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# Adolescent Development & Competency

Juvenile Justice Guide Book for Legislators



## Introduction

Juveniles are routinely accepted as different and treated differently than adults—both in social and legal contexts—based on their age. The distinction is not so clear, however, in regard to criminal liability. Juveniles can be adjudicated as an adult in criminal court or as a juvenile in a delinquency proceeding; the variance exists even among juveniles of the same age who commit comparable offenses.

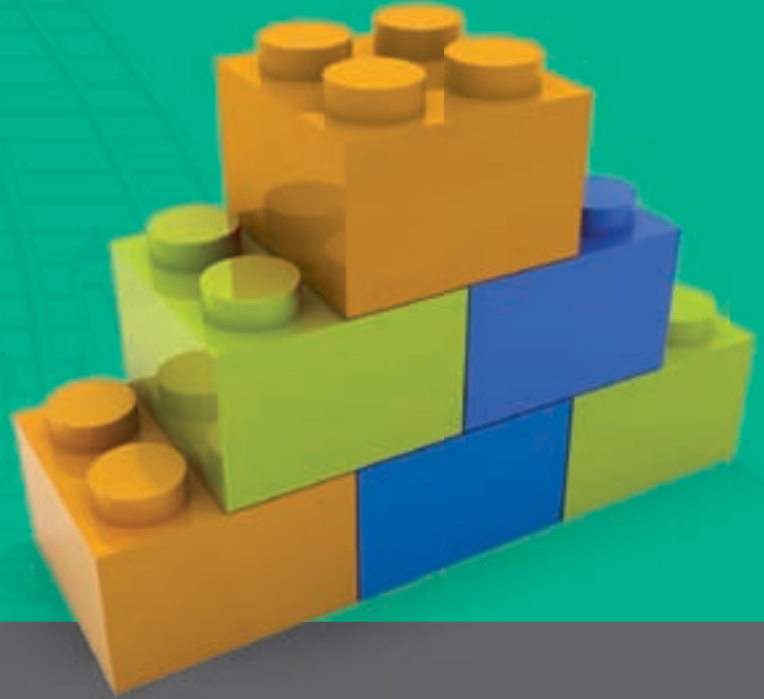
### Juvenile Justice History

Juvenile justice policies are based on society's perceptions and understanding of adolescents and their development. Juvenile justice aims not only to hold juvenile offenders accountable for their actions, but also to accommodate the ways in which they differ from adults. Therefore, shifts in public opinion about the inherent capabilities and limitations of juveniles usually are reflected in juvenile justice policies.

Before the 20th century, juvenile offenders were treated as adults. Under common law, children age 6 and younger could not be held liable for their actions, but all others were not distinguished from adults.

The concept of a juvenile justice system came about in the late 19th century along with a newfound understanding of children. In 1899, Illinois established a separate juvenile court system exclusively for children and separate from the criminal court. By 1925, 48 states had followed suit. By the mid-1900s, it had become widely accepted that children were inherently different from adults and should not be subject to the harsh treatment of the criminal justice system.





### Development of Juvenile Justice

Early juvenile courts implemented benevolent and paternalistic policies. The mere existence of the courts represented the belief that children should not be held solely and fully responsible for their actions. Instead, the courts acted to protect children and to maintain their best interests. The underlying goal of juvenile courts was to rehabilitate offenders through individualized justice, with the ultimate belief that children have greater capacity for rehabilitation. Dispositions reflected the preference for treatment over punitive measures. Juveniles rarely were transferred to criminal courts, although that option was possible.

Beginning in the 1960s, a series of Supreme Court rulings required juvenile courts to make several structural changes. To meet both constitutional requirements and the rehabilitative goals, juvenile courts became obliged to provide procedural due process protections to juvenile defendants. Juvenile defendants today are provided most of the same rights—such as the right to an attorney—afforded to adult defendants. The main exception is that juvenile defendants do not have a constitutionally protected right to a jury trial in juvenile courts.



## Shifts in the Development of Juvenile Justice

Public sentiment shifted drastically beginning in the 1980s. Juvenile crime rates, especially for homicides, rose during the 1980s and 1990s. The increase in juvenile crime, accompanied by heightened media attention, prompted a shift from a sympathetic view of juveniles to one of fear. Juvenile offenders were viewed as savvy criminals who had access to guns and could commit serious, violent crimes. Rehabilitative policies were considered inadequate due to high recidivism rates, and some serious offenders were termed *super-predators*, unreceptive to treatment-oriented sentences. Consequently, more punitive policies began to replace rehabilitative ones, and the transfer of juveniles to criminal courts became more common. Several states lowered the age at which juveniles could be within criminal court jurisdiction; many states eased the methods for transferring juveniles; and some states expanded the list of offenses for which transfer is possible. Policies increasingly reflected the popular mantra of *adult time for adult crime*.

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“ Juvenile crime rates have declined in the past ten years.”

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Most recently, along with declining juvenile crime rates, there has been a growing body of research on adolescent development, of which policymakers and other stakeholders have taken notice. The decline in crimes by juveniles has led the public to view juveniles as less threatening, diminished their status as super-predators, and led them to be more receptive to new research findings on adolescents. The research shows that adolescent brains are not fully developed until about age 25, and the immature, emotional,

and impulsive nature that is characteristic of adolescents makes them more susceptible to commit crimes. Furthermore, some studies have shown that juveniles who commit crimes or otherwise engage in socially deviant behavior are not necessarily destined to be criminals as adults.

## Adolescents Distinguished from Adults

Society already recognizes the inherent differences between children and adults, so it is routine and socially acceptable to treat youth differently in many settings.

Both federal and state laws restrict the rights and activities of children. Every state sets an age of majority, most at age 18; those who have not yet reached that age are subject to restrictions. State legislatures set age requirements for nearly every aspect of life—for example, to operate an automobile, possess or purchase a firearm, purchase alcohol or tobacco products, and gamble.

## Neurobiological Development Research

Recent advances in modern technology, particularly in imaging technology, have provided more insight into brain activity and maturation. Several studies have concluded that adolescent brains are not as fully developed as adults'; one such longitudinal study was conducted by the chief of Brain Imaging in the Child Psychiatry Branch at the National Institute of Mental Health. This study concluded that the average human brain is not fully developed until age 25. Generally, the parietal lobes of the brain fully develop by age 16, but the temporal lobes are still developing and the frontal lobe continues to develop into the early 20s.





### **Research on Adolescent Characteristics and Development**

A growing body of biological, social science and developmental research exists on adolescent development. Studies have suggested that adolescents should be distinguished from adults based on their neurobiological development and for psychosocial reasons. Adolescent brains are not as developed as adults, nor are adolescents as socially and emotionally mature, due to both biological reasons and the inherent lack of experience in youth.

The frontal lobe, particularly in the prefrontal cortex region, is responsible for executive functions such as advanced cognition (including the ability to reason), regulating emotions, controlling impulses, and judging consequences. The frontal lobes are thought to undergo the greatest and most important structural changes during the adolescent years.

#### ***Psychosocial and Developmental Research***

The MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice has conducted psychosocial and developmental research that has corroborated the neurobiological research on adolescent brains; the research has yielded the conclusion that decision-making capabilities are diminished in adolescents. Although the MacArthur Research Network's study shows that basic cognitive abilities and intellectual maturity mirror adults' by the time adolescents reach age 16, advanced

cognition and psychosocial development continue into the 20s. With diminished advanced cognition, including the ability to reason and to understand, adolescents are more vulnerable to psychosocial and emotional influences. Coupled with their lack of experience and inefficiency in processing information, adolescents are less capable than adults of making decisions.



Research has yielded the conclusion that decision-making capabilities are diminished in adolescents.

The MacArthur Research Network's social science and developmental psychology research identifies psychosocial and developmental factors unique to adolescents that inhibit their decision-making capabilities. First, adolescents are more receptive and responsive to the influences and opinions of their peers than those of adults, although this varies by age group within the general juvenile population. Emerging evidence also suggests that the hormonal changes of puberty affect the adolescent brain's ability to process emotional and social information to make them more sensitive to others' opinions. Therefore, adolescents—who already value the opinions of their peers more highly than those of adults—are even more vulnerable to peer influence and pressure.

Studies also show that adolescents have poor risk assessment skills, so they tend to be less risk-adverse than adults. Adolescents have trouble weighing risks or valuing risks as accurately or as efficiently as

adults. Adolescents tend to lack future orientation: they are more prone to think about short-term, rather than long-term, consequences. They also have a greater propensity to value benefits over risks and to engage in sensation-seeking activities; several studies have indicated that sensitivity to rewards is heightened during adolescence.

Developmentally, adolescents also tend to be more impulsive and emotional—they are more inclined to make impulsive decisions, engage in impulsive behavior, and act recklessly compared to adults. Harvard Medical School's Dr. Deborah Yurgelun-Todd explains that adolescents tend to act and react more impulsively because they rely more on the area of the brain that generates emotional gut reactions, rather than trying to thoroughly analyze and rationalize. She also states that adolescents are less likely to consider the perspectives of others or all the potential ways to act or react. Developmental

studies also have shown that the capacity for self-management and self-direction increases throughout adolescence.

## Adolescents in Criminal Court

Although most juveniles are adjudicated within juvenile systems, transfers into criminal courts have become increasingly common. The centerpiece of more punitive juvenile crime policies of the 1980s and 1990s was legislation that enabled easier and more frequent transfers into criminal courts. Each year, roughly 250,000 juveniles are prosecuted in criminal courts. This number is estimated because it is hard to track the amount juveniles processed in criminal court. Transfer laws work with the underlying presumption that some juveniles have the same criminal responsibility as adults and therefore should be treated in the same manner. Although every state provides for at least one transfer method, most have several methods



### *Juvenile Court Jurisdiction*

Most states rely on common law to determine the minimum age for juvenile court jurisdiction. Some states have a statutory minimum; five states set the minimum below age 9, and 11 states set the minimum at age 10. All states, by statute, provide a maximum age for original jurisdiction: two states set the maximum at age 15, 10 states at age 16, and 38 states and the District of Columbia at age 17.

Nearly all states also provide a maximum age for juvenile court jurisdiction for dispositional purposes; the maximum age ranges from 18 to 24, although most set it at age 20. Three states either do not specify a maximum or provide for the full disposition order to be completed within the juvenile system, regardless of age.

available. Three types of transfer laws are typical: judicial waiver laws, statutory exclusion laws, and prosecutorial discretion laws (also referred to as concurrent jurisdiction laws).

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### Legal Competency as a Defendant

In evaluating legal competency to stand trial, the MacArthur Research Network studied a juvenile's ability to assist in and make crucial decisions regarding his or her legal defense. It found that juveniles, especially those under age 15, are likely not able to exhibit sufficient competency in either juvenile or criminal courts. Several aspects of being an adolescent compromise competence as a defendant. For instance, juveniles are less likely to trust and communicate effectively with their lawyers, both of which are essential elements in establishing a legal defense.

In addition, juveniles generally are less knowledgeable about the legal system. Underdeveloped cognitive and reasoning abilities, poor risk assessment skills, and shortsighted, emotional impulses further hinder juveniles from understanding the proceedings against them and making informed decisions. One study, for example, reported 55 percent of juveniles failed to demonstrate accurate comprehension of the *Miranda* warnings. The study showed adolescents commonly understand the right to remain silent to mean the right to remain silent until otherwise told. In fact, kids generally misunderstand the concept of a “right” as an entitlement more generally. It often is seen by children as something granted to them that can be

taken away. According to another study, even when juveniles have an accurate understanding of their *Miranda* rights, they are less likely to assert them, especially when confronted by law enforcement officials. Furthermore, if adolescents are unable to accurately comprehend *Miranda* rights, questions remain about whether their waiver of those rights are, indeed, “knowing, intelligent, and voluntary.”

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Results of another MacArthur Research Network study suggested that a substantial percentage of juveniles, especially those under age 15, lacked legal competency as a defendant due to their own developmental immaturity. This study provided a different perspective on competency by breaking juveniles into different age groups. Generally, 11- to 13-year-olds exhibited significantly less competence than 14- to 15-year-olds who, in turn, exhibited significantly less than 16- to 24-year-olds. The study also showed that 16- to 17-year-olds and 18- to 24-year-olds exhibited similar levels of competence. Specifically, younger juveniles were less able to accurately evaluate risks and understand long-term consequences. Younger juveniles were more inclined to make decisions that aligned with what they thought authority figures wanted, even if that meant confessing or agreeing to a plea bargain.

Furthermore, concern exists about the prevalence of mental health issues and below-average intelligence

among juvenile offenders. Juveniles in the system are three times more likely to experience mental health issues than those who are not in the system. About two-thirds of juveniles under age 15 in juvenile detention have an IQ lower than 89, while only one-third in the general community have an IQ lower than 89. These issues magnify the already questionable competence inherent in juveniles. (Issues related to mental health also are discussed in the Mental Health Needs of Juvenile Offenders chapter.)

As a result, several states allow juveniles to be found incompetent to stand trial on the basis of developmental immaturity, mental illness or intellectual disability, thereby providing juveniles with greater procedural protections.

## Legal Competency for Criminal Culpability

There are also questions regarding whether adolescents should be held to be as culpable as adults. In other words, should they be treated differently due to their immaturity? One response is that, because adolescents are biologically, psychologically and socially underdeveloped, their age and all corresponding limitations of age should be considered as mitigating factors.

Proponents of mitigating culpability for juveniles argue that they should not be held as culpable as adults for several reasons. First, as discussed above, adolescents have diminished decision-making abilities. They lack future orientation, are more vulnerable to peer influence, have poor risk assessment skills, and are more emotional and impulsive.

Another basis for mitigation is the extraordinary circumstances inherent in being an adolescent. For example, adolescents are particularly vulnerable



### *Questions of Legal Competency*

In response to the latest research affirming adolescents' immature and underdeveloped nature, ongoing questions remain about a juvenile's capacity to meet legal competency—competence to participate in legal proceedings generally and in terms of culpability. A juvenile's lack of competence raises disconcerting questions about the administration of justice in both juvenile and criminal courts.

to external coercion, especially the opinions and influences of their peers. Some criminal justice experts theorize that, especially in high-crime communities, the average adolescent succumbs to, instead of resisting, peer pressure. Adolescents who challenge peer pressure risk losing status, being ostracized, and even being assaulted. As minors, they are more vulnerable because they lack the resources and the freedom to physically remove themselves from the situation and re-locate. This is one reason juveniles are more prone to commit offenses in groups, as opposed to adult offenders who often act alone.

Furthermore, some contend that culpability should be mitigated for juveniles because their character is not yet formed. As discussed above, adolescents continue to undergo biological, psychological and emotional changes and are more prone to engage in impulsive, risky behavior. Studies also have shown that criminal behavior during adolescence is not necessarily a reliable predictor for criminal behavior as an adult.



In fact, some studies suggest that criminal behavior as an adolescent is more representative of anti-social behavior related to puberty, which most adolescents outgrow. Behavioral indicators of psychopathy in adults are common traits in the typical adolescent. In a MacArthur Research Network study, juveniles were tested by the PCL-YV, the youth version of the adult psychopathy test, and results showed that overall test scores for youth declined over time more so than for adults. Two-thirds of adults tested by the adult psychopathy test exhibited consistent scores throughout the test period.

### Federal Standards

While the Supreme Court has recognized that juveniles have many of the same due process rights provided to adult offenders—including a right to counsel and, presumably, a right to be competent to stand trial—the Supreme Court has repeatedly distinguished juveniles as inherently immature and therefore warranting differential treatment from adult defendants.

In 2005, the Supreme Court, in *Roper v. Simmons*, held that it is cruel and unusual punishment to sentence to capital punishment a juvenile who is under age 18 at the time the crime is committed. This decision indicates the Court regarded juveniles as categorically different in the context of the death penalty.

As basis for its opinion, the Court in *Roper* relied on scientific evidence and noted three inherent differences between juvenile and adult offenders. First, juveniles, as a group, are inherently more susceptible to immaturity, recklessness and irresponsible behavior because they are underdeveloped biologically, socially and emotionally. Second, juveniles are more vulnerable to negative influences and peer pressure; they lack

the control over their immediate surroundings that adults possess.

Third, because juveniles continue to develop physically and emotionally, their characters are not fully formed, and they are prone to exhibit negative personality traits that are transitory and will not follow into adulthood. Ultimately, the Court found that the culpability of a juvenile does not equal that of an adult and that no reliable method exists to distinguish between the juveniles who commit crimes because they are irreparably corrupt and those whose actions emanate from normal adolescence. As in *Atkins v. Virginia*, which banned the death penalty for mentally disabled offenders, the punishment that is reserved for the worst offenders with extreme culpability should not be imposed on those with diminished culpability.

In 2010, the Supreme Court again distinguished juvenile offenders as distinct from adult offenders due to their mitigated culpability. The Court in *Graham v. Florida* held that life imprisonment without the chance of parole is unconstitutional as applied to juveniles convicted of non-homicide offenses. The Court made another categorical rule regarding juvenile offenders and followed much the same rationale as the *Roper* decision. In making its ruling, the Court recognized that a sentence of life without parole is harsh, second only to capital punishment; therefore, juvenile offenders, whose culpability is inherently mitigated by the fact of age and who are not convicted of homicide must be given an opportunity to avoid such a sentence. A 2009 report published by Florida State University stated that, nationally, an estimated 109 juveniles were sentenced to life without parole for non-homicide offenses; although these juveniles came from eight states, most were Florida residents.



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## Trying and Sentencing Youth as Adults

The most common means of transfer is through judicial waiver laws, which traditionally was the only available method and remains the sole available method in eight states. Judicial waiver laws essentially allow juvenile court judges to waive their jurisdiction so charges may be filed in criminal court. Judges must officially approve of the transfer in a formal hearing or proceeding. Judicial waivers may be discretionary, presumptive or mandatory. Discretionary judicial waivers, available in 45 states, give judges the option to waive jurisdiction in certain types of cases. There are usually eligibility requirements—albeit low standards that are easily met—of minimum age, offense severity and previous record. Presumptive waivers, used in 15 states, apply to a certain category of cases, defined by statute, where a rebuttable presumption of transfer arises. Unless the offender presents evidence to rebut the presumption that transfer is appropriate, the case will be waived from juvenile court jurisdiction. Finally, mandatory waivers, used in 15 states, absolutely require transfers in certain cases so long as certain requirements are met. Juvenile court judges have no discretion and merely confirm whether the cases meet the statutory requirements for mandatory transfer.

Statutory exclusion laws exist in 29 states. These laws provide a statutory definition of *delinquency* in a manner that excludes certain offenses or cases from original court jurisdiction in juvenile courts. Those cases, therefore, originate in and are within criminal court jurisdiction from the very beginning. Statutory exclusion laws, along with mandatory judicial waiver laws, are referred to as *automatic transfers* because they, without any discretion, automatically provide for juvenile offenders to be charged in criminal courts. Thirty-eight states have some form of automatic transfer.

Fifteen states have prosecutorial discretion laws that give prosecutors the authority to file charges, and therefore initiate proceedings, in juvenile or criminal courts.

These laws also are referred to as concurrent jurisdiction laws because both juvenile and criminal courts have concurrent jurisdiction with each other. Prosecutors have broad discretion in determining whether to file charges in juvenile or criminal court. Unlike judicial waiver laws, prosecutorial decisions to charge juveniles in criminal courts are not reviewable, since the decisions are made prior to any official proceeding or evidentiary record and there usually are no statutory standards or factors to consider or guide prosecutors in their decisions.

The vast majority of transfer laws were passed in the last few decades. Currently, 44 states have mandatory judicial waiver laws, statutory exclusion laws, and/or prosecutorial discretion laws. These laws allow categorical transfers or provide prosecutors with the discretion to effectively allow such transfers. Thirty-four states have *once an adult, always an adult* transfer laws. Although some variations exist, these laws generally dictate that juveniles previously

adjudicated as an adult will automatically be within criminal court jurisdiction for any future offenses.

The efficacy of transfer laws and criminal prosecution of juvenile offenders is debatable; many have questioned whether transfer laws advance public safety and promote deterrence. According to an independent task force appointed by the director of the Centers for Disease Control and Prevention, transfers of juveniles into criminal courts have not been a deterrent, and transfers typically increased the rates of violence among the transferred youth. In fact, youth adjudicated in the criminal system are more likely to return to the system than are youth in the juvenile system, even though most juveniles in criminal courts are not charged for serious, violent offenses. Nevertheless, youth adjudicated as adults are more likely to be re-arrested, to re-offend, to re-offend more quickly, and to re-offend with more serious crimes.

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“ Youth adjudicated in the criminal system are more likely to return to the system.”


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A number of studies have focused on comparing the recidivism rates for juveniles adjudicated in criminal courts with those who remained in the juvenile system. A MacArthur Research Network study, for example, compared juveniles in New York who were charged as adults at age 16 with juveniles in neighboring New Jersey, where juvenile court jurisdiction extends to those under age 18. The study found that those adjudicated as adults in New York were more likely to be re-arrested more often and more quickly for serious offenses than

their counterparts in New Jersey. Another study that compared the same groups found transferred juveniles who served at least one year in prison were 100 percent more likely to return to committing violent crimes. In contrast, transferred youth in New York who were not sentenced to prison time were 39 percent more likely to be re-arrested for violent offenses. A Pennsylvania study found that youth who were transferred to adult courts were 77 percent more likely to be re-arrested than those who remained in the juvenile justice system.

Many potential explanations exist for the differential in recidivism rates. Some theorize the culture and environment of adult facilities foster behavior in juveniles that increases their chances of recidivism. Juveniles in adult facilities, for example, are at an increased risk for being physically and sexually assaulted; this, in turn, increases the chances they will commit serious, violent offenses, especially if adequate therapy is not available to them. The culture and social norms within adult facilities—valuing domination, exploitation and retaliation—foster anti-social, criminal behavior. Juveniles also are exposed to techniques they can use to commit crimes when they return to society.

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The number of juveniles held in adult facilities has increased substantially. The National Council on

Crime and Delinquency reports that juveniles in adult jails have increased by 208 percent since 1990; at least 40 states either allow or require juveniles charged as adults to be detained in adult jails. In a single-day census in 2007, 7,703 juveniles were being held in adult jails nationwide, and 3,650 state prisoners were under age 18.

Housing juveniles in adult facilities has resulted in a variety of challenges, some of which may contribute to higher recidivism rates of juveniles adjudicated as adults. First, challenges exist for adult facilities staff who must deal with the unique characteristics of developing and impressionable adolescent offenders. Typically, staff do not receive specialized training in dealing with youth, nor are any adjustments made to physical techniques to control juvenile inmates. Even in the presence of specialized training, staffing ratios make it difficult to provide juvenile inmates with the individual attention they may need. Adult facilities may have as few as one correctional officer for every 64 inmates, compared to juvenile facilities that typically have one staff member for every eight inmates.

Second, adult facilities face challenges as they attempt to accommodate the programming and treatment needs of juvenile offenders. Although jails are intended to provide temporary, transitional detainment, in reality, many youth may spend an extended period of time in jail while awaiting trial. Although most prisons have GED programs, offerings may be limited and there may be long waiting lists for higher education classes.

Adult facilities also struggle to deal with the mental health needs of juvenile offenders. As discussed in the Mental Health Needs of Juvenile Offenders Chapter, a high prevalence of mental health issues exist among juvenile offenders. Access to treatment and medication for behavioral management and mental



## *Issues Related to Detention & Imprisonment*

As more juveniles are charged and prosecuted as adults, more adolescents are detained and imprisoned in adult facilities. Under the Juvenile Justice and Delinquency Prevention Act which was re-authorized in 2002, juveniles under juvenile court jurisdiction cannot be held in adult jails, except in very limited circumstances. In such circumstances, jails must abide by the sight and sound separation requirement that restricts juvenile offenders from having contact with adult offenders. These provisions apply only to youth within juvenile court jurisdiction, not to those who are charged and prosecuted as adults.

illness is particularly challenging in adult jails that are ill-equipped to address such needs. Specialized therapy programs may be limited and have long waiting lists. Furthermore, being in adult facilities may exacerbate pre-existing mental health issues among juveniles.

Finally, juveniles in adult facilities are at increased risk of being physically and sexually assaulted. Youth are targets of violence perpetrated by both inmates and staff. High inmate-to-staff ratios and overcrowding are obstacles to ensuring safety for juvenile inmates. Juveniles in adult facilities are reportedly five times more likely to be victims of sexual abuse and rape than their counterparts in juvenile facilities.



Inadequate treatment for assaults may cause detrimental physical and emotional consequences. Efforts to ensure safety for juveniles by enforcing segregation from the general inmate population often means complete isolation, which can trigger mental issues such as depression and aggravate existing mental health problems. Youth in adult jails are reportedly 19 times more likely to commit suicide than their counterparts in the general population and 36 times more likely to do so than their counterparts in juvenile detention facilities.

State laws that address juveniles in adult jails and prisons vary widely. Some states, such as West Virginia and Kentucky, house all juveniles in juvenile facilities until they reach a designated age, regardless of the severity of the offense. Other states require transferred youth to be housed in adult jails, although post-disposition housing may not be specified. States such as Oklahoma require transferred youth to be housed in adult prisons with no special protections or treatment in place. Approximately 17 states and the District of Columbia have separate housing in prisons for juvenile offenders; however, these facilities often reach capacity, and the remaining children are housed with adults.

“ A recent survey of adult jails found that 40 percent provided no educational services, only 11 percent provided special education classes, and only 7 percent provided vocational training

Although generally considered better than adult facilities, the conditions of juvenile detention

facilities are reported to have similar problems of abuse, sexual assault and death. A January 2010 report by the Bureau of Justice Statistics found that 12 percent of juveniles in juvenile facilities reported being sexually abused while in detention; these offenses were predominantly perpetrated by staff members. Other issues in juvenile facilities include inadequate programs and medical and mental health care, abusive practices, inadequate building maintenance and sanitation, and overcrowding.

## Recent Legislation

Several states have considered and/or changed age requirements regarding juvenile court jurisdiction. In 2007, three states raised the maximum age for original jurisdiction in juvenile courts. Connecticut, which previously had the largest number of inmates under age 18 in the adult system, raised the maximum age from 16 to 18. New Hampshire and Rhode Island raised their maximum ages from 16 to 17. A 2010 Illinois law authorized the Illinois Juvenile Justice Commission to study the impact of and develop plans for raising the maximum age of juvenile court original jurisdiction from 16 to 17. Also in 2010, Oklahoma passed a law allowing those who are up to six months into age 18 to be adjudicated in juvenile courts if the offense in question would constitute a misdemeanor if committed by an adult.

Connecticut, which previously had the largest number of inmates under age 18 in the adult system, raised the maximum age from 16 to 18.

Four states have lowered the maximum age for juvenile court jurisdiction, which results in a categorical increase in the number of juveniles adjudicated in criminal courts. In 1993, Wyoming lowered the maximum age from 18 to 17. In 1996, New Hampshire and Wisconsin lowered the maximum age from 17 to 16; and New Hampshire raised its maximum to age 17 in 2007. In 2006, Rhode Island lowered its maximum age from age 17 to 16 by executive order with legislative approval; however, the legislature reversed this decision the following session and raised the maximum to age 17.

Other age-related statutory changes also have been made to juvenile court jurisdiction. Beginning in 2008, for example, Maine required blended sentencing for juveniles who were charged as adults but had not yet reached age 16 at the time of sentencing, and for certain offenses. In 2009, Colorado increased the age at which juveniles could be sentenced to juvenile offender systems. In 2010, Colorado also changed the minimum age from 14 to 16 at which prosecutors may use direct file, except for first- and second-degree murder and sex offense cases.

Other states have enacted laws regarding transfer methods. A 2009 Nevada law requires juvenile courts to hold a hearing to determine whether a transfer is necessary, and another law revises the provisions certifying juveniles as adults. Several transfer laws were passed in 2010. Arizona requires county attorneys to prosecute juveniles who are age 15, 16 or 17 at the time the offense is committed and for certain serious offenses as adults; Arizona allows county attorneys to prosecute juveniles who were at least age 14 at the time of the offense and for certain serious offenses. Colorado made some procedural changes to its direct file law by increasing the minimum age to 16; it requires the prosecutor

to file charges in juvenile court with at least 14 days' notice of filing charges in criminal court, and provides criteria to be used in determining when direct file is appropriate. A Mississippi law essentially states the juvenile court jurisdiction is inapplicable if the court determines that a transfer to criminal court is appropriate. Two states have passed laws on transfer-related issues. Mississippi, in 2009, passed a "once an adult, always an adult" law, providing for an exception if the criminal court transfers or remands the case to juvenile court. In 2010, Utah passed a reverse waiver law under which a criminal court judge may transfer a juvenile's case back to juvenile court if the criminal court judge determines it is in the juvenile's best interest and considers whether the identified treatment needs can be met within the juvenile system within the time the juvenile court would continue to have jurisdiction.

A 2009 Colorado law provides that, after a juvenile is formally charged as an adult via direct file or a transfer hearing, a set list of factors be considered to determine whether the juvenile should be placed in an adult jail or detention facility.



A few states have recently passed legislation regarding detention and sentencing issues for juveniles charged as adults.

In 2010, Utah passed a measure allowing juveniles awaiting trial in criminal courts to be held in adult detention facilities. Virginia now allows juveniles transferred to or charged in criminal courts to remain in juvenile, rather than adult, detention facilities. In 2009, Virginia authorized juveniles convicted as an

adult and sentenced to incarceration to gain earned sentence credits for the portion of their sentences served in juvenile detention facilities.

Several states also have implemented policy changes regarding conditions of confinement in juvenile facilities. In 2006, Maryland expanded oversight of residential facilities to include private facilities. New York now limits the use of restraints by staff, and Florida has closed all four of its boot camps and prohibited the use of “harmful psychological intimidation techniques.” Mississippi now does not allow juveniles to be placed for disposition in detention facilities that lack medical, educational or treatment services. Mississippi also now allows detention of first-time, non-violent juvenile offenders for no more than 10 days while alternative placement or supervision is determined.



### **Conclusion**

Juvenile justice systems have changed substantially since their inception in 1899. The most recent advances in neurobiological and psychosocial research, which provide new insight into the development and competency of adolescents, have begun to inform and shape juvenile justice policies. States continue to strive for policies that balance punishment, public safety, and rehabilitation in their aim for juvenile justice.

For references and additional resources, please see the [References, Glossary & Resources](#) section.



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