



CHAPTER THREE

**Accessing
Intervention
Services for Status
Offenders and
Avoiding Deeper
Involvement in
the Court System**

By Martha Stone and Hannah Benton

Accessing Intervention Services for Status Offenders and Avoiding Deeper Involvement in the Court System

Use alternative dispute resolution (ADR).

- Consider mediation or family group conferencing. ADR gives parents and youth a voice in treatment decisions. This “buy-in” makes it more likely that treatment will start quickly and that families will comply with treatment programs. ADR is particularly well-suited to address power imbalances within the family structure and to empower the family to address future crises.

File pretrial motions.

- Several **pretrial motions** can be used to divert youth from court and obtain needed services. They include:
 - **Motion to Dismiss Due to Lack of Jurisdiction:** If statutory prerequisites to filing a petition are present, assess how thorough the efforts to connect the youth to community resources were and whether the agency was too quick to file a petition against the youth.
 - **Motion for Evaluations or Expedited Evaluations:** Weigh the pros and cons of requesting an evaluation of your client. The evaluation could help guide a pre-trial service plan or divert youth with treatment needs from the court system. However, be wary of the potential loss of confidentiality through court-ordered evaluations. If you request an evaluation, consider requesting that the court hold proceedings in abeyance pending completion of the evaluation.

- **Motion for a Continuance (Until Completion of Services):**
Continuing proceedings allows the youth to engage in community services. Request that the court do so if your client could benefit from a community intervention that would make further court involvement unnecessary.
- **Motion to Dismiss Based upon School District's Failure to Comply with Federal or State Laws Regarding Truant Youth:**
You can petition the court to dismiss the status offense petition when the youth's school disengagement is related to or has been fostered by the school district's failure to comply with federal or state law protections, such as those under the Individuals with Disabilities Education Act, Bilingual Education Act and/or McKinney-Vento Homeless Assistance Act.

If precourt efforts fail, prevent future court involvement by obtaining specific interventions under the court's jurisdiction.

- After adjudication, request that the court order specific, evidence-based interventions.
- Argue for the court to order interventions appropriate for your clients to address the causes of the status offense adjudication and to avoid future court involvement, such as Aggression Replacement Training, Brief Strategic Family Therapy, Functional Family Therapy, Multidimensional Family Therapy, Multisystemic Therapy, or Wraparound services.

Overcome barriers to accessing interventions.

- Long wait lists and geographic disparity often prevent prompt access to services. Overcome these barriers by seeking to obtain services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) provisions of Medicaid.

Status offender behavior often leads to further involvement in the juvenile justice system. Attorneys representing these youth must understand how to maneuver through the court system to protect their child clients from further adverse consequences. This chapter outlines ways attorneys can avoid court engagement through alternative dispute mechanisms or through filing pretrial motions. It will also discuss how attorneys can use violations of state or federal law as a basis for dismissing status offense petitions.

If these pretrial tactics are unsuccessful, attorneys can advocate for several postadjudication interventions to influence the disposition of the case. Many address the behavioral health needs of these youth, including Multisystemic Therapy or Functional Family Therapy. Others have a short-term residential component such as respite, host homes, or multidimensional treatment foster care. For any of these interventions, you must be mindful of how to address barriers such as wait lists or geographic disparity.

Pretrial Tactics

Use Alternative Dispute Resolution

A growing number of jurisdictions use some form of alternative dispute resolution (ADR) in status offense cases. Since ADR gives both parents and children a voice in treatment decisions, this “buy-in” makes it more likely treatment will start quickly and families will comply with treatment programs.¹ Generally, there are two main types of ADR used: mediation, where a mediator facilitates the exchange of information and guides discussion towards solutions, and family group conferences, where the family seeks solutions through its own and community resources.²

Mediation

Mediation functions through the guidance of a third-party neutral mediator who helps participants engage in constructive problem-solving and weigh their options.³ In a study by the Children’s Aid Society of New York City, mediation was shown to be well-suited to situations where problems involve an ongoing relationship, such as the parent-child relationship. Mediation allows both the parent and child to retain their dignity and open lines of communication. By doing so, mediation is more likely to result in a sustainable solution for the family.⁴

Mediation is particularly well suited to address power imbalances within the family structure and to empower the family to address future crises. A well-trained mediator can create an equal discussion field through targeted interventions in

Lucas County Mediation for Unruly and Truant Youth

One of the best-established models of mediation for status offenders is located in Lucas County, Ohio, where mediation for unruly youth began in 1991. The mediation program was expanded to include truant youth in 1995. Conducted by trained volunteers and located in the courthouse, the mediations seek to reach a binding written agreement to improve family relations. After mediation, a Family Outreach Counselor is available to educate families about specialized intervention services, including counseling, cognitive therapy, support groups, and tutoring.¹ Program staff also follow up with the family, and may require them to attend further mediation sessions.² The Lucas County program has effectively opened lines of communication within families, connected families and service providers, and reduced the number of youth adjudicated as status offenders.³

Sources:

1. Hurst, Jr., Hunter. "Planning Interventions for Unruly and Truant Youth." *Ohio Bulletin: Children, Families and the Courts* 1(3), Fall 2003 10-11.
2. Mogulescu, Sara and Gaspar Caro. *Making Court the Last Resort: A New Focus for Supporting Families in Crisis*. New York, NY: Vera Institute of Justice, December 2008, available at http://verastage.forumone.com/download?file=1796/status_offender_finalPDF.pdf.
3. Hurst, 2003.

power dynamics.⁵ Mediation also empowers families by engaging them in creating solutions, which creates a framework for future problem-solving.⁶ This skill building serves families well even after the court is no longer involved. Mediation can also be successful at breaking complex problems into smaller, more manageable issues.⁷ To be successful, a mediation session must rely on confidentiality: issues discussed in mediation are not admissible in court, and the mediator cannot be forced to testify.⁸ Except when there are threats of harm to an individual, issues discussed at mediation are not subject to discovery.⁹ (See *Lucas County Mediation for Unruly and Truant Youth* box.)

Family Group Conferencing

Pioneered in New Zealand, family group conferencing (FGC) brings together family members, friends, and community members to develop a plan for addressing the problems at the root of the youth's behavior. This model encourages the family to find solutions in the family's own and local community resources. FGC begins with a case summary presented by the referring worker, which defines

Maricopa County Community Justice Committees

One successful version of Family Group Conferences is Community Justice Committees in Maricopa County, Arizona. Community Justice Committees are family group conferences that allow family members and youth to discuss root causes of their problems. Resolutions may include restitution, community service, counseling, and educational services. Status offenders who participated in Community Justice Committees were more likely to complete their diversionary program successfully and less likely to recidivate than similar offenders who did not participate in Community Justice Committees.¹

Source:

1. de Beus, Kimberly and Nancy Rodriguez. "Restorative Justice Practice: An Examination of Program Completion and Recidivism." *Journal of Criminal Justice* 35, 2007, 337.

the issues facing the family. Family members can then ask questions about this presentation. Following these questions, other community participants provide family members information that may be used to form a plan. Traditionally, families work privately to shape a plan to address their issues.¹⁰ The family plan is then presented to the referring worker and service providers. If there are any dissenting views, the referring worker and community participants highlight areas of consensus and help the family reach consensus in other areas.¹¹

Be attuned to how to engage your client in the process of FGC while maintaining his or her emotional health. Involving children in FGC always requires comprehensive planning and preparation.¹² Traditionally, lawyers do not participate in the private family time stage of FGC; however, in some cases, you should request to participate as a support person for your client. A support person represents the voice and perspective of a child and ensures the child's emotional safety during the FGC, requesting breaks from the process if necessary.¹³

Oregon was one of the first jurisdictions in the United States to adapt this model for status offenders, in its Family Unity Meetings. The Family Unity Meetings differ from traditional FGC in that the plan is developed by all participants, rather than being developed during private family time.¹⁴ Given the success of this model in Oregon, other jurisdictions have begun to use family group conferencing for status offenders.¹⁵ (See *Maricopa County Community Justice Committees* box.)

Special Considerations for Lawyers When Using ADR in Status Offenses Cases

Type of Status Offense	Question to Ask	Importance
Truancy	Is the ADR program located in the school or the court?	States and localities host ADR in different locations. Depending on the youth's reason for disengaging from the school system, the location may affect the youth's participation. ¹ For some youth, having ADR located within the school may help to more fully include school staff in creating solutions.
Beyond Control/Unruly	How will the family's power dynamic be addressed through ADR?	Youth identified as being beyond control may benefit from ADR. ADR offers these youth and their families an opportunity to meet on neutral ground and address root causes of their conflicts and long-standing power imbalances.
Runaway	How immediately available is mediation?	In cases involving runaway youth, it is helpful if ADR is available immediately to address potential crisis situations. For example, in Vermont, a runaway youth can stay at a designated shelter for seven days while shelter personnel try to mediate the family's problems. ² This gives the family respite from the crisis situation while allowing them to address the root problems.
	Is the root cause of the youth's behavior likely to be discussed through ADR?	Depending on the root cause of the youth's behavior, ADR may be counterproductive or ineffective. For example, although many runaway youth have suffered sexual abuse, these issues rarely arise in mediated sessions, even when the mediator is aware of the abuse. ³ Deciding whether to remove a child from a home where he or she is being abused is usually an inappropriate topic for ADR. ⁴ In cases where the root cause of the runaway behavior is abuse or neglect, you may want to file a motion for an order to show cause and file an abuse, neglect, or uncared for petition. ⁵

Sources:

1. Minn. Stat. § 260A.07 (2007) (truancy mediation located within the court system); Cal. Educ. Code § 48263 (2009) (truancy mediation located within the school system).
2. 33 V.S.A. § 5510-12.
3. Merry, Sally Engle. *Alternative Dispute Resolution and Social Justice: The United States' Experience*. Madison, WI: National Association for Community Mediation, 1997, available at www.vuw.ac.nz/nzidr/Papers.htm; Sexual abuse is estimated to be the most common cause of runaway behavior. Hammer, Heather et al., *Runaway/Thrownaway Children: National Estimates and Characteristics*, NISMART, October 2002, at 8.
4. *Tools for Permanency: Tool #3*. New York, NY: National Resource Center for Foster Care and Permanency Planning, 4, available at <http://centerforchildwelfare.fmhi.usf.edu/kb/LglStFedStat/Child%20Welfare%20Mediation.pdf>.
5. See also Chapter 7 of this book, *How Status Offenses Intersect with Other Civil and Criminal Proceedings*.

File Pretrial Motions

Four pretrial motions are commonly used to divert youth from court and obtain services for youth involved in the status offense system.

Motion to Dismiss Due to Lack of Jurisdiction

In many states, statutory schemes limit when a status offense petition may be filed. Be aware of the statutory requirements and be prepared to raise any procedural deficiencies. For example, in New Jersey community resources should be exhausted before a status offense petition is filed.¹⁶ In Louisiana, the petition must include an informal services plan describing how the youth will access necessary services.¹⁷ A number of states require schools to implement interventions to address truancy before filing a status offense petition.¹⁸ Where such statutory prerequisites exist, little case law offers guidance about how thorough the efforts to connect children to community resources must be prior to filing a petition. If statutory prerequisites are vague, check the statute's legislative history for guidance. Be prepared to detail what services the youth should receive and their availability in the community.

Motion for Evaluations or Expedited Evaluations

You may want to request evaluations or expedited evaluations if your state laws permit and request that the court continue any proceedings while evaluations are completed. Common types of evaluations include psychological, psychiatric, and educational. Some states allow juvenile courts to order school districts to perform educational evaluations of youth referred to the court for truancy.¹⁹ These evaluations provide additional information to help guide a pre-trial service plan, but you should be wary of the potential loss of confidentiality through court-ordered evaluations. Reports from court-ordered evaluations may be available to probation officers and the prosecution. Additionally, evaluations may unduly delay proceedings.

Motion for Continuance to Complete Services

Some states allow status offense petitions to be continued until the youth completes community services. Request that the court do so if your client could benefit from a community intervention that would make further court involvement unnecessary. Two general approaches exist in state law: (1) proceedings must be held in abeyance until interventions have been implemented; or (2) proceedings may be held in abeyance while interventions are pursued if it is in the best interests of the child.²⁰ Regardless of the approach, in many states, you can petition

to have the court case continued for at least six months while community services are implemented. In some states, this time period can be extended up to a year.

Motion to Dismiss Based on School District's Failure to Comply with Laws Regarding Truant Youth

Federal and state laws provide a range of protections to truant youth.²¹ You can petition the court to dismiss the status offense petition when the youth's truancy is related to or has been fostered by the school district's failure to comply with these protections.

- ***Violation of the Individuals with Disabilities Education Act (IDEA)***

The failure of a school district to properly identify a student with special education needs and to provide appropriate special education services may be grounds for dismissing a status offense petition. Students with unidentified special education needs may become truant due to disengagement with inappropriate educational programs. Examine state laws and regulations implementing IDEA's "child find" requirement, since some states require school districts to conduct special education assessments for chronically truant children.²²

IDEA also requires school districts to provide an appropriate, individualized educational program (IEP) to any child with one of the listed disabilities that adversely affects the child's ability to learn.²³ If a truant child has been identified as needing special education services, ongoing truancy suggests the IEP does not meet the child's needs. File a motion asking the court to dismiss the petition because the court cannot properly assess a child's truant behavior in the absence of legally required special education services.²⁴ (See Chapter 6, *Using Special Education Advocacy to Avoid or Resolve Status Offense Charges*.)

- ***Violation of Section 504 of the Rehabilitation Act of 1974***

Section 504 of the Rehabilitation Act of 1974 requires that a child with a disability receive accommodations and modifications to ensure equal access to an education.²⁵ Section 504 does not require schools to provide an IEP to provide the child with educational benefit, but it does require that schools provide services that are equally effective as those provided to nondisabled students.²⁶

Equally effective services allow disabled students an equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as other students.²⁷ If a school's failure to implement accommodations and modifications has denied a disabled student access to educational programs, file a

motion asking the court to dismiss the status offense petition on the grounds that the child's truancy was produced by the school's violation of Section 504.

- ***Violation of the Bilingual Education Act***

Ensure that school districts have complied with their responsibilities to provide language-appropriate educational programs. Under the Bilingual Education Act, English language learners (ELLs) are entitled to an instructional program: (1) based upon recognized educational principles; (2) implemented with sufficient resources and staffed by appropriately-prepared personnel; and (3) that produces evidence that students are overcoming their language barrier.²⁸

After students' eligibility for this instruction ends, in some states they remain eligible for support services, such as sheltered English programs, immersion tutoring, and homework assistance, if they have not met the English mastery standard.²⁹ When the absence of such services for an ELL student has fostered school disengagement, file a motion asking the court to dismiss the status offense petition.

- ***Violation of the McKinney-Vento Homeless Assistance Act***

Under the McKinney-Vento Homeless Assistance Act, homeless students have rights to stable educational services.³⁰ Students are defined as homeless if they do not have a fixed, regular, and adequate nighttime residence.³¹ For example, a student is considered homeless if he or she shares housing with others because of loss of housing or economic hardship, or lives in a motel, hotel or campground due to lack of alternative accommodations.

School districts are required to immediately enroll homeless students and provide them transportation to their local school, school of last enrollment, or the school they attended when they lost housing.³² If a district's refusal to enroll or provide transportation to a homeless student results in truancy, this violation can be grounds for dismissing the status offense petition.

- ***Violation of Other Enrollment Laws***

During the enrollment process, school districts cannot require a student to produce passports, visas, or other immigration paperwork.³³ If a student does not meet the McKinney-Vento definition of homeless, schools are nonetheless only allowed to require proof of age, local residency, and immunization records for enrollment.³⁴ If a youth is not attending school due to the school's requirements for proof of immigration status, file a motion asking the court to dismiss the status offense petition.

- ***Violation of Bullying Prevention Laws***

Be aware of state bullying prevention laws and assert the school's noncompliance when appropriate. Most states have enacted bullying protections enacted to respond to the estimated 160,000 students who skip school each day due to fears of bullying or harassment.³⁵ Some states require schools to create plans to prevent bullying,³⁶ or to protect students who are bullied.³⁷ Others require employee training on bullying prevention,³⁸ or require disciplinary action against bullies.³⁹ Encourage students to keep a log of interactions with bullies, since some state laws require that a pattern of behavior exist. State laws may allow a student to report bullying anonymously and may require school staff to investigate bullying without revealing the identity of the student.⁴⁰ Youth will often initially deny that they are being bullied.⁴¹ To encourage your client to discuss bullying honestly, ask indirect questions about your client's favorite and least favorite parts of the school day.⁴²

You may also be able to assert the school's noncompliance with protections in the No Child Left Behind (NCLB) Act for students who are victims of violence. Under NCLB, a student may be able to transfer to another school if: (1) the student was the victim of a violent crime committed by another student; (2) the student was physically injured; and (3) the crime was reported to the police.⁴³

Postadjudication Tactics

If pretrial tactics fail, and the court has adjudicated the youth as a status offender, seek to prevent future court involvement by obtaining specific interventions for your clients through the court's jurisdiction. (See Chapters 4 and 5, *Preadjudication and Postadjudication Strategies for Defending Juveniles in Status Offense Proceedings*.)

Seek Court Orders for Specific Interventions

Once a child is adjudicated as a status offender, request that the court order specific, evidence-based interventions. In many states, courts can make any order deemed to be in the best interests of the child.⁴⁴ Some states also allow courts to order parents to participate in social services and interventions.⁴⁵ Argue for the court to order interventions appropriate for your client to address the causes of the status offense adjudication and avoid future court involvement. (See *Seeking Interventions under the Adoption and Safe Families Act (ASFA) for Status Offenders* box.)

Seeking Interventions under the Adoption and Safe Families Act (ASFA) for Status Offenders

The federal ASFA and its implementing regulations provide additional protections for children committed to their state's child welfare agency as status offenders.

When does ASFA apply?

1. Child is placed in a Title IV-E eligible placement¹; and
2. State agency receives federal Title IV-B and IV-E matching funds to pay for placement.²

What protections does ASFA provide?

1. Preplacement, the judge must find that the agency made reasonable efforts to prevent removal from the home.³
2. Postplacement, a case plan must be developed within 60 days of placement.⁴

How can you access interventions for your clients under ASFA?

1. Advocate preventative and therapeutic interventions as part of preplacement "reasonable efforts." These interventions can include:
 - a. special education services;
 - b. programs such as restrictive day-schools or treatment centers, substance abuse treatment, job corps, special schools;
 - c. services such as role models, mentors, mentoring clubs, police activity leagues, community organizations; and
 - d. medical screenings and follow-up.⁵
2. Advocate for a postplacement case plan that includes therapeutic interventions, including:
 - a. services that improve the conditions in the parent's home, aid the child's safe return home, and address the needs of the child while in out-of-home care;
 - b. community resources that address the child's and family's needs; and
 - c. court diversion services.⁶

Sources:

1. 42 U.S.C. §§ 620-679. Eligible placements include regular foster care homes or child care institutions that do not house more than 25 children or operate for the sole purpose of detaining children adjudicated delinquent.
2. 42 U.S.C. §§ 620-679.
3. 42 U.S.C. § 671(a)(15).
4. 45 C.F.R. § 1356.21(g)(2).
5. Hemrich, Veronica. *Applying ASFA to Juvenile Delinquency Cases: A Guide for Iowa Juvenile Court Officers*. Washington, DC: ABA Center on Children and the Law, 2002, 7-8.
6. *Ibid.*, 9-10.

Intervention Types

Interventions for status offenders can be divided into two basic groups: community-based interventions and interventions with residential components. One model of intervention may not fit every child. Rather, a continuum of services—including community-based, outreach, and residential—designed to fit the needs of status offenders ensures these children receive appropriate interventions.⁴⁶ (See also, *Interventions Available without Court Involvement* box.)

Intervention Services with Residential Component

In some cases, placement outside of the home may allow the youth to obtain necessary interventions and eventually re-engage with his or her family.

- *Crisis and Respite Care*

Crisis shelters and respite care can be very effective in breaking negative family dynamics and laying the groundwork for further interventions. Although these programs vary, they rely on the premise that a cooling-off period allows youth to obtain necessary assessments and connect to follow-up services. Usually, the youth lives at the crisis shelter or respite center for no more than a few days to two weeks. Crisis and respite staff may provide the youth with assessments to determine psychological and social needs, engage the family in short-term therapeutic counseling, and create a family reunification plan, based on discussions with the entire family about sources of conflict and how to prevent future crises.⁴⁷

- *Host Homes*

The host home model provides short-term shelter to status offenders within host family settings. Host home families access services through their coordinating service provider, including crisis intervention, case management, individual and family counseling. Host homes can be effective for some children because they may provide a setting that is less likely to overstimulate an easily agitated child and they may allow for more individual support than a congregate shelter. Additionally, host homes give youth the opportunity to observe another family and learn problem-solving strategies within the family setting.⁴⁸

- *Multidimensional Treatment Foster Care*

For other youth, multidimensional treatment foster care (MTFC) may be an effective intervention. MTFC places youth with specially trained foster parents who implement a structured, individualized program for the youth.⁴⁹ MTFC foster parents provide daily updates to a case manager, who coordinates the youth's treatment plan. The youth's treatment team meets weekly to evaluate the youth's

Community-Based Interventions for Status Offenders¹

Intervention	Structure	Appropriate For	Outcomes
Aggression Replacement Training (ART)	Incorporates three interventions: (1) <i>skill-streaming</i> , which uses modeling, role-playing and transfer training to increase prosocial skills; (2) <i>anger-control training</i> , which trains youth to respond to actual anger-arousing situations; and (3) <i>training in moral reasoning</i> , which teaches youth to imagine others' perspective in a variety of situations. ²	<ul style="list-style-type: none"> Youth who exhibit early onset of aggression and/or violence Youth who have experienced victimization and exposure to violence Youth with mental health disorders, particularly conduct disorders³ 	<ul style="list-style-type: none"> Increases interpersonal skills Improves prosocial community functioning Reduces future court-involvement⁴
Brief Strategic Family Therapy (BSFT)⁵	Family-based intervention, where the therapist uses three main strategies: <i>joining</i> , engaging the family system; <i>diagnosing</i> , identifying family strengths and maladaptive structures; and <i>restructuring</i> , building upon strengths and transforming maladaptive interactions. ⁶	<ul style="list-style-type: none"> Truant youth Youth with little parental supervision Youth who exhibit antisocial behavior and alienation⁷ 	<ul style="list-style-type: none"> Improves self-concept and family functioning Reduces substance abuse, conduct problems, emotional problems, and association with antisocial peers⁸
Functional Family Therapy (FFT)⁹	Family-based prevention and intervention, where the therapist engages in: <i>motivation</i> , decreasing the intensity of family negativity; <i>behavior change</i> , eliminating the problem behaviors and their associated family relational patterns, and <i>generalization</i> , increasing the family's capacity to use community resources and to avoid relapse. ¹⁰	<ul style="list-style-type: none"> Youth who exhibit antisocial behavior and alienation Youth with little parental supervision Families with family management problems or patterns of family conflict¹¹ 	<ul style="list-style-type: none"> Reduces future contact with court system by up to 60% Reduces the potential for court involvement of youth's siblings¹²

Community-Based Interventions for Status Offenders (continued)

Intervention	Structure	Appropriate For	Outcomes
Multidimensional Family Therapy (MDFT)	Family-based treatment and prevention program, which uses multiple assessments and interventions to: improve youth functioning in key domains; facilitate parental commitment and investment; and enhance family relationships. Also focuses on helping the youth achieve an attachment bond to family and durable connections to pro-social influences. ¹³	<ul style="list-style-type: none"> Youth with low school engagement Youth with early alcohol or drug use or sexual involvement Youth who have experienced erratic family discipline practices¹⁴ 	<ul style="list-style-type: none"> Greatly reduces substance abuse and behavior problems Creates consistent improvements in family competence and school performance Is effective as a preventative service¹⁵
Multisystemic Therapy (MST)¹⁶	Based on a family-therapist collaboration where the family sets treatment goals and the therapist identifies family strengths, develops natural support systems and reduces family stressors to achieve those goals. ¹⁷	<ul style="list-style-type: none"> Youth with low academic achievement Youth with mental health disorders Families with low levels of bonding/attachment¹⁸ 	<ul style="list-style-type: none"> Reduces future contact with court system Increases family cohesion Decreases youth aggression¹⁹
Wraparound services (including access to psychiatric care)²⁰	Team of individuals provide comprehensive assessments, case management, individual and family treatment, and crisis intervention. ²¹	<ul style="list-style-type: none"> Youth at risk of institutionalization Youth with psychiatric needs Youth whose psychosocial environment inhibits effective treatment²² 	<ul style="list-style-type: none"> Decreases problem behaviors Improves child functioning²³

Sources:

- For information on other evidence-based programs, see www.colorado.edu/cspv/blueprints/index.html. For information on model programs to serve truant youth, see www.dropoutprevention.org/model_programs/default.htm.
- Office of Juvenile Justice and Delinquency Prevention. *Aggression Replacement Training, Model Programs Guide*, available at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec.asp?ID=292.
- Ibid.
- Ibid.; Goldstein, A.P. et al. *Aggression Replacement Training: A Comprehensive Intervention for Youth*. Champaign, IL: Research Press, 1998.

(Continued on page 52)

Community-Based Interventions for Status Offenders (continued)

5. For more information about BSFT, see www.cfs.med.miami.edu/Docs/ClinicalApproach.htm.
6. *Brief Strategic Family Therapy*, Office of Juvenile Justice Delinquency Prevention Model Programs Guide, available at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec_prt.asp?ID=305.
7. Ibid.
8. Ibid.; Szapocznik, José and R.A. Williams. "Brief Strategic Family Therapy: 25 Years of Interplay Among Theory, Research, and Practice in Adolescent Behavior Problems and Drug Abuse." *Clinical Children and Family Psychology Review* 3, 2000, 117.
9. For more about FFT, see www.fftinc.com/.
10. Office of Juvenile Justice and Delinquency Prevention. *Functional Family Therapy, Model Programs Guide*, at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec_prt.asp?ID=29.
11. Ibid.
12. Ibid.; Sexton, Thomas and James F. Alexander. *FFT, Functional Family Therapy: Principles of Clinical Intervention, Assessment, and Implementation*, 2002.
13. Office of Juvenile Justice and Delinquency Prevention. *Multidimensional Family Therapy, Model Programs Guide*, available at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec_prt.asp?ID=361.
14. Ibid.
15. Ibid.; Hogue Aaron T. et al. "Family-Based Prevention Counseling for High-Risk Youth Adolescents: Immediate Outcomes." *Journal of Community Psychology* 30(1), 2002, 1.
16. For a list of licensed MST programs, see www.mstservices.com; Storandt, Judith. *Tools for Promoting Educational Success and Reducing Delinquency*. Alexandria, VA: National Association of State Directors of Special Education, January 2007, Step 4, 18-20.
17. Office of Juvenile Justice and Delinquency Prevention. *Multisystemic Therapy, Model Programs Guide*, available at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec_prt.asp?ID=363.
18. Ibid.
19. Ibid.; Curtis, Nicola M. and Kevin R. Ronan. "Multisystemic Treatment: A Meta-Analysis of Outcome Studies." *Journal of Family Psychology* 18, 2004, 411.
20. For more about the wraparound process, see Storandt, 2007, 24-27, note 79, Step 4.
21. Ibid., 24; *The National Wraparound Initiative*, available at www.rtc.pdx.edu/nwi/.
22. "Helping Youth with Severe Emotional Disturbances at Risk of Institutionalization." *Psychiatric Services* 58, October 2007, 1369.
23. Ibid.

progress and adjust the treatment plan accordingly. Additionally, the youth's birth family receives family therapy and parent training.⁵⁰

MTFC is most appropriate for youth from families with high levels of conflict, who have mental health or cognitive disorders, and who exhibit antisocial attitudes and early onset of aggression.⁵¹ In addition to reducing future court contact, MTFC has been shown to reduce problem behaviors, improve school adjustment, and increase self-reports of happiness.⁵²

Addressing Barriers to Accessing Interventions

Two barriers often prevent prompt access to intervention services: long wait lists and geographic disparity in access to services. Under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) provisions of Medicaid, you may be able to reduce these two barriers to services. Federal law requires every state

Interventions Available without Court Involvement

Federal law creates legal entitlements to other interventions that can benefit status offenders. Although your client may or may not be able to enforce these entitlements privately, you should be aware of their availability in the community.

For Truant Youth

Whether or not a student's learning is impacted by a disability, a period of truancy may be self-reinforcing because the student will be reluctant to return to class after falling behind academically. For such children, the No Child Left Behind Act (NCLB) may provide access to educational services to help them transition back to school and improve academically. Under NCLB, students are eligible for supplemental educational services if they: (a) are eligible for free or reduced-price lunch; and (b) are enrolled in Title I schools that have been placed on the state's "in need of improvement" list for two or more years.¹ Supplemental educational services may include services such as one-on-one tutoring or computerized instruction.² Encourage parents to meet with school district staff and the supplemental educational service provider to develop appropriate goals for the student's progress.³

Students may also be able to access transfers to better schools under NCLB. Schools that fail to meet their adequate yearly progress goals for two consecutive years must provide children with the option of transfers to a nonfailing school in the district.⁴ The school district is required to pay for transportation to the new school; however, it can limit the amount of transportation money available and give preference to the lowest-achieving children from the lowest income families.⁵ A child who transfers to a nonfailing school may stay there until he or she has completed the highest grade in that school.⁶

For Runaway Youth

Be aware of additional state services available to runaway youth under the Reconnecting Homeless Youth Act of 2008. The Reconnecting Homeless Youth Act was the 2008 reauthorization of the federal Runaway and Homeless Youth Act (RHYA).⁷ It expanded services to better serve runaway youth. RHYA's Basic Center Program provides grants to community-based organizations to support counseling, services for families with children at risk of separation from the family, and emergency and respite shelter of up to 21 days. RHYA's Transitional Living Program provides grants to community-based organizations to support residential

(Continued on page 54)

(Continued from page 53)

services for up to 21 months, and life skill supports to youth ages 16 through 21 who are unable to return home safely, including maternity group homes for pregnant and parenting youth.⁸

Sources:

1. 20 U.S.C. §6316(b)(5)(B); “Department of Education Supplemental Education Services: Non-Regulatory Guidance.” January 2009, A-5.
2. Title I status is determined by the percentage of students under the federal poverty level; www.ed.gov/parents/academic/involve/suppservices/index.html.
3. 20 U.S.C. § 6316.
4. 20 U.S.C. §6316(b)(1)(E). If all schools in a district fail, transfers should be made to another school district.
5. *Ibid.*
6. 20 U.S.C. § 6316 (b)(13).
7. 42 U.S.C. § 5701 *et seq.*
8. www.nn4youth.org/news.aspx#reconnecting; www.serve.org/nche/states/state_resources.php (state-by-state resources for homeless youth).

to provide EPSDT services to all Medicaid-eligible children, even if they are not provided to adults.⁵³ EPSDT services include case management, psychiatric services, home and community-based preventative and rehabilitative services.⁵⁴ Under EPSDT, states are obliged to actively arrange for treatment, by providing the service themselves or by referral to appropriate community providers.⁵⁵ You can use this obligation to argue that long wait lists for services violate Medicaid law. Additionally, the Medicaid Act requires that programs be available statewide: a state Medicaid plan must “provide that it shall be in effect in all political subdivisions of the State.”⁵⁶ Consequently, if a Medicaid-eligible status offender does not receive necessary services due to geographic disparities, you can argue that the state is violating Medicaid law.

Conclusion

Status offenses are a clear indication that a child’s basic needs are not being met, in the home, at school, or in the community.⁵⁷ Moreover, status offenses are a strong predictor of juvenile delinquent behavior, educational failure, substance abuse, and teen pregnancy.⁵⁸ For example, truant children are 12 times more likely to be involved in the juvenile justice system than nontruant children.⁵⁹ Because status offenses serve as a gateway to the juvenile justice system, attorneys

must seek services for their status offender clients to help them avoid future court involvement.

Alternative dispute resolution can divert youth from formal court engagement and can empower families to reach creative solutions. Pretrial motions, which are often overlooked, can result in the dismissal of the status offense petition through the court's lack of jurisdiction or through violations of state or federal law.

If pretrial tactics are unsuccessful, postadjudication interventions support successful outcomes for youth. Interventions along a continuum of services—community-based, outreach, and residential—help ensure youth receive appropriate services. Ensuring your client receives appropriate and targeted services can help avoid future court involvement and improve life outcomes.

Endnotes

1. Airey, Pamela L. "It's a Natural Fit: Expanding Mediation to Alleviate Congestion in the Troubled Juvenile Court System." *Journal of the American Academy of Matrimonial Lawyers* 16, 1999, 286.
2. Olson, Kelly Browe. "The Importance of Using Alternative Dispute Resolution Techniques and Processes in the Ethical and Informed Representation of Children." *Nevada Law Journal* 6, 2006, 1333, 1334.
3. *Tools for Permanency: Tool #3*. New York, NY: National Resource Center for Foster Care and Permanency Planning, 1, available at <http://centerforchildwelfare.fmhi.usf.edu/kb/LglStFedStat/Child%20Welfare%20Mediation.pdf>.
4. Fuller, Joanne and Rose Mary Lyons. "Mediation Guideline." *Willamette Law Review* 33, Fall 1997, 905, 910.
5. Wilhelmus, Maria. "Mediation in Kinship Care: Another Step in the Provision of Culturally Relevant Child Welfare Services." *Social Work* 43, March 1998, 117, 123.
6. *Ibid.*, 125.
7. *Ibid.*, 123.
8. Varin John F. et al. "Mediation Between Parents and Children: Part of the Twin Falls County Status Offender Program." *The Advocate (Idaho State Bar)* 41, November 1998, 10, 12.
9. Cottam, Glenda L. "Mediation and Young People: A Look at How Far We've Come." *Creighton Law Review* 29, June 1996, 1517, 1518.
10. National Center on Family Group Decision Making. *Family Group Conferencing: Responses to the Most Commonly Asked Questions* 5, 2004.
11. *Ibid.*, 9.
12. *Ibid.*, 6.
13. *Ibid.*, 6-7.
14. *Ibid.*, 5.

15. Olson, 2006, 1335. From 1995 to 2000, the number of American communities using family group conferencing programs grew from five to over 100.
16. N.J. Stat. Ann. § 2A:4A-83 (2009).
17. La. Children's Code Art. 744 (2004).
18. Wash. Rev. Code § 28A.225.020(c) (2006); *Bellevue School District v. E.S.*, 199 P.3d 1010 (Wash. Ct. App. 2009) (school district's failure to implement interventions to address truancy is a defense to a status offense petition).
19. Conn. Gen. Stat. § 46b-149 (2004).
20. Ala. Code § 12-15-502 (2008) for mandatory approach; Conn. Gen. Stat. § 46b-148(g) (Supp. 2008) for best interests approach.
21. Truancy is a common behavior for many status offenders, regardless of the behaviors alleged on the petition. Weingartner, Eric et al. *A Study of the PINS System in New York City: Results and Implications*. New York, NY: Vera Institute of Justice, March 2002, 8, available at www.vera.org/download?file=53/159_243.pdf.
22. Conn. Agencies Regs. § 10-76d (2009). *See also* Chapter 6, *Using Special Education Advocacy to Avoid or Resolve Status Offense Charges, infra*.
23. 20 U.S.C. § 1401(3) (2008). Disabilities include autism, deaf-blindness, deafness, developmental delay, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment (limited strength, vitality, or alertness due to chronic or acute health problems), physical impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment.
24. *In re C.M.T.*, 861 A.2d 348 (Pa. Super. Ct. 2004) (holding that hearing court should have heard evidence about the adequacy of student's IEP in a dependency hearing based on habitual truancy).
25. 29 U.S.C. § 794.
26. 34 C.F.R. § 104.4(b)(2) (2000); 28 C.F.R. § 35.130(b)(iii) (1991).
27. *Ibid.*
28. *Castaneda v. Pickard*, 648 F.2d 989, 1009-10 (5th Cir. 1981); 20 U.S.C. § 6812 (2009).
29. Conn. Gen. Stat. § 10-76f (2002).
30. 42 U.S.C. § 11431 *et seq.*
31. 42 U.S.C. § 11435a. School districts are required to provide parents with a description of their rights under McKinney-Vento at the time of attempted enrollment. 42 U.S.C. § 11432(e)(3)(C)(i).
32. 42 U.S.C. § 11432(g)(3)(A); *The National Center for Homeless Education*, available at www.serve.org/nche/index.php.
33. *Plyer v. Doe*, 457 U.S. 202 (1982).
34. *Ibid.*
35. Baily, Lamar. "Bullying: States Try to Rein in Ugly Behavior." *State Health Notes* 29, December 8, 2008, 529, available at www.ncsl.org/programs/health/shn/2008/sn529c.htm.
36. W. Va. Code § 18-2C-2 (2008).
37. Colo. Rev. Stat. § 22-32-109.1 (2008); Okla. Stat. tit. 70 § 24-100.3 (2008).
38. Ga. Code Ann. § 20-2-751.4 (2000); N.H. Rev. Stat. Ann. §§ 193-F:2, 193-F:3 (2000).

39. Ga. Code Ann. § 20-2-751.4 (2000); W. Va. Code §18-2C-2 (2001).
40. Conn. Gen. Stat. § 10-220d (2008).
41. Diakon Family Life Services, *Bullying*, available at www.diakon.org/dialog/n263.pdf.
42. Ibid.
43. 20 U.S.C. § 7912 (2009).
44. Ala. Code § 12-15-215.
45. Kendall, Jessica R. "Juvenile Status Offenses: Treatment and Early Intervention," *American Bar Association Division for Public Education Technical Assistance Bulletin* 29, 2007, 7, available at www.abanet.org/publiced/tab29.pdf.
46. Steinhart, David J. "Status Offenses." *The Future of Children* 6, Winter 1996, 93.
47. Quarishi, Fiza et al. "Respite Care: A Promising Response to Status Offenders at Risk of Court-Ordered Placements." Chicago, IL: Vera Institute of Justice, December 2002; Mogulescu, Sara and Gasper Caro. *Making Court the Last Resort: A New Focus for Supporting Families in Crisis*. Chicago, IL: Vera Institute of Justice, December 2008, available at www.vera.org/download?file=1796/status_offender_finalPDF.pdf; *Annual Report* 9. Richmond, VA: Juvenile Justice Services, 2005, available at www.richmondgov.com/forms/docs/online/JuvenileReport.pdf (description of Crisis Shelter Care in Richmond, VA).
48. *A Guide to Developing and Operating Host Home Programs for Youth in Crisis*. Brooklyn, NY: The Empire State Coalition of Youth and Family Services, 2006, available at www.empirestatecoalition.org/hosthomemanual.pdf.
49. See www.mtfc.com/currentsites.html for a list of current MTFC programs.
50. Office of Juvenile Justice and Delinquency Prevention. *Multidimensional Treatment Foster Care, Model Programs Guide*, available at www.dsgonline.com/mpg2.5/TitleV_MPG_Table_Ind_Rec.asp?id=362.
51. Ibid.
52. Ibid.; Hahn, Robert A. et al. "Therapeutic Foster Care for the Prevention of Violence: A Report on Recommendations of the Task Force on Community Preventive Services." *Morbidity and Mortality Weekly Reports* 53, July 2, 2004, 1.
53. 42 U.S.C. § 1396d(e).
54. O'Connell, Maureen and Sidney Watson. "Medicaid and EPSDT." National Health Law Project, Children, March 2001 available at www.nls.org/conf/epsdt.htm.
55. 42 U.S.C. § 1396a(a)(43)(C).
56. 42 U.S.C. §1396a.
57. McNamara, Robert Hartmann. *The Lost Population: Status Offenders in America*. North Carolina: Carolina Academic Press, 2008.
58. Trujillo, Lorenzo A. "School Truancy: A Case Study of a Successful Truancy Reduction Model in the Public Schools." *U.C. Davis Journal of Juvenile Law and Policy* 10, Winter 2006, 69, 73.
59. American Bar Association Commission on Youth at Risk, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, and Family and the Youth Services Bureau, U.S. Department of Health and Human Services. *Addressing the Needs of Juvenile Status Offenders and Their Families* (Videoconference), January 18, 2007.