



# Data Snapshot:

## “Status Offenders”: The Criminalization of Youth Behavior

It is no secret that juvenile justice systems across the country have produced poor outcomes for youth, families, and community safety. A costly, ineffective reliance on court intervention and incarceration has driven a growing national reform movement to transform the juvenile justice system, and place youth on a path towards a bright future.

One essential piece of this reform effort is ensuring that youth who do not benefit from juvenile justice system involvement are held accountable and have their needs met in new, different, and cost-effective ways.

In no area is the need for reducing juvenile justice system involvement more evident than when it comes to youth who commit “status” offenses – a range of behaviors prohibited by law for children, but not adults. While problematic, actions like running away, skipping school, and defying authority are not criminal in nature. They often stem from underlying issues in the family relationship at home, or unidentified mental health needs. Unfortunately, when these behaviors are handled in the juvenile justice system, youth and families rarely get what they actually need to address those underlying causes. Instead, involvement in the courts often delays therapeutic responses, applies inappropriate sanctions, and makes it more likely that youth will be placed out of their homes and communities. Court involvement, detention, and removal from the family home can have significant consequences in how an adolescent, in the process of social and emotional development, begins to self-identify. For youth who pose no risk to public safety, these drastic responses can actually exacerbate problems and increase the risk that these youth will go on to commit delinquent offenses in the future.<sup>1</sup>

<sup>1</sup>Salisch, Annie and Jennifer Trone. From Courts to Communities: The Right Response to Truancy, Running Away, and Other Status Offenses. Vera Institute of Justice and Models for Change Resource Center Partnership: December, 2013. <http://www.vera.org/sites/default/files/resources/downloads/from-courts-to-communities-response-to-status-offenses-v2.pdf>.

## What are status offenses?

Behaviors prohibited by law when committed by children, but not adults. This includes conduct like running away, skipping school, and breaking curfew.

In Nebraska, our laws lay out a number of status offenses, including:

1. Habitual truancy from home or school;
2. Being wayward or habitually disobedient, and uncontrolled by a parent, guardian, or custodian;
3. Engaging in behavior that injures or seriously endangers the morals or health of the youth or others; and
4. Possessing or consuming alcohol.

*Nebraska Revised Statute §43-247 (3)(b), §43-245 (25).*

In Nebraska, youth charged with status offenses come into contact with the juvenile justice system in a number of ways:

In 2013:

- 1,630 youth were cited or arrested, of which 68% for liquor law violations
- 1,363 youth were charged in juvenile court, 78% for truancy from home or school
- 650 youth spent time as state wards
- 1,064 youth were supervised on probation, 60% for truancy from school

In 2011:

- 66 youth were detained, incarcerated, or otherwise committed in a single day on status offenses alone.

*Data provided by the Crime Commission, JUSTICE, Probation Administration, DHHS, and OJJDP Census of Juveniles in Residential Placement.*

As Nebraska seeks to improve outcomes for children and public safety, we must alter the way we respond to status offenders and their families. An analysis of available data on how Nebraska's juvenile justice system interacts with these youth revealed:

1. A growing reliance on court intervention for youth;
2. The frequent use of probation and state ward status; and
3. A high rate of facility placement and confinement.

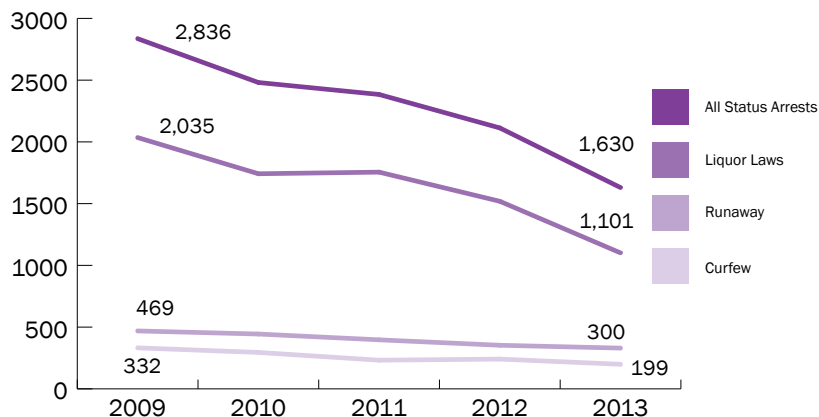
Given these findings and a review of national research on best practices, there is an urgent need to rethink how Nebraska handles youth who commit status offenses. While there have been a number of recent legislative policy changes impacting these children, further action is required. Specifically we recommend that Nebraska must focus on:

1. Building a strong network of community services for youth and families to access;
2. Reducing court referrals and filings for status offenses; and
3. Eliminating confinement and residential placement of status offenders.

## Declining Arrests & Increasing Court Involvement

Across the country and in Nebraska, total youth arrests have been steadily falling.<sup>2</sup> Similarly, Nebraska's arrests of status offenders have also fallen over the past five years (see Figure 1). However, they remain a substantial percentage of all juvenile arrests: 15.5% in 2013.<sup>3</sup> Most arrests by law enforcement officials for status offenses involved violations of liquor laws.

**Fig. 1: Number of Arrests for Status Offenses, 2009-2013**



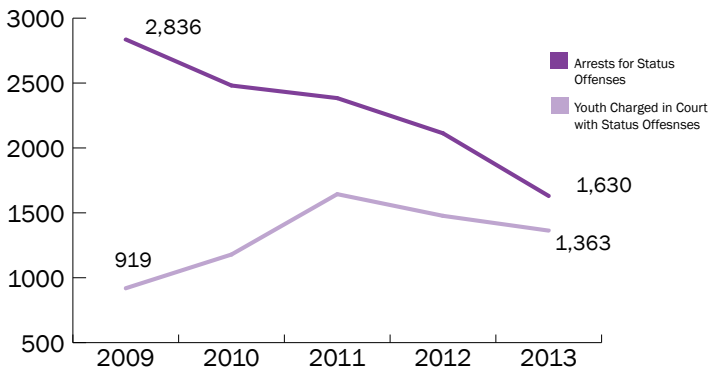
*Data provided by the Nebraska Commission on Law Enforcement and Criminal Justice*

<sup>2</sup>Puzzanchera, Charles. "Juvenile Arrests 2011." Juvenile Offenders and Victims: National Report Series. Office of Juvenile Justice and Delinquency Prevention: December 2013.

<sup>3</sup>Data from the Nebraska Crime Commission.

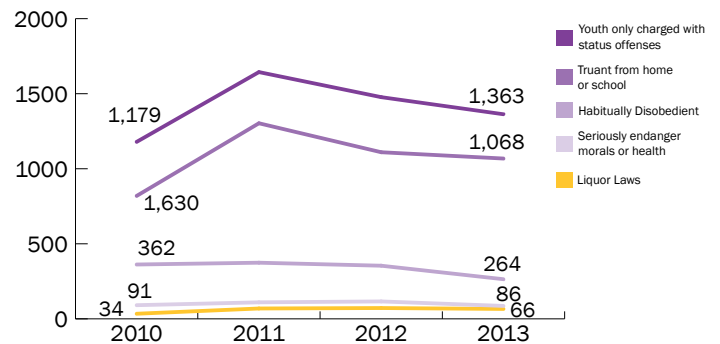
The decreasing number of arrests should be a positive sign. Unfortunately, over the same period, Nebraska has seen an upward trend in the number of juvenile court filings for status offenses (see Figure 2). Though Nebraska has experienced a 31% decline in the number of arrests for status offenses in the past five years, juvenile court filings for status offenses have nonetheless increased by 48.3%. The majority of these filings, 78% in 2013, were for children charged with truancy from home or school (see Figure 3).

**Fig. 2: Status Offense Arrests vs. Court Filings, 2009-2013**



Data provided by the Nebraska Commission on Law Enforcement and Criminal Justice and Nebraska Court Administration's JUSTICE case system

**Fig. 3: Status Offense Charges in Juvenile Court, 2010-2013**



Data provided by Nebraska Court Administration's JUSTICE case system

## Who are these youth?

Behaviors like skipping school, trying alcohol, and breaking curfew can occur in all genders, ages, races, and ethnicities. Who are the youth involved with the justice system on status offenses? They are predominantly boys, largely highschoolers, and disproportionately children of color.

**Gender:** A slight majority of status offenders brought into the juvenile justice system are boys. The disproportionate number of status arrests of boys, in fact, is lower than the overall discrepancy between all arrests of boys and girls. For instance, in 2013, boys made up 51% of the overall youth population, but 59% of all status offense arrests, and 67% of all youth arrests (See Figure 4).

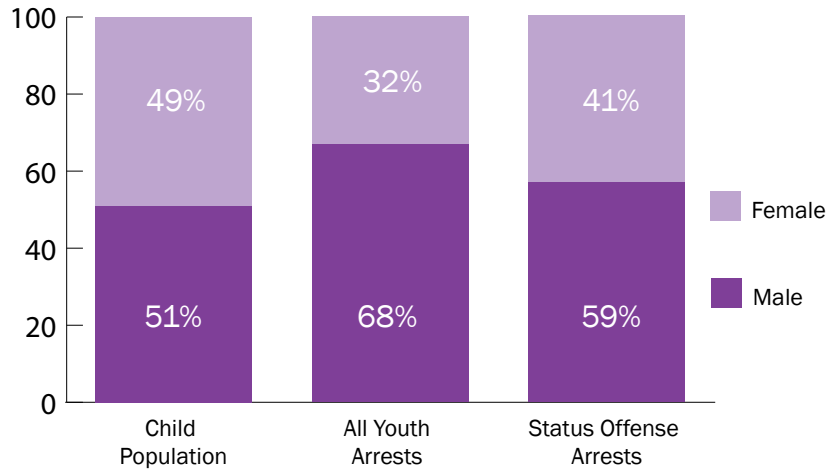
**Age:** Most status offenders in the juvenile justice system are in high school. In 2013, there were 624 new status filings against 16-17 year olds, 496 against 14-15 year olds, and 198 against children ages 11 through 13. 21 cases were filed against children age 10 and under, and only 2 against youth ages 18-19 (See Figure 5).<sup>4</sup>

**Race/Ethnicity:** Finally, status offending youth brought into the courts are disproportionately children of color. In 2013, for example, white non-Hispanic children made up 69% of the overall youth population in Nebraska, but only 60% of new filings for status offenses, and only 49.9% of the status offending youth under probation oversight. Conversely, black children accounted for only 6% of the total youth population, but 18% of new status filings, and 18% of those placed on probation (See Figure 6).<sup>5</sup>

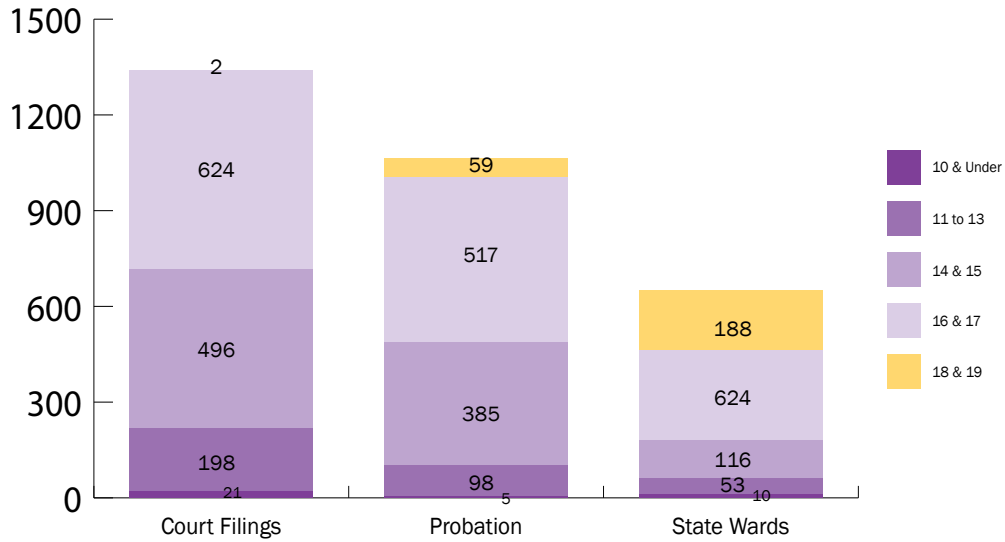
<sup>4</sup>An additional 22 cases were filed against children where the age was unmarked or unknown.

<sup>5</sup>It should be noted that in 430 new filings for status offenses, a significant portion, race or ethnicity was unmarked or unknown.

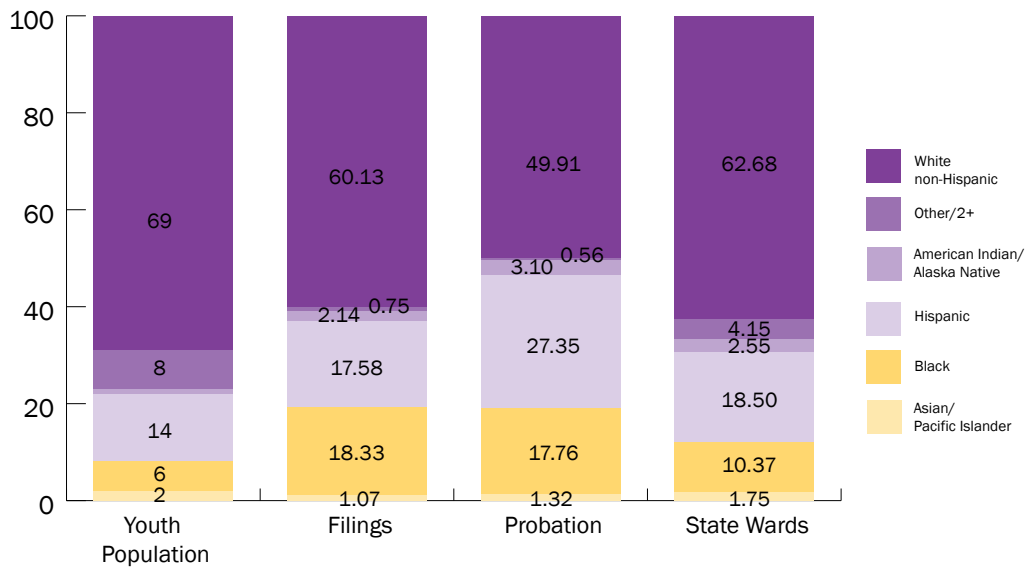
**Fig. 4: Arrests by Gender, 2013**



**Fig. 5: Juvenile Justice Involvement by Age, 2013**



**Fig. 6: Status Offenders by Race and Ethnicity, 2013**

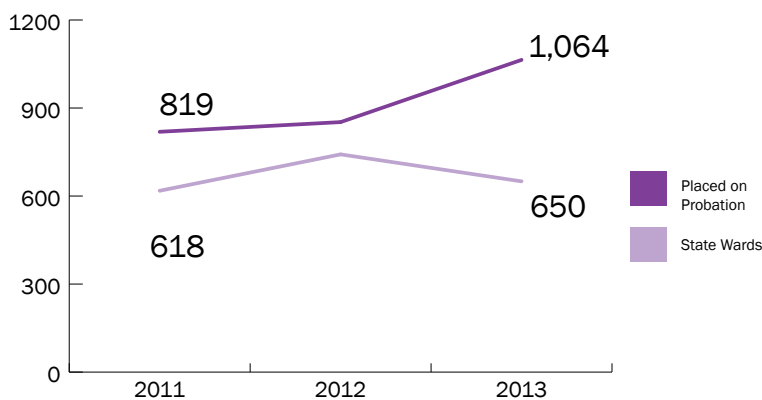


Data provided by Nebraska Crime Commission, JUSTICE

## Involvement with Probation and DHHS

The number of children placed on probation or made state wards on status offenses highlights the growing trend in Nebraska toward over-involvement of these youth in the justice system. In 2013, 1,064 such youth were placed on juvenile probation, and 650 were made state wards (see Figure 7). This number is higher than the number of filings because prior to the enactment of LB 561 in 2014, children were often subject to dual supervision in order to maximize service offerings. LB 561 required that all children brought before the court on their own charges, including status offenders, be supervised by the Office of Juvenile Probation instead of the Department of Health and Human Services, eliminating this costly duplication of services. Even so, the probation trend line alone shows a 29.9% increase since 2011. This rising number of non-criminal youth placed under correctional supervision is discouraging.

**Fig. 7: Status Offending Youth on Probation or State Wards, 2011-2013**



Data provided by Nebraska Court Administration's JUSTICE case system

## High Rates of Confinement

Most troubling of all, the high rate of court involvement for youth committing non-criminal offenses has also led to a high rate of confinement for those children. Under state law, youth who come before the court solely on status offenses may not be detained in secure youth facilities or committed to the Youth Rehabilitation and Treatment Centers, even if they violate a court order. However, Nebraska law does allow status offenders to be confined at the “staff secure” level. By statute, a staff secure facility may not include any construction designed to physically restrict the movement and activities of the young people housed there, though it may include restriction of movement or activity solely through staff supervision.<sup>6</sup> Both Douglas and Lancaster County have created “staff secure” wings of their otherwise secure detention facilities where these youth are often housed, particularly if less-restrictive options are unavailable. Additionally, these youth can be ordered to reside in other residential facilities such as emergency shelters or long-term residential group homes, both in and out of state.

Data from the national Census of Juveniles in Residential Placement captures Nebraska's high rate of out of home placement. The census provides a one day snapshot of the number of youth in residential placement of any sort: secure detention, staff secure detention, shelter care, and long-term residential facilities. The most recent data is from 2011. In that year, across the United States, only 7 per 100,000 children were housed in residential facilities on status offenses alone. In Nebraska, that rate more than quadrupled, to 33 per 100,000 (see Figure 8). Worse, because it is only a day in time snapshot, this rate is likely a significant underrepresentation of the full number of children living in facilities over the course of the year.<sup>7</sup>

<sup>6</sup> Nebraska Revised Statute §43-245; §83-4.125

<sup>7</sup> Levin, Marc and Derek Cohen. Kids Doing Time for What's Not a Crime: The Over-Incarceration of Status Offenders. Texas Public Policy Foundation, Center for Effective Justice: March 2014. <http://www.texaspolicy.com/sites/default/files/documents/2014-03-PP12-JuvenileJusticeStatusOffenders-CEJ-DerekCohenMarcLevin.pdf>

## The Juvenile Justice and Delinquency Prevention Act (JJDP)

Congress originally enacted the Juvenile Justice and Delinquency Prevention Act in 1974, this was landmark legislation meant to encourage age-appropriate, community-based responses to delinquent and status behavior. The original Act eliminated confinement of status offenders in secure detention facilities, but left an exception for when such a child violates a valid court order (VCO). On December 11, 2014, Senators Whitehouse and Grassley introduced bipartisan legislation to reauthorize and strengthen the JJDP. One major change is to require all states to eliminate the VCO exception, a step Nebraska has already taken with LB 800. The introduction of this long-overdue reauthorization is a positive sign of the growing national consensus that treating these children as criminals leads to poorer outcomes for the child, family, and community.

## Recent Legislation impacting Status Offenders in Nebraska

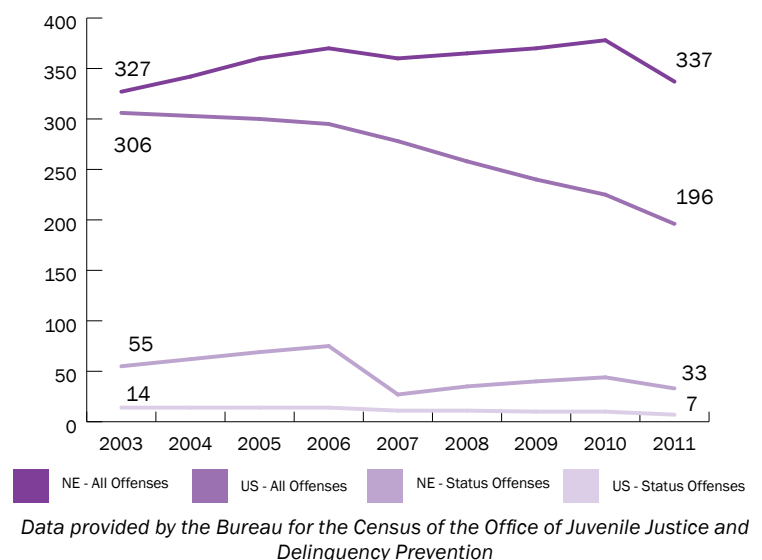
LB 800 (2010): Banned the placement of youth who commit status offenses in juvenile detention facilities, even when they violated a valid court order starting January 1, 2013. It also required schools to report chronically absent students to county attorneys, increasing referrals of status offenders to the juvenile justice system.

LB 561 (2013): Prohibited youth accused of status offenses from becoming state wards starting October 1, 2013 and turned responsibility for services and supervision over to the Office of Probation Administration.

LB 464 (2014): Required schools to offer services to youth and families before any referral to the county attorney for truancy can be made.

In detention centers, shelters, and group homes, children are unable to meaningfully connect with their families – often at the heart of the issues – and will instead encounter other youth who have committed higher level offenses. National research has shown that such exposure creates a risk of status offenders treading further down a criminal path, “developing more deviant attitudes and behaviors of higher-risk youth, such as anti-social perspectives and gang affiliation.”<sup>8</sup>

Fig. 8: Children in Residential Placement per 100,000, 2003-2013



## Concluding Recommendations

The data can show us where we are. But where do we go from here? The best response to status behaviors is immediate, community-based, and tailored to the individual child. To handle these children safely and effectively, and to minimize cost and risk to the community, we recommend **building community resources** that can be accessed where and when families need them, **minimizing court involvement**, and **eliminating confinement** and out of home placement of such juveniles.

<sup>8</sup> Levin & Cohen.

**Community resources across the state:** A strong set of community-based services to address the spectrum of status behaviors is a necessary foundation for keeping children safe and community costs low. Nebraska needs responsive services in every jurisdiction, urban and rural. For families dealing with status behaviors, an immediate response from a trained professional can make all the difference in de-escalating a situation and averting a crisis. A triage process is vital, tailoring services to the particular child and family. Some families may need a day or two of cool-down, where the child can spend a few nights outside the home in a safe place. Other families may require intensive, ongoing support in the home to repair relationships and address behaviors. Empowering counties to create state-funded centers, or to contract with non-profit partners to provide these services, has proven success in other states. For example, in Calcasieu Parish, Louisiana, the launch of a multi-agency resource center for families decreased the number of status offense filings to only one percent of all referrals, and reduced the delay between families seeking help and receiving it from an average of 50 days to about two hours.<sup>9</sup>

**Reducing court filings and referrals:** Growing community-based resources across the state that are easily accessed and can be effectively tailored to the needs of the child should have the corollary effect of reducing court involvement in the long term. In the interim, a deliberate attempt must also be made to funnel families away from the court and into the community resources we have currently available. In Florida, where a statewide network operates 24/7 to assist families in crisis without court intervention, a cost-benefit analysis in 2011 showed that the state saved more than \$160 million dollars in juvenile justice placement costs.<sup>10</sup> Cost savings can then be applied to the front end, building the resources that will keep future children in their homes and out of the courts.

**Eliminating confinement:** Confinement and out of home placement should be off the table for those remaining children who absolutely need the increased supervision and accountability that the court and probation can provide in order to be successful. These are children who have committed no crime. Any form of detention or removal is a missed opportunity to repair relationships in the family home, potentially detrimental to the adolescent's developing self-identity, and extremely costly to the taxpayer. Eliminating confinement as an option places the burden on courts, juveniles, and families to address these problematic behaviors where children belong, in the home.

<sup>9</sup> Salisch & Trone.

<sup>10</sup> Salisch & Trone.



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