

AMERICAN BAR ASSOCIATION

101D (Criminal Justice, Litigation)

Approved as submitted

RESOLVED, That the American Bar Association supports the following principles derived from the 2001 Report of the Task Force on Youth in the Criminal System of the Criminal Justice Section, Youth in the Criminal Justice System: Guidelines for Policymakers and Practitioners concerning youth in the criminal justice system:

1. youth are developmentally different from adults and these differences should be taken into account;
2. pretrial release or detention decisions regarding youth awaiting trial should reflect their special characteristics;
3. if detained or incarcerated, youth should be housed in institutions or facilities separate from adult institutions or facilities at least until they reach the age of eighteen;
4. youth detained or incarcerated should be provided programs which address their educational, treatment, health, mental, and vocational needs;
5. youth should not be permitted to waive the right to counsel without consultation with a lawyer and without a full inquiry into the youth's comprehension of the right and their capacity to make the choice intelligently, voluntarily and understandingly. Stand-by counsel should be appointed if the right to counsel is voluntarily waived;
6. judge should consider the individual characteristics of the youth during sentencing; and
7. collateral consequences normally attendant to the justice process should not necessarily apply to all youth arrested for crimes committed before age eighteen; and

FURTHER RESOLVED, That the ABA opposes, in principle, the trend toward processing more and younger youth as adults in the criminal justice system and urges policymakers at all levels to take the previously mentioned principles into account in developing and implementing policies involving youth under the age of eighteen.