

NATIONAL JUVENILE JUSTICE NETWORK

2020 YOUTH POLICY ADVANCES

APRIL 2021

Introduction

This past year was one of extreme upheaval in the United States. It began with a deadly pandemic hitting the U.S. in early March of 2020. The pandemic has continued to cause significant harm to untold thousands, particularly our vulnerable children and young people in the youth and criminal legal systems. Last May, George Floyd was killed by police, which laid bare the horror of police brutality that continues to be inflicted on predominately Black and Brown people in this country. Many young people faced further police brutality leading protests, which have renewed efforts to transform policing. Finally, unrest continued due to false claims of voter fraud spread after November's presidential election, culminating in the insurrection at the Capitol on January 6th of this year. These voter fraud claims are now being used as the basis for attempts to restrict voting in states across the country.

It will take quite some time to determine how all of these extraordinary events will impact our country, and the youth legal system in particular. However, since George Floyd's death, many states and localities have introduced police reform measures and a number of these bills have already passed.¹ Additionally, voters approved numerous policing reform ballot measures in November.² Yet much more work needs to be done, including at the federal level, to end the over-policing and police brutality against Black and Brown people.

This past year was also challenging in that COVID-19 related restrictions led many state legislatures to end their sessions early. In spite of this adversity, our membership community of [60 state-based organizations, Youth Justice Leadership Institute fellows and alumni, allies,](#)

¹ Orion Rummel, "The Major Police Reforms Enacted Since George Floyd's Death," *Axios*, October 1, 2020, <https://bit.ly/3e1sUfi>; NYU School of Law, Policing Project, "A Snapshot of Recent Policing Reform Legislation," last updated August 21, 2020, <https://bit.ly/3abfImK>.

² Safia Samee Ali, "Voters Around the U.S. Approve Local Police Reform Measures," *NBC News*, November 4, 2020, <https://nbcnews.to/3a8yII0>.

[and national partners across 42 states and D.C.](#) continued to fight fiercely for youth and were able to realize many gains in 2020 and lay the groundwork for further advances in 2021.

While gains were made in a wide variety of areas, there were some trends that stood out. Many bills were passed to help keep youth from getting in the front door of the youth legal system. Several states passed laws to reduce the school-to-prison pipeline (CA, DC, MA, VA); two states passed laws to provide protection for youth subject to interrogations (CA, VA); Utah passed legislation raising the age for prosecuting children in juvenile court to 12-years-old; Washington state passed legislation decriminalizing prostitution for minors; several states passed bills and/or referenda legalizing marijuana, other drugs, and making other drug policy reforms (AZ, MS, MT, NJ, OR, SD); and one state (KY) passed legislation reducing status offenses tied to tobacco products.

Gains were also made for those already enmeshed in the system. Four states (CA, MD, NJ, PA) eliminated many of the fines and fees imposed on youth and their families and two states (NE, WA) passed laws limiting solitary confinement for youth.

Several states also passed laws to help prevent youth from being locked up or from continuing to be incarcerated. Oklahoma passed a law restricting youth detention for children under the age of 15; three states (CA, IL, NJ) passed laws that reduce incarceration through a variety of mechanisms; two states passed laws allowing departures from imposing mandatory minimums on youth (VA, WA); and three states made reforms to the parole process (LA, NJ, VA) with Virginia eliminating juvenile life without parole.

Several states worked on reforms to reduce the adultification of youth. Two states (CA, NY) passed laws to keep minors out of adult facilities even if they have been transferred to adult court. Two states (UT, VA) passed laws limiting the transfer of youth to adult court.

Other positive trends included laws to protect youth confidentiality by limiting the release of information or expanding record expungement and sealing (CA, MA, MI, WA); laws creating commissions to spearhead youth and/or family engagement (CA, LA); and laws and commissions to address racial justice (CA, MA, Montgomery County, MD).

Below are further details of these and other 2020 youth policy advances.

Highlights

Commissions – Involving Youth and Families

Two states (CA, LA) spearheaded youth or family engagement on commissions.

- In California, the Los Angeles County Board of Supervisors voted to create the county’s first Youth Commission to monitor youth-serving departments, offer recommendations on youth-related policies, audit county department budgets, and produce an annual “youth report card.” The commission, which will be open to 18- to 26-year-olds with experience in the child welfare or juvenile systems.
- In Louisiana, [Act 28](#) reconstitutes the Juvenile Justice Reform Act Implementation Commission (JJRAIC) and designates a representative of Families & Friends of

Louisiana’s Incarcerated Children (FFLIC) as JJRAIC Vice-Chair to lead the way towards transformation.

- Louisiana also passed Act 284, legislation creating the [Council on the Children of Incarcerated Parents and Caregivers \(the Council\)](#) within the Office of the Governor. The Council is made up of stakeholders in the legal system and caregivers and children impacted by the carceral state. The Council is charged with serving the needs of incarcerated children by studying the effects of incarceration on children and recommending policy changes as a result of their findings.

Detention

One state (OK) passed a law restricting younger children from detention.

- Oklahoma passed [HB 1282](#), which restricts youth detention for young people under the age of 15. Children 15 years of age or younger cannot be placed in a state juvenile detention facility unless all alternatives have been exhausted, the child is charged with an offense that would be classified as a felony if committed by an adult, and it has been indicated by a risk assessment screening that the child requires detention. For children under age 12, there are limitations on how long the child can be detained.

Drug Policy

Voters in six states (AZ, MS, MT, NJ, OR, SD) and the District of Columbia expressed their desire to end the war on drugs by passing marijuana legalization and other drug policy reforms in every state in which it was on the ballot.³

- Arizona, Montana, New Jersey, and South Dakota all passed referenda legalizing marijuana for recreational purposes. Voters in Arizona and Montana also passed provisions providing some expungement and/or resentencing options.
- Mississippi and South Dakota voters legalized medical marijuana. South Dakota voters also approved a referendum allowing people twenty-one and over to cultivate, possess, and distribute small amounts of marijuana.
- Oregon voters decriminalized small amounts of all narcotics, including cocaine and heroin. Incarceration was replaced with a maximum fine of \$100. Oregon is the first state to legalize psilocybin (found in “magic mushrooms”) for supervised therapeutic uses.
- In D.C., voters approved a referendum urging law enforcement to deprioritize enforcement of laws prohibiting psychedelic plants and fungi, like magic mushrooms.

Fines and Fees

Four states (CA, MD, NJ, PA) were able to eliminate many of the burdensome fines and fees imposed on youth legal system involved young people and their families.

- In California, the Los Angeles County Board of Supervisors approved a motion ending the collection of all criminal administrative fees – including probation, courts and

³ National Association of Criminal Defense Lawyers (NACDL), “Voters Approve Criminal Justice Ballot Measures Across the U.S.,” NACDL State Criminal Justice Network Newsletter, Vol 8, No. 10 (Nov. 19, 2020); German Lopez, “Election Day was a Major Rejection of the War on Drugs,” *Vox*, Nov. 4, 2020, [Election Day results: Marijuana legalization, drug decriminalization win big - Vox](#).

sheriff's fees. At the state level, [SB1290](#) vacates certain county-assessed or court-ordered costs imposed before January 1, 2019.

- Maryland passed [HB36](#), removing court fees and support costs for the detention and treatment of youth and removing fines imposed on youth and their families. The bill is also retroactive.
- New Jersey passed [S2511](#), accelerating the rescinding of certain juvenile delinquency fines, and [S48](#), which eliminates mandatory fines and fees and allows for the termination of post-incarceration supervision even when a youth has not made a full payment of all outstanding fines and restitution.
- Pennsylvania passed [HB440](#), removing the requirement to pay outstanding court-ordered financial obligations before eligible cases can be sealed, other than restitution owed.

Incarceration

Three states (CA, IL, NJ) passed laws to reduce incarceration in a variety of ways.

- California passed [SB 823](#), phasing the Division of Juvenile Justice (DJJ) out of existence. It closed intake to DJJ for all youth on July 1, 2020, except for those where the government had filed a petition for transfer to adult court.
- Illinois's Governor Pritzker announced a [new plan](#) in July, the 21st Century Illinois Transformation Model, to transform the state's youth justice system over the next four years. The Model seeks to transition youth to small, regional residential centers, invest significantly in community wraparound support and intervention services for youth legal system involved young people, and increase financial support for victim services in communities that are disproportionately impacted by violence.
- New Jersey passed two bills focused on youth incarceration:
 - [A 1915](#) discourages the separation of youth from their parents except when health or public safety is at risk, and ensures protection for youth who have been sexually exploited through human trafficking or face charges for prostitution.
 - [S 48](#) reduces the length of time youth can be incarcerated and adds members of the Juvenile Justice Commission to the panel that determines when youth can be released.

Interrogation

Two states (CA, VA) passed laws to provide protections from children around custodial interrogation.

- California passed [SB 203](#), which requires that youth 17 years of age or younger consult with legal counsel prior to a custodial interrogation. It directs courts to consider any intentional failure of a law enforcement officer to allow a child to speak with counsel prior to a custodial interrogation in determining the credibility of that officer.
- Virginia passed [HB 746](#), which requires that youth have contact with their parents or guardians before they can be interrogated or waive their Miranda rights. It also requires law enforcement to notify a child's parent or legal guardian if they are arrested or taken into custody.

Jail Removal

Pursuant to the reauthorized JJDP A statute, [HR 6964](#) (the Juvenile Justice Reform Act of 2018), youth held in adult jails—including those charged as adults—must be removed to juvenile

detention centers by December 21, 2021. Several states have passed laws to ensure this occurs, and some have gone beyond the requirements of the statute. Below are two states (CA, NY) that passed laws in 2020.

- California passed [SB 823](#), under which youth transferred to adult court cannot be moved to an adult facility until they are 18-years-old. Youth tried in juvenile court will remain in local juvenile facilities pending disposition of their cases until age 21. Once they reach age 19, however, the probation department can petition the court to transfer them to an adult facility and a judge can decide to move them based on specific criteria. Youth adjudicated guilty for serious and violent offense and committed to a post-disposition program in a local juvenile facility can remain in a juvenile facility up to age 25.
- In New York, Governor Cuomo's budget bill ([S 7505](#)) included language removing all children from adult system control by October 2020. The bill passed in 2020 included language requiring that Adolescent Offender (AO) confinement be managed solely by the Office of Children and Family Services (OCFS).

Juvenile Court Jurisdiction

One state (Utah) passed legislation raising the age of juvenile court jurisdiction, meaning the age at which you can prosecute a child in juvenile court.

- Utah passed [HB 262](#), which establishes a minimum age of juvenile court jurisdiction of 12 years old.

Juvenile Defense

The District of Columbia and one state (NJ) made advances regarding legal defense for young people in delinquency proceedings.

- The District of Columbia Court of Appeals ruled in [In re N.H.M.](#) that children have the right to counsel at administrative proceedings before the D.C. Department of Youth Rehabilitation Services (DYRS) and counsel must be paid for that representation.
- New Jersey passed [S 48](#), which provides legal counsel to youth on parole.

Parole

Three states (LA, NJ, VA) made reforms to the parole process, with Virginia eliminating life without parole for those who were minors at the time of their offense.

- Louisiana passed [HB 173](#), which provides parole eligibility for those convicted for offenses committed while minors if they have served 25 years of their sentence and meet numerous other eligibility requirements.
- New Jersey passed [S 48](#), which reforms the parole process to ensure that youth remain in custody for the shortest amount of time necessary and are not re-incarcerated as a result of technical violations of parole. The bill also adds members of the Juvenile Justice Commission to the panel that determines when youth can be released.
- Virginia passed [HB35](#), which grants parole eligibility to all individuals who were under the age of 18 at the time of their offense after 20 years of incarceration, therefore automatically banning sentencing children to life without the possibility of parole.
 - Virginia also passed emergency enactment of the "Fishback" bill, which provides approximately 300 people with an immediate opportunity for parole

consideration. “Fishback” bills give people sentenced between 1995 and 2000 a chance at parole.

Prostitution

One state (WA) passed a law decriminalizing prostitution for minors.

- Washington state passed [HB 1775](#) limiting the crime of prostitution to individuals age 18 or older effective January 1, 2024. A workgroup was formed to study and issue recommendations regarding how decriminalizing prostitution for persons under age 18 will impact law enforcement and prosecutor efforts.

Racial Justice

We have highlighted below three member states (CA, MA, MD) that made advances in the area of racial justice.

- California passed [AB 2542](#), which prohibits the state from seeking a criminal conviction or sentence on the basis of race, ethnicity or natural origin, and permits a defendant to file a motion requesting disclosure of all evidence related to a potential violation of that prohibition that is in the control of the prosecutor.
- Massachusetts passed [S. 2963](#), which creates the following commissions to address systemic racism and policies in corrections: Status of Black Men and Boys; Correctional and Juvenile Detention Training and Use of Force Standards; Commission on Status of African Americans; Commission on Status of Latinos; Commission on Status of Persons with Disabilities; Structural Racism in Corrections; Structural Racism in Parole; and Structural Racism in Probation.
- Montgomery County, Maryland passed [Bill 27-19](#), which establishes a racial equity and social justice program in the County that includes a provision requiring a racial equity and social justice impact statement to be submitted to the County Council for each Bill.

Record Confidentiality and Expungement

Five states (CA, MA, MD, MI, WA) passed laws helping to protect youth confidentiality by limiting release of information or expanding record expungement or sealing.

- California passed [AB2425](#), which prohibits the release of information by a law enforcement agency, probation agency, or social worker when a youth is in or has completed a diversion program, has been counseled and released without arrest, or is a minor who no longer falls within the jurisdiction of the juvenile delinquency court.
- Maryland passed [SB 314](#), which extends the confidentiality of all youth police and court records to minors initially charged in adult court that have the potential to be transferred down to juvenile court (“reverse waived”). If transferred to juvenile court, then the records will remain confidential and their initial criminal charge will also be subject to expungement. This bill was vetoed by Governor Hogan and the legislature overrode his veto.
- Massachusetts passed [S2963](#), a comprehensive reform bill that expands expungement eligibility of records for youth charged before the age of 21. It also extends retroactive eligibility to those denied under the previous law.

- Michigan passed [S681](#), which expands expungement eligibility for offenses committed when an individual was a minor, and passed [S682](#), which requires juvenile records to be confidential.
- Washington passed [HB 2794](#), which revises the conditions under which juvenile court records may be sealed. The court can no longer receive objections to sealing or set a contested administrative sealing hearing to determine whether records can be sealed. Additionally, the law removes the requirement that a young person complete the terms and conditions of disposition before a court seals a juvenile court record.

School-to-Prison Pipeline

Three states (CA, MA, VA) and the District of Columbia passed legislation to keep youth from getting through the front door of the youth legal system by reducing the school-to-prison pipeline.

- California passed [AB 901](#), decriminalizing the status offense of disobeying a school official.
- Virginia passed [SB3/ HB256](#), which prevents students from being charged with disorderly conduct; passed [legislation](#) (SB 729/HB257) eliminating the requirement that school principals report certain acts that may constitute misdemeanors to law enforcement; and passed a trio of bills around [school policing to tighten training protocols](#) in order to make them more responsive to students, to [make school Memorandums of Understandings more transparent](#) and accessible to communities, and a [bill to mandate data collection](#) around student and School Resource Officer interactions disaggregated by demographics and locality.
- The [DC Council voted to remove the Metropolitan Police Department's oversight over the security contract](#) for the traditional public schools and return both the budget and control over the contract to the DC Public Schools (DCPS).
- Massachusetts passed [S2963](#), ending the state mandate requiring school resource officers (SROs), limiting the sharing of private student information, requiring more transparency on the performance of SRO's and how school resources are spent, and requiring specialized certification for SROs that is contingent on training and the treatment of children as children, using developmentally appropriate de-escalation techniques.

Sentencing

Two states (VA, WA) moved forward in departing from extreme sentencing impacting youth.

- Virginia passed [HB 744](#), giving judges discretion to depart from any mandatory minimum when sentencing children in adult court. Judges must also consider the impact of adverse childhood experiences and trauma when “a juvenile is not sentenced as a juvenile.”
- The Washington State Supreme Court ruled in the case of *In re PRP Endy Domingo-Cornelio* that its previous decision requiring judges to consider child status at sentencing and for judges to have complete discretion to depart from presumptive minimum sentences applied retroactively to past cases. This means that many individuals serving lengthy mandatory minimum sentences in Washington State for crimes committed as children will be entitled to new sentencing hearings where their child status will be considered and judges will be authorized to depart below the standard adult sentencing ranges.

- Washington state also passed [SB 6164](#), which allows prosecutors to petition the court to resentence an individual if the original sentence no longer advances the interests of justice and the new sentence may not be greater than the original sentence.

Sex Offense Registry

Two states (CA, WA) passed laws regarding sex offense registries that will positively impact youth.

- California passed [SB 145](#), which exempts mandatory registration for individuals convicted of certain offenses involving minors if the person is no more than 10 years older than the minor and if the offense is the only one requiring the person to register.
- Washington state passed [SB 6180](#), which provides that the court must terminate the sex offender registration requirement for youth at the end of the Special Sex Offender Disposition Alternative (SSODA) period unless it finds that the youth is not sufficiently rehabilitated to warrant removal.

Solitary Confinement

Two states passed laws (NE, WA) prohibiting certain solitary confinement of youth and providing protections for youth.

- Nebraska passed [LB 230](#), which eliminates administrative and extended room confinement of youth in government facilities, and provides protections for youth when held in isolation because they are presenting an immediate physical threat to self and others.
- Washington passed [HB 2277](#), which prohibits the use of solitary confinement in juvenile detention and juvenile rehabilitation institutions. It limits the use of room confinement or isolation to no more than 4 hours in any 24-hour period except in limited circumstances.

Status Offenses

One state (KY) passed legislation reducing status offenses tied to tobacco products.

- Kentucky passed [Senate Bill 56](#), which will ensure Kentucky complies with the federal minimum legal sale age for all tobacco products and eliminate purchase, use, and possession penalties for youth up to age 21.

Transfer/Waiver/Statutory Exclusion - Mechanisms for Trying Youth in Adult Court

Two states (UT, VA) passed laws limiting the transfer of youth to adult court.

- Utah passed [HB 384](#), which limits the offenses for which youth are automatically tried in adult court (“statutory exclusion”) to aggravated murder and murder. All other charges require at least some judicial review before a young person can be transferred to adult court. Utah further limited their “presumptive waiver” provision, in which youth bear the burden of proving they should not be transferred.
- Virginia passed [HB 477/SB 546](#), which raises the age at which prosecutors can choose to charge youth as adults (“direct file”). Now, prosecutors will not be able to directly charge youth under the age of 16 in adult court.

