



Strategies to Reduce the Number of Youth in Adult Court and Increase Public Safety: A Guide for State Legislators

In the late 1980s and 1990s, exaggerated and ultimately unfounded predictions of an explosion in youth crime led almost every State legislature to pass laws placing more youth in the adult criminal justice system. As a result of these policies, approximately 200,000 young people are prosecuted as “adults” every year.

When these laws were initially passed most state legislatures believed the laws would enhance public safety and reduce youth crime, but a growing body of research now shows that trying youth as adults actually increases the likelihood that young people will re-offend. According to recent studies by the Centers for Disease Control and Prevention, the Office of Juvenile Justice and Delinquency Prevention, and the Brookings Institution, youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crime. In contrast, the research shows that young people who are kept in the juvenile justice system are less likely to re-offend than young people who are transferred into the adult system.

Not only does trying youth as adults fail to reduce crime, it also has harmful, long-lasting effects on youth – the majority of whom are charged with non-violent offenses. Youth in the adult system carry the life-long stigma of an adult conviction which makes it more difficult to find a job or complete their education. Access to a driver’s license may be severely restricted, and in some states, youth may never be able to vote or hold public office. Youth may also be held in adult jails or prisons where they are at great risk of physical and sexual assault. Youth are 36 times more likely to commit suicide in an adult jail than if they were held in a juvenile detention facility. Currently, 39 states permit or require that youth charged as adults be held in adult jail before they are tried. In some states, if they are convicted, they may be required to serve their entire sentence in an adult jail or prison.

State legislators who want to make a change can and those changes would be supported. Recent public opinion polling shows greater support for policies that work to rehabilitate young offenders – rather than lock them up – as an effective approach to reducing juvenile crime.

- Nine out of 10 people polled believe that rehabilitation and treatment for incarcerated youth can help prevent future crime and eight out of 10 thought spending money on rehabilitative services and treatment for youth will save money in the long run.
- Seven out of 10 of those polled felt that putting young people (under age 18) in an adult correctional facility will make them more likely to commit future crime.
- More than two-thirds (68 percent) polled disagreed that incarcerating youth in adult facilities “teaches them a lesson and deters them from committing future crimes.”
- By more than a 15 to 1 margin (92 percent to 6 percent), those polled believe that the decision to transfer youth to adult court should be made on a case-by-case basis.

Recognizing that these laws aren’t working and that there is strong public support to change the direction of our juvenile justice policy, below is a basic overview of the areas where state legislatures can make a change and four steps to go about initiating an effort to reform the laws.

Areas for change

Raise the Age of Juvenile Court Jurisdiction

Over the last two decades, the movement to try more youth as adults has resulted in states lowering the age of juvenile court jurisdiction. Three states—Connecticut, New York, and North Carolina—automatically prosecute all 16- and 17-year-olds as adults. Ten states—Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin—automatically prosecute all 17-year-olds as adults. Connecticut and Illinois recently passed legislation to raise the age of juvenile court jurisdiction to age 18.

Remove Automatic Transfer

Automatic transfer provisions, currently in place in 29 states, automatically require a youth's case to be tried in the adult court based on the age of the youth or the alleged crime or both. In addition, mandatory waiver provisions require juvenile court judges to automatically transfer a youth's case to adult criminal court for certain

offenses or because of the age or prior record of the offender; 15 states currently have this requirement. In recent years, the Illinois and Delaware state legislatures changed laws related to automatic transfer of juveniles. Illinois eliminated an automatic transfer drug law that was disproportionately impacting youth of color and Delaware reversed part of its automatic transfer law after learning that it wasn't being used as intended and was resulting in unnecessary stays in adult detention.

Limit Pathways to the Adult System

Discretionary waiver provisions give juvenile court judges or prosecutors the discretion to have a youth's case tried in adult court. Currently 45 states and the District of Columbia have a judicial waiver provision in the law and 15 states and the District of Columbia allow prosecutors the discretion to decide where a youth is tried without having that decision reviewed by a judge. Limiting the use of these waivers and ensuring there is individualized judicial discretion when they occur will help reduce the number of youth who end up in the adult system.

Prohibit Placement of Youth in Adult Jails and Prisons

Many states allow youth charged as adults to be held in adult facilities even before they've had their day in court. Adult jails are simply not equipped to protect youth from the dangers of adult jails. Nor do jails have the capacity to provide necessary educational or other services. Of the 39 states that permit the pre-trial detention of youth in adult jails, only 20 have protections for youth and just six have age restrictions on the pre-trial detention of youth. Ten states actually require that youth in the adult system be held in jails.

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YOUTH JUSTICE**

To learn about your states' laws, visit:
[http://www.ncjj.org/stateprofiles/overviews/
transfer state table.asp](http://www.ncjj.org/stateprofiles/overviews/transfer%20state%20table.asp).

**For more information and additional help,
please contact the
Campaign for Youth Justice
at www.campaignforyouthjustice.org
or call (202) 558-3580.**

What State Policymakers Can Do

Because juvenile and criminal justice systems are locally controlled, state and local elected officials have the opportunity to shape those systems in ways that best serve the public and the youth who come in contact with them. Lawmakers have stepped up in states like CT, DE, and IL to make changes that reduce the harmful practice of trying youth as adults without compromising public safety. You can do it too, here's how:

1. Do Your Homework

- Find out about the laws in your state that allow youth to be tried in the adult system. Determine the age of original jurisdiction for juvenile court and whether that should be raised. Understand at what age and under what mechanism youth can be sent to adult court.
- Look for data on the impact of the law in your state. Contact local law enforcement, justice agencies, and other youth officials to assess what information exists about the impact of the law. Outside organizations and academic institutions may also have this type of information or analysis, so remember to check with them as well.
- Talk to youth and family impacted by the law. Gather stories and information first-hand about the law's effect.

2. Identify the Opportunity

- Understand impact – is the policy achieving its stated goals? Is there a disproportionate impact on certain communities?
- Identify likely and unlikely allies and opponents.
- Assess cost-effectiveness.
- Determine the ability of local agencies to implement changes to the law. Work with them to identify challenges and solutions.

3. Build a Team

- Identify other experts and interest groups working the juvenile justice reform in your state.
- Bring opposing views together to build consensus around fact-based solutions.
- Establish a task force to study the issue.

4. Make Your Case

- Talk to constituents about the issue. Host open town hall meetings. Generate a discussion and feedback about the law and possible alternatives.
- Develop draft legislation.
- Request or hold hearings.
- Serve as spokesperson for change.