



Oppose Poison Pill Amendment to JJDP A to Increase Youth Prosecuted in the Adult Criminal Justice System

This year Congress is planning to reauthorize the bipartisan Juvenile Justice and Delinquency Prevention Act (JJDP A), which has provided critical protections to youth in the juvenile justice system for over 30 years.

Last year, Senator Jon Kyl (R-AZ) considered offering an amendment to the JJDP A that would modify federal transfer laws. Under current federal transfer law, an adult court judge determines on a case-by-case basis whether it is “in the interest of justice” to charge a youth in adult court. However, Senator Kyl’s amendment would allow prosecutors - instead of neutral judges - to decide whether to prosecute a youth as an adult for certain federal crimes, including for attempting or conspiring to commit these crimes and for any related crimes.

The Kyl amendment or any similar amendment that would increase the number of youth tried as adults or that would remove a judge’s discretion to determine whether to prosecute a youth in adult court would:

- Harm public safety. Research shows that youth transferred to the adult criminal justice system are more likely to commit crimes in the future when compared to youth who commit similar crimes, but are retained in the juvenile justice system.
 - A 2007 report released by the U.S. Centers for Disease Control and Prevention found that youth who have been previously tried as adults are 34% more likely to commit crimes than youth retained in the juvenile justice system.
 - A 2008 report by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice concluded that transferring youth to the adult criminal system substantially increases recidivism and recommended changing laws to decrease the number of youth transferred to the adult criminal justice system.
- Disproportionately affect youth of color. Available data indicates that youth of color are disproportionately prosecuted in the adult criminal justice system.
 - According to the most recent data available, African-American youth were only 19% of youth arrested by federal agencies, but African-American youth were 61% of the youth convicted as adults in the federal criminal justice system.
 - Although data on the prosecution of Latino youth in the federal adult criminal justice system is not available, Arizona state statistics show that Hispanic youth make up over 60% of youth transferred to adult court. This disproportionately high number of Latino youth prosecuted in Arizona state courts is likely to be reflected in the federal criminal justice system as well.

- Due to federal jurisdiction over American Indian lands, American Indian youth would be disproportionately affected by any change in federal transfer law. Although American Indian youth are only 1% of the national population, 70% of youth committed to the federal Bureau of Prisons (BOP) as delinquents are American Indian youth, as are 31% of youth committed to BOP as adults.
- Contradict public opinion. A recent Zogby poll conducted found that 92% of Americans believe that the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a juvenile court judge. In addition, national polling shows that a vast majority of Americans support rehabilitating, rather than punishing, even serious juvenile offenders.
- Is inconsistent with the latest scientific evidence on the adolescent brain. Adolescent brain research shows that children's brains are still developing well into their early 20's and that youth do not have all the capacities as adults. Indeed, the final area of the human brain to mature is the prefrontal cortex, which governs the "executive functions" of reasoning, advanced thought and impulse control.

For these reasons, we respectfully request that you strongly oppose any amendment to JJDP A reauthorization that would increase the number of youth tried as adults or that would allow anyone other than judges to determine whether to prosecute a youth in adult court at the federal level.

If you have any questions, please contact Erin Davies, Legislative and Policy Strategist at the Campaign for Youth Justice at 202-558-3580 or at edavies@cfyj.org.