SUMMARY

Background/introduction
In an estimate of 10 to 30 percent of Dutch juvenile criminal cases at least one of the parents or the guardian is absent when their child is heard in court. A parliamentary majority pressed the government successfully to introduce an additional provision to the Code of Criminal Procedure, stating that parents or the legal guardian must be present when their child or pupil is adjudicated in court. If they are not, the case must be adjourned and the parents or the guardian will be summoned to attend when the hearing will be resumed. If necessary the police can be ordered to bring them to the courthouse against their will.
In this study, we map out the current situation regarding the presence of parents, investigate whether the presumed beneficial effects of obligatory presence of parents or guardian are valid, and describe the practical consequences of this new provision in terms of work processes and costs in practice.

Approach
The study consists of three parts. First, the policy theory was reconstructed on the basis of interviews with the MPs who submitted the amendment, available documents (such as parliamentary papers) and scientific literature. Subsequently, the reconstructed theory was tested against perceptions in the scientific literature (by means of a literature study) and opinions of professionals in the field of action (by means of interviews). Finally, on the basis of various sources, a calculation was made of the implementation costs resulting from the implementation of the law. In the report different scenarios are presented.

Current situation
In the large majority of juvenile criminal cases at least one of the parents of the minor is present at the court hearing. The percentage of cases in which both parents are present, is much lower. The supposed causes of the absence of parents include work obligations, a conscious choice not to attend, a lack of information (language problems or intercepted mail), illness, traffic problems and a lack of child care facilities. Even though the absence of parents does not have any consequences for the process, it can have negative effects for the juvenile suspect. With the exception of the pilot Voluntary presence of Moroccan parents and the continuation pilot in Utrecht, districts do not apply measures to stimulate the presence of parents at court hearings.

Policy theory
The reduction of re-offending of juvenile offenders can be indicated as the main objective of the obligatory presence of parents in the courtroom. The
following sub-objectives have been distinguished:

- to enable parents to carry out their educational task;
- to offer parents the opportunity to support their child;
- to contribute to the effectiveness of youth sanctions;
- to create more sympathy among victims;
- to remove the ignorance of parents.

On the basis of this study we conclude that the tenability of the policy theory is on the whole moderate. Based on empirical literature, only very broad indications can be found for the presumed beneficial effects. This applies to the extent to which it would enable parents to better carry out their educational task, to better support their child and to create more sympathy among victims. However, with regard to the very specific area of the obligatory presence of parents, the reason why the literature does not offer support for the theory, is simply due to the fact that there is a lack of studies focusing on this issue. According to professionals in the field the policy theory may be tenable to a certain degree. Professionals agree with the presumed beneficial effects regarding the support parents can offer to their child, a more effective sanction and removing the ignorance of parents, but they have less faith in the presumed beneficial effects concerning the promotion of the educational task and the creation of more sympathy among victims. Generally, they also regard the reduction of re-offending as a legitimate objective of obligatory presence, although it is hard to check whether the obligation contributes to this.

In conclusion, we have observed that the variables in the presumed beneficial effects are rather manipulable by policy measures. Ignorance of parents can be best influenced by policy. Support for the child and the effectiveness of the sanction are partly manipulable. The obligatory presence measure may influence the conditions for parents to support their child and a better judgment of the judge. Sympathy among victims, however limited, is also manipulable. It is hard to influence educational skills by means of obligatory presence.

**Enforcement**

Different interpretations can be given to the enforcement of obligatory presence. The law requires that the court orders the police to bring parents along to the courtroom as a possibility when these parents have failed to show up at the court hearing. In interviews it is assumed that extra police deployment preceding the trial is also an opportunity. Parents would be persuaded by the police to be present at the court hearing.

**Work processes**

In relation to the current situation the police will get the following new tasks with regard to obligatory presence of parents:

- In the current situation, the address of the juvenile suspect is mentioned in the summons. In the new situation, it is desirable that in relation to the rest of the procedure the addresses of the parent(s) is/are also mentioned in the summons.
The regional police will carry out the court order to bring along the parent(s) to the courtroom.

The task of the Dutch Council for Child Protection (the Raad) is to carry out a Council study. In the new situation, the following aspects change for the Council:

- The Council will, when they are involved in a case, inform the parents of the obligatory presence at the court hearing. Information will be disseminated by means of brochures and conversations.
- If a hearing is postponed, additional activities of the Council are necessary: an extra meeting in preparation to the hearing, extra court representation capacity and, in case this is necessary, an update of the Council report. In addition, in case of a suspension of the tentative preventive custody with conditions, supervising the execution of the conditions by youth probation officers will have a longer duration. This involves more work both of youth probation officers and the Council.

The Public Prosecutor (OM) has the task to summon the juvenile offender (and their parents in the new situation). Compared to the current situation, work adaptations include:

- The address(es) of the parent(s)/guardian must be checked at the municipal population register (GBA) and the guardianship register (gezagsregister) must be consulted. This will have to take place in preparation of the trial.
- The summons letter becomes a writ which must be served upon the parent(s)/guardian. Both parents need to be summoned, also in case they are divorced.
- If necessary, the judge should issue a court order to enable the police to bring along the parent(s)/guardian to the courtroom at the next court date.

In conclusion, the tasks of the judiciary are concerned with the court session. Before, during and after the hearing activities are necessary. Compared to the current situation, work adaptations include:

- Before the hearing the correctness of the data of those who exercise legal custody of the minor child will be checked. This will preferably take place by means of a print-out of the GBA and guardianship registers which has been included in the criminal file by the Public Prosecutor.
- During the hearing it is checked whether summoning the parent(s)/guardian passed off well.
- In addition, during the hearing it is established whether the parent(s)/guardian is/are present and the identity of the parents with legal custody is checked.
- By means of the hearing documents it is established whether those exercise legal custody of the minor child have in fact been summoned and have appeared in court.
In case of an incorrect summons the case is postponed and the parent(s)/guardian will be summoned again.
In case the parent(s)/guardian is/are absent it is decided whether the case should be postponed and whether a court order is necessary.
If necessary, a new hearing date is set.
If necessary, after the hearing an arrest summons is established, court orders are drawn up and sent, and the case is treated at the new hearing date.

Implementation costs
Because it is as yet not clear in what ways the Act will be implemented exactly and what work processes will be started off, in this study the costs of the obligatory presence are estimated on the basis of three scenarios. The scenarios vary with regard to the type of cases to which obligatory presence will apply (is it a subdistrict court case or not?), the percentage of cases at which currently no parents are present, obligatory presence of one or both parents, the way the Public Prosecutor carries out its tasks, and the costs of court orders carried out by the police. In the minimum scenario the implementation costst amount to 909,050 euros per year. In medium variant scenario the implementation costs are at least 1.7 million euros. In the maximum scenario the implementation costs of obligatory presence of parents amount to more than 16 million euros.