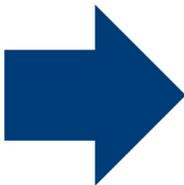
Members: Representative Chris Karr, Allison Morrisette, Becky Altman, Daniel Haggar, Ryan Brunner, David Flute

The goal of this subgroup is to learn more about efforts to divert emerging adults from justice system involvement across the state, including established programs in Pennington and Minnehaha counties, and determine how efforts could be expanded to other jurisdictions.

There is not currently a comprehensive record of all jurisdictions in South Dakota with focused emerging adult diversion efforts. The subgroup did an informal reach out and learned of several counties with targeted diversion efforts, including Brown County. However, there is minimal empirical data at this point to demonstrate the effectiveness of diverting emerging adults, and the group acknowledges that what works in urban areas may not work as well in rural areas. Pennington County has had positive outcomes for emerging adults diverted over the last five years.

The subgroup discussed who would pay for diversion staff and programming. Pennington County has three full-time employees for adult diversion generally, and Minnehaha has two. The subgroup acknowledged that it is not effective to require an emerging adult to pay program costs; however, some of the services they are referred to require payment.

NEXT STEPS



The expanding Diversion subgroup will continue to gather information on what counties across South Dakota are implementing diversion efforts specifically targeting emerging adults and what is the level of resources (i.e., staff, infrastructure, and programming) required to do so.

SUBGROUPS



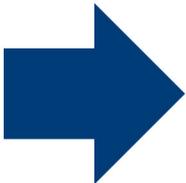
Expungement and Record Sealing

Members: Greg Sattizahn, Judge Natalie Damgaard, Representative Tamara St. John, Senator David Wheeler, Terry Dosch, and Eric Whitcher

This group focused on how current policies related to expungement and record sealing could be improved to reduce the collateral consequences for emerging adults, including student loan eligibility, employment, and access to housing.

The subgroup developed draft legislation and had substantial discussions around timelines, automation, eligible offenses, and governor-issued pardons compared to a court-led process.

NEXT STEPS



The Expungement and Record Sealing subgroup will continue to review and research how policies related to expungement, record sealing and the pardon process can be improved for emerging adults

SUBGROUPS

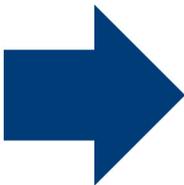


Joint Training

Members: Judge Mike Day, Secretary Kellie Wasko, Laura Scheibe, Secretary Marcia Hultman, and Betsy Doyle

This group focused on how to educate justice system stakeholders, including judges, attorneys, probation officers, treatment providers, and law enforcement, about the unique needs of emerging adults and best practices for how to effectively serve the emerging adult population. After considering several different options for delivering the information, the subgroup decided to pursue a collaborative approach to planning a statewide summit to be held April 25-26, 2023, in Chamberlain. The summit will include speakers from South Dakota as well as other states that have efforts focused on improving services to emerging adults as well as individuals with lived experience as emerging adults in the criminal justice system. There will be an emphasis on helping jurisdictions apply the learning to their communities through networking opportunities during the summit.

NEXT STEPS



Continue collaboratively planning the Improving Services for Emerging Adults Summit planned for April 25-26, 2023

AGENDA

Supporting Emerging Adults in the Justice System SOUTH DAKOTA SUMMIT APRIL 25-26, 2023

Goal of the Meeting To educate South Dakota justice stakeholders on the social and emotional development of emerging adults (aged 18-25) and policies and programs that improve outcomes and reduce recidivism. The two-day summit will feature local and national experts in interactive panels, resulting in momentum toward programs, policies, and practices that support the needs of emerging adults in the justice system.

DAY 1

- | | |
|---------------|--|
| 11:00 – 11:15 | Welcome and Introductions |
| 11:15 – 11:45 | Keynote |
| 11:45-12:30 | Networking Lunch |
| 12:30-1:30 | Panel One: Social and Emotional Development of Emerging Adults |
| 1:30-2:30 | Panel Two: Race Equity and Emerging Adults |
| 2:30-2:45 | Break |
| 2:45 – 3:45 | Panel Three: Vulnerabilities and Needs of Emerging Adults |
| 3:45 – 4:45 | Panel Four: Behavioral Health Considerations |
| 4:45 – 5:00 | Closing |



DAY 2

8:30-9:30

Networking Breakfast

9:30-10:30

Panel Five: Spectrum of DOL Services

10:30-10:45

Break

10:45-11:45

Panel Six: Specialty Court and Supervision Practices for Emerging Adults

11:45-12:00

Closing

Handouts

Agenda, Engaging with lived experts, Discussion points for networking breakfast and lunch, Notes and planning pages

Appendix

ASSESSMENT OF BARRIERS TO SERVICE FOR EMERGING ADULTS IN SOUTH DAKOTA

TERI DEAL & LINDSEY WYLIE
NATIONAL CENTER FOR STATE COURTS
AUGUST 2022



Supported by the John D. and Catherine T. MacArthur Foundation



Assessment of Barriers to Service for Emerging Adults in South Dakota

BEST PRACTICES FOR SUPPORTING EMERGING ADULTS

Emerging adults, aged 18 to 25, are developmentally and socially different from both adolescents and from fully developed adults. While their brain development is similar to an older adolescent, they are often navigating life experiences and challenges intended for fully developed adults, including the criminal justice system. While individuals gain the ability to reason logically during late adolescence (16 to 17 years old), psychosocial maturity—or their ability to restrain themselves in the face of emotional, exciting, or risky stimuli—continues developing well into young adulthood.¹ Because of this, emerging adults do not exercise self-restraint as well as fully developed adults can when emotionally aroused.²

This stage of brain and social development also helps to explain the age-crime curve that shows offending rates increasing during adolescence, peaking around age 20, followed by declining criminal behavior during adulthood.^{3,4} In fact, emerging adults are overrepresented at every stage of the criminal justice system, including prison and jails.⁵ Moreover, recidivism rates for this age group are the highest, with greatest differences within the first year of release.⁶ Additionally, during emerging adulthood, individuals are exploring their identity, figuring out what they want to do for work, what they want to study, and who they want for a partner. If they are incarcerated during this time, they are unable to explore educational and employment opportunities, build social networks, and learn

Best practices for supporting emerging adults include:

- offering supportive diversion opportunities;
- individualized and culturally-responsive case planning;
- building support networks;
- supporting stability through housing, education, and employment; and
- reducing negative impacts of justice involvement

how to navigate skills required for successful independence.

As a result of developmental differences, the specific needs that emerging adults have, and the understanding that criminal behavior begins to decline at age 20, jurisdictions are modifying criminal justice policies and practices to better support emerging adults in the criminal justice system. This age group is also more amenable to intervention, and interventions targeted specifically at the needs of emerging adults have demonstrated effectiveness in positively changing behavior.⁷

Further, developing targeted policies and services that promote health development of emerging adults and help them reach key milestones can improve both individual outcomes and support public safety.⁸ Generally, the best practices for supporting emerging adults include: offering supportive diversion opportunities; individualized and culturally-responsive case planning; building support networks; supporting stability through housing, education, and employment; and reducing negative impacts of justice involvement.

Supportive diversion opportunities: Opportunities for emerging adults to avoid formal court processing while receiving supportive services, like case management and cognitive behavioral interventions, to facilitate successful transition to adulthood.

Individualized and culturally-responsive case planning: Emerging adults are more amenable to positive interventions than older adults, especially

when the services are targeted to their individualized needs.

Building support networks: Healthy relationships can facilitate transition to adulthood, and support networks are essential for emerging adults, especially those reintegrating into their community.

Supporting stability through housing, education, and employment: Emerging adults benefit from programs that help them develop the skills necessary for long-term financial stability on a variety of different life paths.

Reducing negative impacts of justice involvement: Involvement in the justice system results in a variety of collateral consequences, including reduced access to education, employment, housing, and public benefits.⁹ Enhancing policies and processes for expunging or sealing records can help to avoid these long-term consequences.

METHODOLOGY

In the fall of 2021, the National Center for State Courts (NCSC) and the National Conference of State Legislatures (NCSL) brought together multidisciplinary teams from states interested in improving the way they support emerging adults in the justice system. South Dakota was one of the states in attendance.

Following the summit, South Dakota's Unified Judicial System (UJS) requested NCSC's assistance assessing service utilization, exploring alignment across stakeholders, and assessing readiness to expand improvements to target the young adult population. The technical assistance activities included: review of reports, policies, and administrative data; statewide stakeholder sessions; and strategic planning with stakeholders. UJS assisted NCSC in obtaining several reports for review including South Dakota Criminal Justice Initiative Final Report (November 2012), the Public Safety Improvement Act Oversight Council 2014 Annual Report, and the South Dakota Juvenile Justice Reinvestment Initiative Work Group Final Report (November 2014), as well as relevant performance measures obtained by UJS. In the summer of 2022, NCSC conducted a series of in-

person focus groups, inviting judges, Court Service Officers (CSOs), Department of Corrections, service providers, and other key partners to voluntarily participate. These in-person focus groups were supplemented by virtual interviews and focus groups with key stakeholders, resulting in a total of 14 focus groups and 7 interviews. Three young adults with experience in the justice system were included in the interviewees. This report summarizes recommendations stemming from the review of reports, policies, and administrative data, as well as the statewide stakeholder sessions.

RECOMMENDATIONS

Emerging adults have unique developmental needs, and the traditional structure of the criminal justice system, demarked by adulthood at age 18, does not support a successful transition to adulthood. Individuals involved in the criminal justice system as emerging adults do not have access to some of the key case management and reentry services they would have if they had committed their crime as an older adolescent. Further, when they do become more deeply involved in the criminal justice system, they do not have access to intensive case management services available through the court, such as Mental Health Treatment Court and HOPE probation.

Reviews of policies and interviews with stakeholders in South Dakota uncovered several strengths in the area of supporting emerging adults in the justice system, as well as several opportunities for enhancement. For one, there are counties in South Dakota where emerging adults with non-violent crimes may be considered for diversion, and there are different types of requirements for diversion depending on the resources in the community. Professionals who work in diversion credit their county prosecutors for being supportive of these processes. There are also supervision practices supportive of the developmental needs of emerging adults. For example, Effective Practices in Community Supervision (EPICS) has some goal-setting and skill-building activities that can be useful with this population, and some CSOs stated that they find these EPICS activities effective with this population.

The recommendations provided here are intended to be a foundation for considering opportunities for South Dakota stakeholders to work together to support emerging adults while protecting public safety and reducing recidivism.

1. Convene a statewide planning body to address the needs of emerging adults in the juvenile and criminal justice system.

The leadership offered by a statewide planning body is essential to move this work forward, manage change, and remove barriers to implementation. This statewide planning body should include representatives from the courts, attorneys, behavioral health clinicians, law enforcement, the state attorney's office, Department of Social Services, and Department of Labor and Regulation (DLR), as well as professionals who work directly with emerging adults, including CSOs, diversion coordinators, and Department of Corrections Juvenile Correction Agents (JCA) who work with young people beyond age 18. Most importantly, the planning body should meaningfully include at least two individuals with experience in the criminal justice system as full members.

The role of the statewide planning body is to engage in strategic planning to identify opportunities to implement policies and programming aligned with the developmental needs of emerging adults. The recommendations in this report are offered as research-based starting points. Additionally, the statewide planning body is encouraged to consider the conditions necessary for successful implementation of related policies and programming, including an implementation team focused on oversight and evaluation of the improvements. The implementation team's commitment should be ongoing, represent multiple stakeholder perspectives, and focus on infrastructure development, cross-system collaboration, and data use.

2. Provide joint training opportunities for justice system professionals and partners.

Most of the practitioners interviewed understand the developmental needs of emerging adults and are amenable to adapting justice system practices to support them more effectively. Nearly all interviewees identified opportunities to specialize services for emerging adults, including the need for independent living skills, employment skills, and housing. There was also recognition that like youth, emerging adults may need several opportunities to be successful. As one person stated, "When it comes to that age group, they fail and fail often. One of these times it's going to stick. That's why we're here to respond to them."

At the same time, they recognize key structural differences between the juvenile and adult systems that may be barriers for emerging adults. One judge said, "You are talking about two populations. They are very much the same, but I have to treat them very differently."

While the individuals who voluntarily participated in the interviews understand the unique needs of the emerging adult population, they also acknowledged that other may not share the same perspective. They suggested engaging law enforcement officers, Department of Labor and Regulation (DLR), and medical professionals, including paramedics, in future discussions.

For effective implementation efforts, stakeholders must share a clear understanding of the reason for the changes.¹⁰ When reflecting on past reform efforts in South Dakota's justice system, some interviewees suggested that broader education and communication may have better engaged stakeholders. As South Dakota considers how to better support emerging adults, the UJS should consider sponsoring training for justice system professionals and partners on issues related to the unique needs of emerging adults, including brain development; the risk and protective factors of emerging adults; effective strategies for working with emerging adults; and common behavioral

health needs of young adults. Community partners can participate in joint training so that their shared understanding of the emerging adult population can aid with buy-in when improvements are made at the local level. Jurisdictions that have improved their response to emerging adults suggest that joint training on these topics has been important in ensuring all stakeholders are on the same page.¹¹

3. Allow record sealing for emerging adults for limited felonies, possibly reducing the number of years to be similar to juveniles and allow deferred imposition of sentence.

A criminal record can be a barrier to securing housing, employment, student loans, or other public benefits. For emerging adults, whose needs in these areas are high, a criminal record can be a significant barrier to reintegrating and connecting with their community. For individuals over 18, South Dakota statute allows for automatic expungement of misdemeanors after five years if all court-ordered conditions have been satisfied and there are no additional offenses (SDCL § 23A-3-34), as well as pardoned felonies (SDCL § 24-14-11).¹² South Dakota statute also allows for record sealing following a suspended imposition of sentence for those charged with a felony or misdemeanor, with no prior convictions (SDCL § 23A-27-13; SDCL § 23A-27-12.2); and for successfully completing terms of diversion, as long as there are no new offenses (excluding petty or minor traffic offenses) within one year and 30 days of completion (SDCL § 23A-3-35; SDCL § 23A-27-53). For juveniles, South Dakota statute allows juvenile delinquency records to be sealed one year after the youth is released from the court or Department of Corrections, as long as there are no pending charges for a serious offense and the youth is rehabilitated (SDCL § 26-7A-115).

A scan of U.S. laws aimed at restoring rights and opportunities after arrest or conviction conducted by the Collateral Consequences Resource Center identified that South Dakota ranked much lower (44 of 51) than other jurisdictions based on various

types of restoration laws (i.e., voting rights, six different record relief remedies, and laws regulating consideration of criminal record in employment and occupational licensing).¹³ While South Dakota's statute allows for pardoned felonies to be expunged, other surrounding states include additional provisions for allowing felonies to be expunged, sealed, or set-aside.¹⁴ One example that was recently reformed includes North Dakota's law, amended in 2021, which authorized people with both misdemeanors and felonies to apply for sealing after a three- or five-year conviction-free period (with a ten-year period for violence or intimidation, and exclusion of sexually violent offenses), as long as the sentence is complete. In addition, statute in other jurisdictions do not preclude individuals with prior convictions from undergoing deferred imposition of sentence and subsequent record sealing.

4. Explore opportunities to expand diversion of emerging adults at multiple decision points in the justice system.

There are many benefits to diversion, and for emerging adults, diversion affords the opportunity to avoid the long-term negative outcomes associated with justice-involvement for this age group. Like younger adolescents, emerging adults are vulnerable to missteps and relapses as they learn and develop; diversion allows for their misstep to be a learning opportunity. There are formal examples of diversion of emerging adults in South Dakota (i.e., Pennington County, Brown County), and it is likely that other counties also consider age in diversion decisions. Formally expanding diversion through written guidance and agreements would communicate the message that diversion of emerging adults is a component of an age-responsive system that aims to connect emerging adults to their communities while protecting public safety. Collaboration with community partners, such as law enforcement, is critical to formalize diversion opportunities for emerging adults.

Pennington County’s prosecutor-led Young Adult Diversion program focuses on an individualized approach based on rapport-building interviews that take into account the person’s culture and factors that could hinder success. The approach to supervision is flexible, including the duration the program, dependent on the time needed for the person to make the necessary changes. The case study on Pennington County Young Adult program suggested to “start small and begin with existing resources”. In Pennington County, the office started with some cases to develop their approach and conserve resources, while growing the county support and networks in the community.

5. For emerging adults who are not appropriate or eligible for diversion, strengthen the practice of individualized probation supervision plans outlined in statute with an emphasis on the unique needs of emerging adults.

A significant proportion of individuals under probation supervision in the U.S. are emerging adults (ages 18 to 24), yet probation practices are designed for older adults (i.e., primarily prioritize surveillance and compliance, as opposed to individual growth and development). Evidence suggests, however, that the adult probation model of supervision does not serve the needs of emerging adults and can result in higher rates of reoffending and probation violations for emerging adults.¹⁵

As stated in the Key Elements of Specialized Probation for Emerging Adults, a primary goal for probation aimed at emerging adults “is to help facilitate the normative desistance from lawbreaking behavior that occurs during emerging adulthood and is exhibited in the age-crime curve”.¹⁶ The transition into adulthood varies by individual and is influenced by individual factors (e.g., maturity, prior trauma, health and mental health) and social roles. For example, the three

emerging adults interviewed for this report had different backgrounds and related needs: one did not come in contact with the law until college, another experienced immense trauma as a juvenile which led to risky behaviors, and the third was arrested several times as both a juvenile and an adult. As such, it is important to acknowledge the individual needs, strengths, resources, and goals of each individual.

The literature suggests that emerging adults require a reframing of supervision and case management to include more intensive, individualized support and more room for the individual to make mistakes.¹⁷ There are several examples of jurisdictions across the country applying specialized probation and/or specialty courts specific to emerging adults. Both of these models require resources to support specialized training of staff, intensive supervision with limited caseloads, and support for a range of responses to noncompliance. These models, however, ensure that probation and parole officers have sufficient time to build relationships with emerging adults, connect them to programming and community-based supports, available service providers, families, and communities.

While South Dakota does not statutorily have specialized probation for emerging adults, state statute indicates using adult probation change plans for those assessed as “medium-risk, high-risk or intensive risk to reoffend”. Change plans are defined as an “individualized, documented accountability and behavior change strategy” that match the type and intensity of supervision to assessed risk, target and prioritize individual risk factors with attention to barriers to learning and participation, engage the probationer in developing the plan, and establish a timetable for achieving behavioral goals (SDCL § 23A-48-3). It should be noted that there is not currently a risk assessment that is validated on the emerging adult population, meaning that emerging adults in the criminal justice system who have been assessed by an adult risk assessment may not have an accurate risk score.

Reframing supervision in this way requires a mindset shift for CSOs who are used to working with adults. There is evidence that some CSOs are already working with emerging adults in a reframed manner. Two of the justice-impacted, emerging adults who were interviewed described their treatment in the justice system as “fair” and described instances where CSOs treated them in accordance with their age. While many of the CSOs who volunteered to participate in focus groups say they communicate differently with emerging adults, the policies that drive their supervision practices are the same regardless of the individual’s age. To be developmentally responsive to emerging adults, CSOs and parole officers need to borrow some practices from the juvenile CSO toolbox, including individualized case planning, case coordination, and greater focus on skill-building to include employment and education. Research demonstrates that emerging adults best respond to improvement and goal-based case plans, as opposed to those designed with sanctions and are time-based.

6. Examine current practices with response grids, and explore tailoring response grids to the emerging adult population.

During NCSC’s interviews with stakeholders, CSOs did not mention the response grids, nor whether they were effective, being used to fidelity, or appropriate for emerging adults. For the emerging adult population, it is important that supervision is individualized and flexible, and as such, allowing for CSO discretion and justifiable deviations of response grids would be appropriate. Because emerging adults may have more difficulty understanding the requirements of adult probation and lack skills for successful completion of requirements, it is even more important with this age group to ensure they understand the requirements upfront, as well as the consequences and incentives for violating the requirements. This age group often needs additional support in completing requirements, including assistance with planning (e.g., putting appointments

in their calendar, arranging for transportation), attending appointments (i.e., warm hand offs), and timely positive reinforcement for smaller achievements.

Emerging adults often have difficulty in complying with probation requirements. This may be because of their lack of understanding of the requirements, their inability to make judgments to avoid long-term consequences, or their lack the life skills necessary to help them comply. Moreover, emerging adults who were previously involved in the juvenile justice system, which may have been more flexible, may take longer to adjust to the adult system than emerging adults who entered the adult system at age 18. Although there is not research yet on the use of response grids with emerging adults, research does indicate that positive reinforcement is more effective at long-term behavior change than sanctions,¹⁸ which is especially true of emerging adults who are more likely to respond to incentives similar to adolescents.

The South Dakota Supreme Court adopted, and statute codified, a graduated response grid for adult probation (SDCL § 23A-48-4) and both a sanction and incentive grid for juvenile probation (SDCL § 263A-8E-6; SDCL § 263A-8E-7). All three include responses that are based on level of risk as assessed with a validated assessment tool. The juvenile statute allows for discretion of the supervising officer, with deviation up or down with supervisor approval, and can include documented formal and informal responses to probation violations. While the adult statute states that the grid is a “guide” to be utilized statewide for all cases; and rather than a separate incentive grid, the adult statute states that “court service officers are encouraged to provide incentives for compliance ... and acknowledge achievement to reinforce positive behavior” (SDCL § 23A-48-6). It should be noted that there is not currently a risk assessment that is validated on the emerging adult population, meaning that emerging adults in the criminal justice system who have been

assessed by an adult risk assessment may not have an accurate risk score.¹⁹

7. Develop community-based, mentoring opportunities for emerging adults.

When asked what young adults involved in the justice system need most, the young adults we interviewed said,

- “Support. [Someone to] talk it out, to talk about good and bad.”
- “For somebody to keep on trying and not give up on them”

A primary developmental task for emerging adults is to develop social connections. Probation should connect emerging adults with mentors and advocates within their community hired to act in this role, so young people can develop trusting relationships and receive ongoing guidance from familiar people as they continue to navigate the path to adulthood beyond their involvement in probation. While CSOs reported that they commonly take on this role, and one of the emerging adults interviewed specifically praised their CSO for doing so, the CSO’s connection to the emerging adult is intentionally time-limited. Emerging adults are better served if they are able to develop a strong connection to a supportive adult outside of the justice system; this may occur through employment programs, informally through churches and community organizations, or through formal mentoring programs. This social connection is especially critical to emerging adults who are returning from placements or facilities outside of the communities in which they live. Some programs pair emerging adults with “transitional coaches” who serve as both mentors and wraparound service coordinators who help participants access services and build skills.²⁰

Some CSOs indicated they are often one of the few positive adults in the emerging adult’s life and sometimes serve as mentors, especially with the younger populations, and many impressed the importance of building relationships during

supervision. One of the emerging adults interviewed described their relationship with their CSO as being critical to behavior change, adding that the CSO focuses on the positive, helps to relieve their anxiety, and helps them to make a daily plan.

Building this type of supportive rapport, in turn, has resulted in some young people reaching out to their CSO after supervision for advice on navigating system opportunities (e.g., financial assistance for school). Although some CSOs take on this role willingly, a more sustainable and better model would include non-CSO mentors who can provide guidance on independent living skills, such as paying bills on time and making doctor’s appointments, even after supervision is completed.

Interviewees suggested that most emerging adults learn these skills from family members; however, according to interviewees, most justice-involved, emerging adults do not have family support. One interviewee said justice-involved, emerging adults typically had “little connection to family, and any connect they have is not a helpful one.” There is a distinct difference in the focus on family engagement between the juvenile and adult system. CSOs who work with juveniles try to engage family members, and many described challenges in doing so. CSOs who work with adults, on the other hand, even emerging adults, said that it was often less productive when a family member or partner joined a meeting.

There are some existing examples of programs that support independent living skills, including Leaders of Tomorrow, a new program in Minnehaha County that connects emerging adults to business owners in the community, and Transition Academy, described as a step between residential and independent living for emerging adults who are unable to return home. Some interviewees also mentioned Rebound, a program that is offered in jails to assist with reentry; however, individuals must request the service while

in jail, and many emerging adults do not seek out these services for themselves.

8. Formalize partnerships with the Department of Labor and Regulation (DLR) and other employment programs.

Interviewees shared promising programming from the DLR, though access and use of the programming varies across the state. The counties who do leverage DLR resources described emerging adults receiving incentives for participation, being connected to employment, and receiving access to education. In some counties, we heard that individuals cannot attend Job Corp if they are on probation, while other counties did not believe that was the case. Some counties described job training programs ending at age 18, while other counties had access to job training programs through age 24. Some counties had strong relationships with the Department of Labor and Regulation (DLR), while representatives from other counties admitted that they were not aware of all that the DLR had to offer.

Interviewees also described communication and collaboration between partners, including DLR, differently from community to community. Some counties have a standing court order allowing communication between entities. An individual from one such county stated, “I think having those community collaborations is important because it builds investment in the system and builds bridges from people.” Others said that the CSO talks to service providers, but providers often refrain from sharing information with the CSO. For emerging adults in these communities, that confidentiality requirement can impede the ability to do warm hand-offs which aid in engagement.

We recommend that UJS not only engage DLR as a member of the statewide planning body, but also explore formal partnerships whereby DLR can be a consistent and routine resource for justice-involved, emerging adults in South Dakota. The DLR can assist probation with providing the opportunity for emerging adults to establish relationships with community employers that can develop a young

person’s interests and prosocial connections to the communities. It is recommended that this connection happen while an emerging adult is justice-involved, either in diversion or supervision, so that there can be a warm hand-off to increase the likelihood of engagement and follow through.

There was also variance in the mention of Family Support funding from Department of Social Services (DSS). Some described the ability to access funding for individuals “in the system” to help with cars, cell phones, and other necessities through high school. One CSO identified this as a gap for emerging adults stating, “There’s not emergency money for 18-25 – we need money to help them get established or help them get their car fixed. Sometimes they just need that financial assistance – they need that crisis safety net.

9. Consider alternative or additional funding structures for supportive services aside from evidence-based programs.

Despite knowing that emerging adults need services, or a combination of services and resources, that differ from juvenile-specific and adult-specific services, there is an overall lack of research on evidence-based services specific to this population. Services geared toward juveniles (e.g., FFT) or resources for adults (e.g., supportive housing) may not be developmentally or situationally appropriate. For example, one of the emerging adults interviewed stated that while participating in MRT at age 18, every other group member was over the age of 30.

Further, many justice professionals described being “pigeonholed” by the few evidence-based programs they are able to offer. They described difficulties implementing these evidence-based programs with fidelity or sustaining them, so much so, that some communities do not have access to the approved evidence-based programs in person. Process evaluation or fidelity measures on the evidence-based programs currently offered were not available for this report.

Though research in the area of programming specific to emerging adults is sparse, there is an example of an evidence-based program being adapted for the population, Multisystemic Therapy for Emerging Adults. Adaptations include treating emerging adults as the agents of change (rather than their parents); soliciting support from friends and significant others (rather than just from families); taking additional precautions given emerging adults' higher risk of victimization and self-harm; and supporting emerging adults' education and career development, housing, and parenting skills.²¹

While there is a place for evidence-based programming and treatment in the justice system, emerging adults need more support to help them to develop into fully functioning adults. With access to opportunities specifically targeted at facilitating the development of people in this age group, emerging adulthood can be a productive period for emotional and psychosocial maturation.²² This additional support may come as independent living skills, mentoring, culturally-responsive programming, or pro-social activities. Most organizations offering recommendations for this population suggest that this support is best coming from community-based services rather than the justice system. CSOs describe being "creative" when needed to fulfill the needs of emerging adults, however, if there was funding available to build community-based programming, there would be the ability for emerging adults to build skills while building a connection outside of the justice system. Note that this requires a collaboration across agencies. There are examples of other states leveraging funding from other agencies – including Child Welfare and Education and Workforce Development – to support the needs of justice-involved, emerging adults.

South Dakota, similar to many jurisdictions, have an "all adult" approach to service delivery, with possible informal modifications to tailoring service-delivery happening on an individual or CSO discretion basis. Almost every interviewee emphasized the need to provide emerging adults with life skills including goal setting, managing money, and employment. Similar to juveniles,

emerging adults lack executive functioning and need help navigating appointments, responsibilities, and budgeting. More than one interviewee mentioned that when emerging adults obtain money, they spend it quickly. There are few services that address these needs, and some have eligibility requirements that make the service difficult for justice-involved emerging adults to access.

Safe, affordable, and accessible housing was the second most common need identified for young adults. Housing is also a challenge for emerging adults, especially those with previous drug charges who do not qualify for Section 8 housing. While there are some transitional housing programs, they often have extensive waiting lists (i.e., one reported up to three years). Many reported that housing in South Dakota is getting more expensive, and affordable housing near services is limited. While clinicians reported this was always a need, they say that the need is greater now than ever.

Despite these needs, interviewees noted that related, existing services were not always appropriate for older adolescents, emerging adults, or those in early substance use recovery. For instance, there are often not life skills and housing services suitable for younger populations and varying levels of risk. Moreover, some services may not be appropriate for emerging adults whose needs are different than older adults. For example, many transitional types of services require young people to be sober, which can be difficult for young people in early recovery from substances.

While more populated communities and rural communities alike expressed limitations in the service continuum, the plight is more pronounced in rural areas. As expected, rural communities have limited access to services, at times do not have technology or internet to access virtual services, and often lack transportation to travel to other communities for services. In addition, when individuals have to travel outside their home community to receive service, there is less opportunity for community connection.

Interviewees described that the pandemic helped to expedite telehealth services, which were already

being used to resolve staffing and transportation issues, though many stated that telehealth is not a good fit for everyone. “We were able to use telehealth more, to get people familiar with that way of services. It opened up a bigger avenue for accessing services. Any treatment we provide can be done virtually.” Many of the treatment providers who participated in interviews said that their agency was operating in a hybrid way, some sessions in person and some virtually. Some wondered about the validity of evidence-based programs that were delivered virtually.

Other limitations include a lack of culturally responsive programs, especially in rural communities and near tribal reservations. While some promising culturally responsive programs do exist (i.e., I. Am. Legacy), these types of programs are less likely to receive referrals or funding because they do not “show through research or documented evidence to reduce recidivism” as required by statute. Because of the lower population in South Dakota and small proportion of Indigenous people, it is challenging for home grown programs to meet this threshold.

Deficits and obstacles are also seen in describing the limited range of out of home placements for emerging adults, especially for chemical dependency and young people who are higher risk level. This lack of residential programming extends to the need for a safe respite for juveniles when the family situation has eroded so badly that they can’t go home and the need to provide continued reentry care for individuals released from placement or jail. One interviewee described it as, “it’s long-term psych facility or nothing. You can’t have everything you want in a sustainable fashion unless you have the referral base to support it.”

Even when services are available, there are limited providers and often waitlists. To summarize the issue, one person stated “It’s hard for me to talk about building a house when you don’t have land. I can’t build a system if I don’t have providers.” We specifically discussed waitlists for MRT and ART, for psychiatric assessments, and residential halfway house beds. One example was provided about an individual currently waiting in jail for a competency

evaluation that could not be scheduled for two months.

A primary cause of this from interviewees’ perspective is a dwindling clinical workforce. Many reported high levels of staff turnover, with observations that young people often have to “start over” with a new clinician, thus reducing the therapeutic bond that is key to treatment. Some cited low pay of clinicians in South Dakota compared to other states, clinicians leaving community behavioral health agencies to private practice or leaving the state all together. Many complaints centered on an inability to expand the service provider workforce due to licensing and recruitment of young people who want to work in this field. One CSO reported that the number of applications for CSO positions has drastically declined in recent years.

Statewide, interviewees expressed frustration with service providers, most commonly private facilities, in declining admission to young people on supervision. Some stated that services “cherry pick” who is admitted, and often choose those who are lower risk and who are paying with private insurance. It was believed that these services are perceiving emerging adults as dangerous or hostile based on their system involvement, or they exclude individuals with certain offenses such as sex offenses.

A basic barrier that many CSOs mentioned was the time that it takes for services to be initiated. Even when there is not a waitlist for services, individuals may need to wait for there to be enough participants to start a group or may need to jump through administrative hoops to begin. Many interviewees described the intake paperwork required to access services to be a barrier for some. “There’s a ton paperwork, and it’s an insurmountable hurdle.” A few CSOs described helping their probationer complete the paperwork and participating in warm hand-offs with the service agency, although this practice is not routine.

Some of the services available to emerging adults in South Dakota have specific eligibility criteria that limited the number of individuals who can benefit

from the services. For example, we heard about a few programs that require a mental health diagnosis to be able to participate. One CSO said, “We’re missing the component of kids who got caught up in the system, and they don’t have an MH diagnosis, but don’t have the means to get out of where they are at.”

CONCLUSION

South Dakota has spent the last decade implementing policies to improve their criminal and juvenile justice system. Emerging adults straddle these distinct systems; while developmentally, this age group could benefit from some of the rehabilitative and relationship-oriented practices in the juvenile system, their chronological age makes them ineligible. Several jurisdictions across the country have recognized the benefits of refining their approach to how emerging adults are handled

in the criminal justice system through increased diversion opportunities, individualized case planning, and developing social supports. The recommendations outlined in this report are intended to be a foundation for considering opportunities for South Dakota stakeholders to work together to support emerging adults while protecting public safety and reducing recidivism.

ACKNOWLEDGEMENTS

This report was written by Teri Deal and Lindsey Wylie of the National Center for State Courts and developed with support from the John D. and Catherine T. MacArthur Foundation as part of the Safety and Justice Challenge, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails. For more information, see www.safetyandjusticechallenge.org. For more information on the NCSC’s work on the Safety and Justice Challenge, see <https://www.ncsc.org/Topics/Criminal/Courts-and-Jails/Safety-and-Justice-Challenge.aspx>.

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Supported by the John D. and Catherine T. MacArthur Foundation

