



NATIONAL
JUVENILE
JUSTICE
NETWORK

NJJN POLICY TOOLKIT: RAISING THE MINIMUM AGE OF JUVENILE COURT JURISDICTION

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TOOLKIT

Raising the Minimum Age of Juvenile Court Jurisdiction

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TABLE OF CONTENTS

INTRODUCTION	3
2020 POLICY PLATFORM:	
“RAISE THE MINIMUM AGE FOR TRYING CHILDREN IN JUVENILE COURT”	4
TALKING POINTS	5
FACT SHEETS AND ISSUE BRIEFS	8
RESOURCES	9

INTRODUCTION

Since NJJN first published our Lower Age Toolkit in 2016, encouraging momentum has been building to set minimum age boundaries – and raise age boundaries – at which children can be prosecuted in juvenile court. While there has been progress, we still have a long way to go—**currently over half the states (28 states) still have no minimum age of juvenile court jurisdiction.** The highest minimum age for juvenile court jurisdiction in the country is 12-years-old, and that has only been passed into law in three states—California, Massachusetts, and Utah. Not one state in the country has raised the age for juvenile court jurisdiction to 14-years-old, the age recommended by the United Nations Committee on the Rights of the Child.

We must do better. Processing and confining children in the juvenile justice system exposes them to damaging impacts, including physical and sexual abuse, suicide, and significant disruptions to mental and physical development. Additionally, children suffer from the collateral consequences of justice system involvement that include barriers to education and employment, fines and fees, and risk to immigration status. Even worse, justice system processing and confinement is a tool inequitably applied, with Black children bearing the worst of the burden, followed by Indigenous children, and other children of color. Rather than helping public safety, putting young children through the juvenile justice system actually reduces public safety as those who become involved with the justice system as children are less likely to receive needed services and supports leaving them more likely to cycle in and out of the justice system.

In addition to the harmful impacts of trying and incarcerating children in the juvenile justice system, setting minimum age jurisdictional boundaries can be a useful tool for related efforts around the school to prison pipeline, racial justice, deincarceration, and adultification. Setting high minimum age boundaries can facilitate school to prison pipeline work by prohibiting prosecutors from charging young children in court for school infractions. As youth of color are disproportionately arrested and charged for school-related issues, setting a minimum age boundary has the potential to reduce some of the disproportionate criminalization of these youth. A minimum age boundary can also be a useful deincarceration tool, reducing the number of youth in juvenile facilities. And once young children are no longer in juvenile facilities, it makes space available to bring youth from the adult system back to the juvenile system.

Included in this toolkit you will find resources to help you in your efforts to establish or raise your state’s minimum age for juvenile court jurisdiction, including our 2020 policy platform, talking points, sample fact sheets from NJJN members, and links to additional resources. NJJN stands ready to help you in your efforts.

In Solidarity,
K. Ricky Watson, Jr.
Executive Director

NATIONAL JUVENILE JUSTICE NETWORK

POLICY PLATFORM:

RAISE THE MINIMUM AGE FOR TRYING CHILDREN IN JUVENILE COURT

2020

Click [HERE](#) for the link

TALKING POINTS

Below you will find a selection of talking points based on our policy brief as well as fact sheets, issue briefs, and talking points from members. We are grateful for their help. Please feel free to tailor and use the talking points that will most resonate with your jurisdiction and contact us if you would like a word document of these talking points.

Young Children Don't Belong in Juvenile Court or Locked Up

Children Learning to Read “Diary of A Wimpy Kid” Should Be in School, Not Court

- Sending young children to court doesn't make sense. They're too young to understand complex court proceedings or connect them to their behavior in a meaningful way. They *do* understand consequences given by their family.
- Academic achievement and attachment to school can be a protective factor against problem behaviors while processing children at a young age in the justice system can actually **increase** the chance they will commit a future offense.ⁱ

Young Children Aren't Competent to Stand Trial

- Court is an intentionally complicated legal proceeding, which is why it requires a specialized degree in order to become an attorney. We cannot expect young children reading “Diary of A Wimpy Kid” to understand and exercise their rights in any meaningful way.
- The adult justice system places limits on trying adults found to have limited competency due to serious mental health issues. Yet children are still being processed in juvenile courts despite research finding similar levels of competency in approximately one-third of 11 to 13-year-olds as are found in adults with serious mental health issues.

A Minimum Age Law Eliminates Hefty Delays and Costs Associated with Competency Proceedings for Young Children

- Young children are very likely to be found incompetent to stand trial. Setting a reasonable minimum age for juvenile court means [STATE] can avoid expensive and unnecessary competency proceedings and restoration services that don't provide children with services that address their underlying needs.
- It would also establish uniformity across the state in handling young children.

ⁱ Development Services Group, Inc., “Protective Factors Against Delinquency” (Washington, DC: Office of Juvenile Justice and Delinquency Prevention (OJJDP), December 2015): 7, <https://bit.ly/39qY8eD>; Elizabeth S. Barnert, Laura S. Abrams, Cheryl Maxson, Lauren Gase, Patricia Soung, Paul Carroll, and Eraka Bath, “Setting a minimum age for juvenile justice jurisdiction in California,” International Journal of Prisoner Health, Vol. 13 Iss 1 (2017): 52, <http://dx.doi.org/10.1108/IJPH-07-2016-0030>.

Only a Few Kids Enter Juvenile Court, and for Minor Offenses [as appropriate]

- Very few children under [AGE] in [STATE] enter juvenile court, often for comparatively minor offenses.

Secure Lockup Is No Place for Children

- Given their high barb-wired fences, recycled jumpsuits, steel beds, steel toilets, deadbolt doors, and cement walls and floors, secure facilities are no place for young children.

Locking Up Young Kids and Pre-Adolescents Harms Them and Public Safety

- Incarcerated children are at high risk of becoming victims of physical or sexual abuse and experiencing psychological issues.
- As children grow up, they experience significant change physically, cognitively, socially, emotionally, morally, and intellectually.
- Incarceration in a secure facility limits their opportunities for positive experiences and can make a youth's academic and emotional difficulties worse.
- Research shows that incarceration can increase the chances that youth will commit new offenses.ⁱⁱ

Community-Based Services Are Better and Cheaper Than Juvenile Court

- Services in the community are cheaper than court and can address a child's underlying needs.
- Court can traumatize children and leave them with a record that may follow them into adulthood.

No 3rd-Grader Should Be Put on Trial — Their Families Should Hold Them Accountable

- When a very young child acts out, it's just common sense that the whole family should be involved in the response.
- If kids have more serious needs, we should connect them with age-appropriate services in the community, such as schools, child welfare, family services, trauma-informed care, and/or mental health services. This is a sensible approach that will activate the right system to respond to these children's needs.
- With this common-sense approach, we can hold children accountable while ensuring they grow up into responsible adults and keep our neighborhoods safe.

ⁱⁱ National Juvenile Justice Network, "The Truth about Consequences: Studies Point toward Sparing Use of Formal Juvenile Justice System Processing and Incarceration" (Washington DC: January 2012), <http://bit.ly/truth-about-consequences>.

Young Children of Color Are Disproportionately Being Arrested and Confined

- The juvenile justice system is used overwhelmingly for disciplining young children of color in [STATE STATS].
- Courts should deal with public safety issues not disciplinary issues.
- We should find humane ways to treat and hold accountable *all* children equitably.

Many States Have Set a Minimum Age for Prosecuting Children — Our State Should, Too

- Twenty-two states have a minimum age for juvenile court jurisdiction.

FACT SHEETS AND ISSUE BRIEFS

Below are fact sheets and issue briefs produced by our members, allies, and national partners, many of which we used in composing our talking points above. These issue briefs and fact sheets as well as the organizations that developed them are linked below.

- **California:** [Burns Institute](#), [Center on Juvenile and Criminal Justice](#), [Youth Justice Coalition](#), and [Children’s Defense Fund California](#)
 - [SB 439: End the Prosecution of Children Under 12 \(2018\)](#)
 - [SB 439 Cosponsor Support Letter](#)
 - [SB 439 – Minimum Age Fact Sheet](#)
- **Connecticut:**
 - [Connecticut Voices for Children](#)
[“No Place for a Child: Alternatives for Children Under 12 in Connecticut’s Juvenile Justice System”](#) (February 2020)
 - [Tow Youth Justice Institute](#)
[“Raising the Minimum Age in Connecticut’s Juvenile Justice System”](#) (2020)
- **Kentucky:** [Blueprint for Kentucky’s Children/Kentucky Youth Advocates](#)
[“Minimum Age Jurisdiction Fact Sheet”](#) (2020)
- **Massachusetts:** [Citizens for Juvenile Justice](#)
[“Raising the Lower Age of Delinquency to the 12th Birthday: Better Options of Juvenile Court Jurisdiction for Very Young Children”](#) (2017)
- **Nebraska:** [Voices for Children in Nebraska](#)
[“Data Snapshot: Kindergarten Court”](#) (January 2016)
- **Rhode Island:** [Rhode Island Kids Count](#)
[“Setting a Minimum Age for Youth Incarceration in Rhode Island”](#) (2015)
- **Texas:**
 - [Texas Criminal Justice Coalition](#)
[“Fact Sheet 2015: Support Positive Development Among Younger Youth Who Enter the Juvenile Justice System by Keeping Them Out of Secure Facilities”](#) (2015)
 - [Texas Appleseed](#)
[“Raise the Lower Age: Support HB 1364”](#)
[“Raising the Lower Age of Juvenile Court Jurisdiction: A Data Analysis”](#)

RESOURCES

Below are organizational statements, international resources, research publications, and websites that can be used in advocating for raising the age of juvenile court jurisdiction.

Organizational Statements

- [The American Academy of Pediatrics](#) (2020)
Recommends legislation that establishes a minimum age of (at least) 12 years for criminal responsibility under which a person may not be charged with a crime.
- [National Juvenile Justice and Delinquency Prevention Coalition \(NJJJPC\)](#) (2020)
Recommends that the Biden/Harris Administration incentivize states to reduce incarceration by establishing laws setting a reasonable minimum age of 12 years for juvenile court jurisdiction.
- [Society for Adolescent Health and Medicine \(SAHM\)](#) (2016)
Recommends upholding the minimum age of criminal responsibility as age 12 years, under which youth may not be charged with a crime or penalized, citing to the UN Committee on the Rights of the Child (CRC) General comment No. 10(2007). This General comment has now been superseded by General comment No. 24 which recommends a minimum age of 14-years-old.

International Resources

- [United Nations \(UN\) Convention the Rights of the Child \(CRC\)](#) (2019)
General Comment No. 24 encouraged nations to increase their minimum age of criminal responsibility to at least 14-years-old without carve-out exceptions.
- [United Nations – Independent Expert to the UN General Assembly on Children Deprived of Liberty](#) (2019)
Recommended that nations establish a minimum age of criminal responsibility that is not below 14 years of age.

Research Publications

Note that some of these require access to particular journals in order to review the full publication.

- [“Child Incarceration and Long-term Adult Health Outcomes: A Longitudinal Study,”](#) *International Journal of Prisoner Health*, 14 (1) (2018).
Although incarceration may have life-long negative health effects, little is known about associations between child incarceration and subsequent adult health outcomes. The paper aims to discuss this issue.
- [“Expanding Youth Justice in New York,”](#) Children’s Defense Fund-NY and Youth Represent (Fall 2020).
Explores research and policy interventions for emerging adults and issues facing younger system-involved children that must be addressed.

- [“Health Impact Review of S-6720.1 Concerning the Jurisdiction of Juvenile Court”](#) (2021 Legislative Session), Oct. 1, 2021, Washington State Board of Health. This Health Impact Review analysis of bill S-6720.1, which aimed to change the procedural jurisdiction of juvenile court to 13 through 19 years, old found very strong evidence of improved health outcomes, decreased juvenile recidivism, and improved access to employment opportunities, housing, and economic stability.
- [“Incapable of Criminal Intent: The Case for Setting a Minimum Age of Criminal Responsibility in Illinois.”](#) Legislation and Policy Clinic, Civitas ChildLaw Center, Loyola University Chicago School of Law (January 2021). Argues that Illinois should set a minimum age of criminal responsibility at 14-years-old, so that children ages 13 and under cannot be arrested or charged in either juvenile or adult criminal systems.
- [“Is a Minimum Age of Juvenile Court Jurisdiction a Necessary Protection? A Case Study in the State of California”](#) *Crime & Delinquency* 65 (2018). Triangulated analysis found that a low number of California children below the age of 12 years are petitioned in juvenile court and most are referred for misdemeanor or status offenses. Existing legal protections are present yet inconsistently implemented. A minimum age law would address some of these policy gaps.
- [“SB 439 Implementation Guide,”](#) National Center for Youth Law and W. Haywood Burns Institute (2019). Guidance for implementing the California law that ended the prosecution of children under the age of 12.
- [“Setting a Minimum Age for Juvenile Justice Jurisdiction in California,”](#) *International Journal of Prisoner Health* 13 (2017). Existing evidence suggests that children lack the cognitive maturity to comprehend or benefit from formal juvenile justice processing, and diverting children from the system altogether is likely to be more beneficial for the child and for public safety.
- [“What is the Relationship Between Incarceration of Children and Adult Health Outcomes?”](#) 19(3) *Academic Pediatrics* (2019). Child incarceration displays even wider sociodemographic disparities than incarceration generally and is associated with even worse adult physical and mental health outcomes.
- [“When Is a Child Too Young for Juvenile Court? A Comparative Case Study of State Law and Implementation in Six Major Metropolitan Areas.”](#) *Crime & Delinquency* (2019). This case study examines minimum age laws and related statutes in the six largest U.S. states and explores implementation of these policies and practices in major metropolitan areas within these states.

Websites

- [Children’s Rights International Network \(CRIN\)](#)
CRIN has compiled information on minimum ages of criminal responsibility around the world including an interactive map and corresponding legislation.

- [National Juvenile Defender Center \(NJDC\)](#)
NJDC has compiled a map showing the minimum ages of prosecution in states across the country including the state statutes.
- [National Juvenile Justice Network \(NJJN\)](#)
NJJN is building out a section of their website to provide advocates with resources to use in raising the minimum age of juvenile court jurisdiction.