



# Juvenile or Adult?

## Adolescent Offenders and the Line Between the Juvenile and Criminal Justice Systems

A Briefing Report prepared for the  
North Carolina Family Impact Seminar

Center for Child and Family Policy  
Duke University



# Adolescent Offenders and the Line Between the Juvenile and Criminal Justice Systems

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# North Carolina Family Impact Seminars History and Purpose

**A** *Adolescent Offenders and the Line Between the Juvenile and Criminal Justice Systems* is the third in the North Carolina Family Impact Seminar series designed to connect research and state policymaking. Family Impact Seminars analyze the impact an issue, policy, or program may have on families. Since the start of state-level Family Impact Seminars in 1993, over 20 states across the country have convened Family Impact Seminars for state policymakers on a wide range of policy issues affecting children and families. The 22-state network is supported in part by the Policy Institute for Family Impact Seminars at the University of Wisconsin-Madison. The seminars and supporting materials bring together research, practice, and policy experts from a range of disciplines to share information and help bring research to policymaking. The seminars deliberately take an educational, nonadvocacy approach. They are a forum for providing objective, nonpartisan, research-based strategies to state policymakers, including legislators, legislative and gubernatorial staff, and state agency officials.

## What are “Family Impacts?”

Policymakers routinely consider the environmental and economic impact of proposed legislation. Equally important but far less routinely considered are impacts on families. Yet it is rare that legislation does not affect families in some way. Family Impact Seminars encourage policymakers to reflect regularly on how their decisions impact families.

“Family impacts” are also about how families contribute to policymaking. Incorporating family impact considerations can broaden policy deliberations, and demonstrate how “real people” are affected by policymakers’ decisions.

The questions below concern family impacts related to the question of whether 16- and 17-year-olds charged with a crime should be prosecuted in juvenile or adult court.

- How would changing the status quo affect North Carolina families, including families of adolescent offenders, families of those victimized by adolescent offenders, and other families?
- How can families help prevent and intervene in adolescent crime?
- How can North Carolina families help the policy dialogue concerning age of jurisdiction for adolescent offenders?

# Seminar Agenda, Presenters

March 20, 2007

North Carolina Legislative Auditorium, Raleigh

## Agenda

8:30 am Registration

9 am Welcome

**The Honorable Fletcher Hartsell**

*North Carolina Senate*

**Kenneth Dodge, Ph.D.**

*Duke University*

9:15 am Setting the Stage in the US and NC

**Sarah Hammond, Esq.**

*National Conference of State Legislatures*

10 am Latest Research on Adolescent Development,  
Crime Trends, and Related Issues

**Donna M. Bishop, Ph.D.**

*Northeastern University*

11 am Another State's Experience:

Considerations for North Carolina Policymakers

**The Honorable Toni E. Walker**

*Connecticut General Assembly*

12 pm Considerations and Policy Options

Kenneth Dodge

12:30 pm Lunch for legislators and presenters

NC Museum of Natural Sciences

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# Executive Summary

**M**ost states' juvenile justice systems have two main goals: increased public safety and the rehabilitation of adolescent offenders to prevent future crime. Policymakers and others need balanced information about the most effective ways to meet both goals.

Currently, North Carolina, New York, and Connecticut are the only states that prosecute 16- and 17-year-olds charged with a crime in adult criminal court. The North Carolina General Assembly is addressing the question of whether 16- and 17-year-olds charged with a crime should be prosecuted in juvenile court instead.

The question of whether adolescent offenders should be prosecuted in the juvenile or adult system is important because offenders aged 16-24 account for 37 percent of arrests for violent crimes in the United States and North Carolina. Policies that impact the frequency and duration of criminal activity among 16- and 17-year-olds have a major impact on overall crime rates and public safety.

This Family Impact Seminar briefing report addresses the line between the juvenile and adults systems. A “family impact perspective” on policymaking informs this report. Just as policymakers routinely consider the environmental or economic impact of policies and programs, Family Impact Seminars help policymakers examine impact on families by providing research findings and evidence-based strategies.

This report consists of five briefs:

Brief 1 provides **background and recent history on the handling of adolescent offenders in the United States and North Carolina**; a description of how the current North Carolina juvenile justice system works; recent North Carolina juvenile justice statistics; and information on programs and facilities for adolescent offenders in North Carolina and other states.

Brief 2 discusses **research on youth development** pertaining to three issues central to policies for adolescent offenders: blameworthiness, competence to stand trial, and the potential for an adolescent's character to change.

Brief 3 details **how other states treat adolescent offenders**.

Brief 4 discusses research on **how juvenile crime rates respond to changes in punishment laws**.

Brief 5 presents **three policy options** and a series of further considerations.

The briefing report concludes with a glossary, a list of acronyms, a list of additional resources, and a chart of the current legal age in NC for different activities.

## Common Terms in this Report

**Adjudication** A legal case in which a youth has pled guilty or is found guilty of an offense.

**Adolescent Offender** For the purposes of this report, a person under age 18 charged with a crime.

**Disposition** The juvenile court's decision regarding the consequences of or punishment for committing a crime.

# Setting the Stage: Juvenile Justice History, Statistics, and Practices in the United States and North Carolina

Ann Brewster

Most states' juvenile justice systems have two main goals: increased public safety and the rehabilitation of adolescent offenders. Youth crime trends and media attention have emphasized the need for increased public safety and punishment, on the one hand, and rehabilitation on the other. Since there is not a national juvenile court system with a uniform set of guidelines and procedures, each state defines adolescent offenders in its own way and relies on a range of options for determining how they should be treated. The North Carolina General Assembly is addressing the question of whether 16- and 17-year-olds charged with a crime should be prosecuted in juvenile court instead of adult criminal court where they are currently handled.

This brief provides background and recent history on the handling of adolescent offenders in the United States and North Carolina; a description of how the current North Carolina juvenile justice system works; recent North Carolina juvenile justice statistics; and information on programs and facilities for adolescent offenders in North Carolina and other states.

## Background and Recent History in the United States and North Carolina

The question of whether adolescent offenders should be prosecuted in the juvenile or adult system

is important because offenders aged 16-24 account for 37 percent of arrests for violent crime in the United States and North Carolina.<sup>1, 2, 3, 4</sup> Data show that serious violent crime peaks during the late teenage years and declines steadily as individuals move into their late 20s. Moreover, although 15- to 19-year-olds represent approximately seven percent of the total US population, they account for more than 20 percent of all violent crimes in the United States.<sup>5, 6</sup>

Fluctuations in violent crime can also be attributed to the rate at which older adolescents and young adults commit crime. To illustrate, both the increase in crime of the 1980s and early 1990s and the subsequent decrease in the late 1990s are attributed to changing patterns of criminal activity among those in the 16 to 25 age range. By comparison, adult criminal behavior changed little during this period.<sup>7</sup> In short, policies that impact the frequency and duration of criminal activity among 16- and 17-year-olds have a major impact on overall crime rates and public safety.

While the overall juvenile crime rate is down from its peak in the 1990s, juvenile courts nationally handled 41 percent more delinquency cases in 2002 than in 1985.<sup>8</sup> Delinquency cases are those in which the juvenile is charged with an offense for which an adult would be prosecuted in criminal court.<sup>9</sup> Delinquent acts include crimes against persons or property, drug offenses, and crimes against public order.<sup>10</sup> Delinquent acts exclude status offenses, offenses only juveniles can commit, such as truancy and running away. As of 2001, females

accounted for 29 percent of all juvenile justice arrests in the United States. Although this is less than one-third of juvenile arrests, it is notable that female arrests increased nearly 50 percent from a decade earlier when the proportion was only 20 percent.<sup>11</sup>

In response to the rising crime rates of the 1980s and early 1990s, many states instituted legislative and judicial provisions making it easier to sentence young offenders in adult criminal courts.<sup>12</sup> Many states acted on a concern that the juvenile justice system was “soft on crime” and not equipped to manage the growing number of serious, violent adolescent offenders whose behavior was increasingly viewed as resistant to change.<sup>13</sup> To combat this perception, some states created transfers to adult court, made juvenile sentences more punitive, and eliminated the confidentiality safeguards available in juvenile court. The assumption was that by issuing harsher and longer sentences in the adult court system, greater numbers of serious and violent adolescent offenders would be removed from the streets or deterred from further crimes.

Opponents of these tougher sentencing policies made two arguments.<sup>14, 15</sup> The first was that it was unjust to punish juveniles as adults and hold them accountable for their actions in the same way as adults. The second argument was that placing adolescent offenders in the adult system would lead to more criminal activity when those youths were released, thereby outweighing any public safety gains.

North Carolina has been largely removed from these debates because under current North Carolina state law, all 16- and 17-year-old offenders are prosecuted in the criminal justice system. While the state’s criminal code allows those younger than 16 to be transferred to adult court, very few cases are transferred. This is in part because youth under 16 years of age commit far fewer serious violent crimes than non-violent crimes (*see pie chart on next page*).

While juvenile justice laws are mostly state-determined, in 2005 the United States Supreme Court abolished capital punishment for adolescent

offenders. It ruled that it is unconstitutional to sentence anyone to death for a crime he or she committed while under the age of 18. The court relied on research addressing adolescents’ blameworthiness, competence to stand trial, and the potential for an adolescent’s character to change. (*See Brief 2 for a summary of this research.*)

## North Carolina’s Juvenile Justice System

North Carolina defines a delinquent juvenile as a person who commits a crime or infraction when at least six years of age and not yet 16.<sup>16</sup> Several steps are involved in determining how an adolescent in the juvenile justice system is handled.

- A youth between the ages of six and 15 becomes involved in the juvenile justice system when a “complaint,” an allegation of a criminal offense, is made against him or her.<sup>17</sup> Most often, these delinquency allegations are made by law enforcement.<sup>18</sup> Allegations are also made by parents, victims, and schools.
- Next, a juvenile court counselor reviews the case and determines whether the complaint should be approved for a court hearing. The cases not approved for a court hearing are diverted (referred to other programs or services) or simply closed.
- A youth whose complaint is approved for court is scheduled for an adjudicatory hearing before a juvenile court judge.
- A youth who goes to court and is adjudicated (or found to be) delinquent then receives a court-ordered disposition, which the NC Juvenile Code describes as a “plan” to meet the juvenile’s needs and the needs of the state. The plan can last until the offender is 18, 19, or 21. The duration of disposition is an important consideration in the current discussion of whether to raise the age of juvenile jurisdiction from 16 to 18.

- A youth who is adjudicated delinquent can receive one or more of a range of dispositions, including probation, community service, substance abuse treatment, counseling, electronic monitoring, or commitment to a Youth Development Center. The range of dispositional alternatives available to the court is determined by the offense for which the juvenile was adjudicated delinquent and the juvenile's history of prior adjudications. Dispositions for delinquent juveniles are generally at one of three disposition levels: Community, Intermediate, or Commitment. These levels provide a graduated set of disposition options for the court to provide for community safety and to develop treatments for youth.

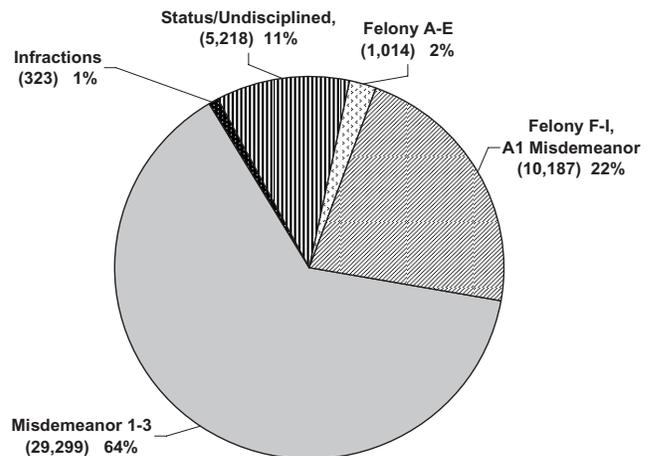
### North Carolina Juvenile Justice Statistics

The following data from 2004 illustrate the number of youth at different stages of the North Carolina juvenile justice process.<sup>19</sup>

*Note: These data include youth age six to 17 charged with status offenses, and youth age six to 15 charged with misdemeanors and felonies. Youth may be counted more than once for multiple offenses.*

- 46,097 complaints were received for 23,368 youth (73 percent of youth were males).
- 12,668 youth had complaints that were not approved for court. Most of these youth entered into diversion agreements or contracts that provided for community service, restitution, or other options; some cases were simply closed.
- 12,119 youth had complaints that were approved for court (scheduled for an adjudicatory hearing before a juvenile court judge).
- Of the 12,119 youth with complaints approved for court, 609 (5 percent) were approved for violent crimes.
- 8,418 youth were adjudicated delinquent and subjected to dispositional orders.

### Juvenile Crime and Offenses in North Carolina 2004



Source: NC Department of Juvenile Justice and Delinquency Prevention, 2004 Annual Report

*NOTE: The total in this chart changed from 46,041 to 46,097 after the publication of the NCDJJD 2004 Annual Report.*

In 2004, the North Carolina Department of Juvenile Justice and Delinquency Prevention (NCDJJD) classified youth in the NC Juvenile Justice system according to the following types of offense:<sup>20</sup>

- 64 percent minor misdemeanor (simple assault, drug possession, disorderly conduct, carrying a weapon)
- 22 percent serious misdemeanor and minor felony (robbery, breaking and entering, forgery)
- 11 percent status offense (truancy, running away)
- 2 percent serious felony (sexual offenses, murder, drug trafficking)
- 1 percent other

## North Carolina Facilities for Adolescent Offenders

North Carolina has three types of facilities for adolescent offenders: youth development centers, detention centers, and correctional institutions.<sup>21</sup> NCDJJD operates five youth development centers and nine detention centers. The NC Department of Correction (DOC) operates correctional institutions. Both departments also operate community-based services.

**Youth development centers** house offenders age 10 to 21 for one year, on average, and provide youth mentoring, education, and treatment, with an emphasis on rehabilitation. In recent years, NCDJJD has adopted a number of evidence-based therapeutic programs in youth development centers.

**Detention centers** have fewer and more limited services and staff than youth development centers since the majority of juveniles housed in detention centers are awaiting an adjudicatory or dispositional hearing. Four NC counties (Durham, Forsyth, Guilford, and Mecklenburg) operate their own detention centers.

The DOC has two main **correctional institutions** for “youthful offenders.” These facilities, where juveniles transferred to adult court are housed after conviction, are Western Youth Institution (WYI) in Morganton (males only) and North Carolina Correctional Institute for Women (NCCIW) in Raleigh (females only). Inmates at WYI range in age from 13 to 25. (Historically, youthful offenders in DOC are offenders 21 years of age and under. The inclusion of offenders ages 22 to 25 is a product of the declining youthful offender population and the use of the available space for older inmates.) NCCIW houses female inmates of all ages. DOC strives to separate older and younger inmates in both institutions.

In a March 2006 presentation to the NC Sentencing and Policy Advisory Commission, the DOC Division of Prisons provided information on the 1,839 13- to 20-year-old youth incarcerated in adult facilities statewide. Of these, 96 percent were males, and nine percent were under age 18.<sup>22</sup> Nearly 96 percent were felons. Overall, the rate of incarceration of adolescent offenders has declined significantly since 1995.

## Programs for Adolescent Offenders

Juvenile justice facilities in North Carolina and other states offer a wider range of programs and services to adolescent offenders than are typically available through adult correctional systems. Whereas there is not universal agreement about the effectiveness of these programs, those listed here have been identified by the NC Sentencing Commission as model programs and promising programs:

### Model Programs:

- Cognitive-behavior training (e.g., Aggression Replacement Training)
- Family therapy in combination with cognitive-behavioral training models (e.g., Multi-systemic Therapy)

### Promising Programs:

- Wrap-around service programs (e.g., Juvenile Repeat Offender Prevention Project)
- Drug court
- Aftercare
- Drug treatment with urine testing
- Intensive supervision probation

In addition, North Carolina has a Juvenile Crime Prevention Council (JCPC) in each of the state’s 100 counties. JCPCs form the infrastructure of a state/county relationship in which juvenile justice intervention and prevention programming are planned and delivered in the community. JCPCs plan for a continuum of services for youth at risk of delinquency or adjudicated to be delinquent. Many more adolescent offenders are served through JCPC funded programs than through residential facilities.

## ENDNOTES

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## BRIEF 2

# Research on Adolescent Development, Competence, and Character

Courtney Lloyd, Lisa J. Berlin

Research on youth development sheds light on three issues central to policies for adolescent offenders: blameworthiness, competence to stand trial, and the potential for an adolescent’s “character” to change.

### Research Suggests Juveniles’ Developmental Immaturity Makes Them Less Blameworthy than Adults

In judging the blameworthiness of an offender, adult courts carefully consider the offender’s decision-making capacity and the conditions of the crime, such as whether it was committed in self defense or under coercion. Recent research suggests that compared to adults, adolescent offenders’ limitations in several areas of decision-making can make them less blameworthy than adult offenders.

A recent investigation of 1,000 10- to 30-year-olds by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice<sup>1</sup> indicated that:

- Compared to adults, adolescents focus more on the short-term than the long-term consequences of their actions.<sup>2</sup>
- Compared to adults, adolescents perceive themselves as less likely to think about the future consequences of their behavior.<sup>3</sup>

- When asked if they would rather receive a small amount of money today versus a larger amount of money in a year, compared to adults, adolescents had a lower “tipping point” (amount of money they were willing to accept sooner instead of waiting to get more).<sup>4</sup>
- Compared to adults, adolescents are less concerned about potential risks and more sensitive to the possibility of rewards.<sup>5</sup>
- Impulsiveness escalates between early and middle adolescence and then decreases.<sup>6</sup>
- During a computer-simulated assessment of driving performance, the presence of friends increased risk-taking in adolescents and college students but not adults. The psychological capacity to resist peer pressure continues to develop through late adolescence and into early adulthood.<sup>7</sup>

These findings suggest adolescents are relatively short-sighted, more focused on immediate gratification, more impulsive, and more vulnerable to peer pressure and coercion – all factors that may make them more likely to commit crimes, especially in heat-of-the-moment situations and when accompanied by peers.

The findings are also consistent with recent studies linking physical and mental changes. They indicate:

- The region of the brain responsible for controlling impulsive and aggressive behaviors continues to develop into the early 20s.<sup>8</sup>
- Hormonal changes associated with puberty are related to increases in “reward-sensitivity” and sensitivity to the reactions of others.<sup>9</sup>

### **Research Suggests Adolescents Under Age 16 Lack Capacities Required to Stand Trial**

A defendant’s competence to stand trial refers to abilities such as understanding the significance and nature of the trial, being able to offer relevant information to counsel, and applying information to one’s personal situation in an accurate and rational way. These criteria inform decisions concerning the competence of mentally-challenged individuals in adult courts. Recent research suggests that, compared to older adolescents and adults, adolescents under 16 are limited in several capacities related to their competence to stand trial.

For example, the MacArthur Juvenile Adjudicative Competence Study tested the competencies of 1,400 geographically, ethnically, culturally, and socioeconomically-diverse male and females, age 11 to 24, half of whom were incarcerated.<sup>10</sup> The study found:

- About 33 percent of 11- to 13-year-olds, and 20 percent of 14- to 15-year-olds were significantly impaired in their reasoning or understanding of the judicial process.
- There were, however, no statistically significant differences in these capacities between 16- to 17-year-olds and 18- to 24-year-olds.
- In response to hypothetical scenarios about criminal proceedings, adolescents under age 16 tended to endorse decisions to “comply with what an authority figure

seemed to want,” such as confessing and plea bargaining.<sup>11</sup>

- IQ affects capacity to stand trial, and in the study’s sample, 66 percent of youth under 15 in the juvenile justice system had below-average IQ compared to 33 percent of the non-incarcerated youth under age 15.

Collectively, these findings indicate that adolescents age 16 and older are similar to adults in their capacity to stand trial whereas adolescents under age 16 have less capacity to stand trial. In response to these findings, the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice developed two guides to help juvenile justice officials assess juvenile competence (*see www.adjj.org*).

### **Research Suggests Adolescent Character can Change**

Character refers to an individual’s moral and psychological makeup. The juvenile justice system is based on the premise that adolescent character is more amenable to change than adult character, and adolescent offenders are more responsive to rehabilitation than adults. In fact, hormonal changes during adolescence make the teenage years an especially flexible time for establishing or reestablishing behavior patterns.<sup>12</sup> Moreover, several randomized evaluations of programs targeting adolescent offenders have demonstrated some success in altering criminality. For example:

- *Multisystemic Therapy (MST)* is a program that works with families to design treatment plans that target conditions contributing to the adolescent offender’s delinquent behavior. The treatment aims to improve methods of caregiver discipline, strengthen family relations, decrease socializing with delinquent peers, improve school performance, and develop a social network that can help the adolescent uphold the changes. MST involves several hours of family therapy per week and lasts approximately four months.

- o A 2006 study reported a 66.7 percent recidivism rate among MST participants compared to 86.7 percent for those who did not receive MST.<sup>13</sup>
- *Therapeutic Foster Care* combines specially-trained foster parents with therapeutic services to create a setting where adolescents with a history of emotional disturbance, antisocial behavior, or delinquency can learn pro-social behaviors and skills including conflict resolution, anger management, and self-awareness.
  - o A 1990 study revealed that after two years, 44 percent fewer adolescents who had received Therapeutic Foster Care were incarcerated, compared to adolescents treated in other residential programs.<sup>14</sup>
- *Aggression Training Replacement (ART)* is for violent and aggressive youth ages 12-17, who are incarcerated in the juvenile justice system. It is a ten-week program focused on anger control, social skills, and moral reasoning training.
  - o A 1994 study found a 15 percent recidivism rate among adolescent offenders who participated in ART and a 43 percent recidivism rate among those who did not receive that treatment.<sup>15</sup>

These studies lend support to the notion that adolescent character is in fact amenable to positive change. It is important to note that the research offers no specific age boundary at which an adolescent's character is more or less changeable. This boundary is likely to be highly variable depending on the individual.

## Summary

Research on adolescent development suggests that, compared to adults, adolescent offenders tend to focus more on rewards than risks, are more susceptible to peer pressure, and have less decision-making capacity. This suggests that adolescent offenders should not necessarily be considered equally blameworthy as an adult offender who committed the same crime. The research does suggest, however, that 16- and 17-year-olds are similar to adults in their competencies to stand trial and to participate in the legal processes of the criminal court. Adolescents under age 16, however, have more limited competencies.

Finally, research shows that adolescence is a particularly malleable time for establishing character, and that rehabilitative treatment can reduce recidivism. Taken as a whole, this body of research suggests that regardless of whether they are treated in the juvenile or adult system, adolescents' developmental maturity needs to be considered.

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# How Other States Treat Adolescent Offenders

Joel Rosch

**A**cross the country, states use a wide range of approaches for trying and sentencing adolescent offenders. The following discussion summarizes the range of approaches.

The minimum age at which states may try adolescent offenders in adult court varies greatly. In most states, the jurisdiction of the adult criminal justice system begins at age 18. In the remaining states:

- Three have a minimum age of 16 for adult jurisdiction (North Carolina, Connecticut, and New York)
- Ten states set the minimum age for adult jurisdiction at age 17 (Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin)

Regardless of the minimum age, all states have provisions for using the adult system to handle certain adolescent offenders. These provisions usually depend on the severity of the offense and the youth's offense history.

*The table on the next page outlines the transfer and blended sentencing provisions used by each state, as of October 2003.*

## Trying and Sentencing Youth Under 18 in the Juvenile and Adult Courts

Transfer and blended sentencing laws regulate whether adolescent offenders are processed in the juvenile or adult criminal justice system, or as is the case in some states, whether they move back and forth between the two. States generally use three kinds of transfer laws to determine whether adolescent offenders will be tried in the juvenile or adult system: waivers, direct file, and exclusion laws. Following trial and conviction, some states allow for flexibility in the punishment applied. This practice is called blended sentencing.

### Transfer Laws:

State transfer laws define categories of adolescents who, because of their age, past record, or the seriousness of the charges against them, may—or in some cases must—be tried in criminal court.

**Waivers** are the most common form of transfer law. Also called **bindovers**, waivers allow judges to move defendants who would normally be classified as juveniles into adult courts because of the nature of their crime, criminal record, or other statutorily-defined reason. States may use more than one type of waiver. Law generally determines the types of crimes that are subject to waivers. There are three types of waivers:

	Judicial Waiver			Direct File	Statutory Exclusion	Reverse Waiver	Once Adult/ Always Adult	Juvenile Blended	Criminal Blended
	Discretionary	Presumptive	Mandatory						
Total States	45	15	15	15	29	25	34	15	17
Alabama	X				X		X		
Alaska	X	X			X			X	
Arizona	X			X	X	X	X		
Arkansas	X			X		X		X	X
California	X	X		X		X	X		X
Colorado	X	X		X	X	X		X	X
Connecticut			X			X		X	
Delaware	X		X		X	X	X		
District of Columbia	X	X		X			X		
Florida				X	X		X		X
Georgia	X		X	X	X	X			
Hawaii	X						X		
Idaho	X				X		X		X
Illinois	X	X	X		X	X	X	X	X
Indiana	X		X		X		X		
Iowa	X				X	X	X		X
Kansas	X	X					X	X	X
Kentucky	X		X			X			
Louisiana	X		X	X	X				
Maine	X	X					X		
Maryland	X				X	X	X		
Massachusetts					X			X	X
Michigan	X			X			X	X	X
Minnesota	X	X			X		X	X	
Mississippi	X				X	X	X		
Missouri	X						X		X
Montana				X	X	X		X	
Nebraska				X		X			X
Nevada	X	X			X	X	X		
New Hampshire	X	X					X		
New Jersey	X	X	X						
New Mexico					X			X	X
New York					X	X			
North Carolina	X		X				X		
North Dakota	X	X	X				X		
Ohio	X		X				X	X	
Oklahoma	X			X	X	X	X		X
Oregon	X				X	X	X		
Pennsylvania	X	X			X	X	X		
Rhode Island	X	X	X				X	X	
South Carolina	X		X		X				
South Dakota	X				X	X	X		
Tennessee	X					X	X		
Texas	X						X	X	
Utah	X	X			X		X		
Vermont	X			X	X	X		X	
Virginia	X		X	X		X	X		X
Washington	X				X		X		
West Virginia	X		X						X
Wisconsin	X				X	X	X		X
Wyoming	X			X		X			

SOURCE: Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws, Patrick Griffin, October 2003

**Discretionary waivers** are used in 45 states. Under these waivers, the *prosecution* bears the burden of proof for moving a youth to adult court to be tried. State law often defines the cases that can and cannot be transferred. Twenty-seven states have a minimum age at which adolescents can be transferred to adult court.

**Presumptive waivers** are used in 15 states. Under these waivers, the *defense* bears the burden of proof for moving a youth to adult court to be tried. Presumptive waivers are usually triggered by offense type, age, and criminal record.

**Mandatory waivers** are used in 15 states. Under mandatory waivers, *state law* defines age, offense, or prior record criteria for moving a youth to adult court. North Carolina has mandatory waivers beginning at age 13 for those charged with capital crimes, such as murder.

**Direct file** is used in 15 states. In these states, *prosecutors* are responsible for determining whether to proceed in juvenile or criminal court. For example, in Vermont and Nebraska, all 16-year-olds are subject to direct file statutes, regardless of the crime. Florida allows direct file in misdemeanor cases depending on the offender's prior record but the prosecution may opt not to use direct file. If the prosecution does not choose direct file, the case remains in juvenile court. For example, if a 16-year-old is arrested with a gun, the prosecutor can file the case in either the juvenile or adult system.

**Exclusion laws** exist in 29 states. These states have statutory exclusion provisions where *state law* defines certain types of crimes involving adolescent offenders that must be sent directly to adult criminal courts. This approach takes the decision out of both prosecutors' and judges' hands. For example, Maryland automatically handles almost all crimes against persons and all crimes involving a weapon by anyone 16 or older in the adult system.

Twenty-five states allow for a **reverse waiver**. Under reverse waivers, an adolescent offender subject to prosecution in adult criminal court can petition to have his or her case transferred to juvenile court. This usually takes place in states that have **mandatory waivers, direct file, or exclusions laws** where there is little discretion about where a case is filed. Reverse waivers are generally guided by the same broad standards and considerations found in a juvenile court waiver proceeding. In most cases, a reverse waiver hearing is held prior to trial. If the reverse waiver is granted, the case is tried in juvenile court. Three states (California, Colorado, and Oregon) permit reverse waivers only after the offender's guilt has been established. In these cases, the reverse waiver is used only for decisions about sentencing, not for determining innocence or guilt.

North Carolina is one of 34 states with an automatic transfer category for adolescents who were previously prosecuted as adults. This means that if an adolescent is prosecuted as an adult for one crime, he or she will be prosecuted as an adult for all future crimes. This is referred to as a "**Once Adult/Always Adult**" provision.

#### **Blended Sentencing Laws:**

Blended sentencing laws focus not on whether the adolescent offender is tried in juvenile or criminal court but on whether the offender is sentenced in the juvenile or adult correctional system.

**Juvenile blended** sentences are used by 15 states. Juvenile blended sentences empower the juvenile courts to impose *both* adult criminal sanctions and juvenile sanctions on serious juvenile offenders. The most common type of juvenile blended sentencing—sometimes called "inclusive" blended sentencing—allows juvenile court judges to impose both juvenile and suspended adult sentences on certain categories of offenders.

Seventeen states have **criminal blended** sentencing laws. Under these laws, adult criminal courts may impose sanctions that would ordinarily be available only to juvenile

courts. This provides a mechanism for adolescents to be sentenced to the juvenile system even if they have been prosecuted in the adult system. Depending on whether a state's blended sentencing law is inclusive or exclusive, the offender may return to the juvenile system for sentencing or the adult court may impose a juvenile sentence.

Ten states have **exclusive blended** sentences. These sentences allow judges to process adolescent offenders in *either* the juvenile or adult system.

Seven states have **inclusive blended** sentences. These sentences allow judges to process adolescent offenders in *both* the juvenile and adult systems. For example, a 14-year-old tried and convicted in adult criminal court for homicide in a state with inclusive blended sentences could begin his or her sentence in a juvenile facility and at age 18 (or 21, depending on the state) be transferred to an adult facility to complete the sentence.

Current North Carolina law:

- Sets the minimum age for adult jurisdiction is 16
- Has mandatory waivers beginning at 13 for those charged with capital crimes
- Allows discretionary waivers
- Has an automatic transfer category for adolescents who were once prosecuted as adults

#### *SOURCES:*

*Fact Sheet: Views from the National Council on Crime and Delinquency, Christopher Hartney, June 2006*

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# Juvenile or Adult Court: Research on Future Offending

Shari Miller-Johnson, Joel Rosch

As North Carolina considers a change in the age at which individuals should be tried in juvenile versus adult court, research helps explain how juvenile crime rates respond to changes in punishment laws. This brief reviews research that addresses “specific deterrence” and “general deterrence,” as well as the impact of confinement on future offending.

## The Effect of Punishment on Future Offending

Research shows that punishment may impact crime in at least two ways. The first concerns whether the application of harsh punishment on adolescent offenders reduces their motivation to commit further crimes. This is referred to as specific deterrence.

The second, general deterrence, concerns whether potential juvenile offenders are deterred by the threat of being punished as an adult. The notion is that juveniles have little incentive not to commit crime if the only consequence of doing so is that they will end up in a juvenile court that is “soft” and lenient. Perhaps the prospect of more certain “adult punishments” will give youth pause before they act on the impulse to commit a crime.

## Studies of Specific Deterrence

A number of studies have compared recidivism rates of youth who are tried in criminal court with youth who are retained in the juvenile system. Two studies approached the question from different perspectives, yet came to the same basic conclusion: youth subjected to the more punitive adult court system showed higher rates of recidivism and reoffended more quickly than comparable youth in the juvenile system. Other studies have reached the same conclusion.<sup>1,2</sup>

A Florida study examined recidivism among 2,738 adolescent offenders. It compared adolescents who had been transferred to criminal court for a wide variety of mid-range offenses (e.g., robbery, aggravated assault, auto theft, burglary) with a matched sample of offenders who were retained in the juvenile system. To ensure the groups were comparable, they were matched in terms of offense, number of charges, prior record, age, race, and sex.<sup>3,4</sup>

In the short-term, youth who were tried and punished in the adult system were more likely to be rearrested (30 vs. 19 percent), rearrested more quickly (135 days vs. 227 days), or rearrested more often for a serious felony offense (93 vs. 85 percent) than offenders processed in juvenile court. After seven years of follow-up, although the two groups no longer differed in the overall rate of rearrest, analyses

focusing on the *type* of offense indicated that in five of the seven offense types, those who had been in the adult system continued to reoffend at higher rates and to reoffend more quickly than those in the juvenile system.

Two studies compared 16- and 17-year-old offenders from New York City and similar youths from cities in New Jersey. These youth lived in the same general metropolitan area but as offenders, they were treated differently in the two states. New York treats all 17-year-olds as adults, and 16-year-olds charged with certain offenses are automatically tried as adults under the state's legislative exclusion statute. New Jersey maintains 16- and 17-year-olds in the juvenile system.<sup>5, 6, 7</sup>

The first study focused on young offenders in the early 1980s, and examined 400 first degree burglary offenders and 400 first and second degree robbery offenders. In New York these youths were tried in the adult system. In New Jersey they were not. Compared to young offenders in New Jersey's juvenile system, adolescent offenders prosecuted in New York's adult system showed higher rearrest rates (76 vs. 67 percent), higher rates of reincarceration (56 vs. 41 percent), and a shorter time period to rearrest (457 days vs. 553 days).

In a second investigation of the same locales in the early 1990s, over 2,000 youths charged with robbery, burglary, and assault were followed over a seven-year period. Comparable youth in the New York adult court were 85 percent more likely to be rearrested for violent crimes and 44 percent more likely to be rearrested for felony property crimes. However, youth prosecuted in the juvenile courts for drug offenses were more likely to be rearrested than youth processed in the adult courts, a finding that is inconsistent with the general pattern.

### **Studies of General Deterrence**

The theory of general deterrence assumes that the rate of crime will decrease when the probability of punishment increases.<sup>8</sup> One set of studies analyzed

crime rates before and after changes in laws making it easier to move juveniles to adult court where the probability of punishment was greater. One 2006 study compared monthly violent arrest rates for juveniles in 22 states for the five years prior to and after the laws were enacted.<sup>9</sup> The analysis did not show a reduction in the overall rate of violent juvenile crime following enactment. In 20 of 22 states, there was no decline in arrest rates following the law change. One state (Maine) showed an overall decline in arrests for violent crime, while Wisconsin showed only a temporary decline. Results from other studies of legal changes have shown similar patterns.<sup>10, 11, 12</sup>

Another study of general deterrence used national data to see how the probability of being punished affected future crime rates among juveniles and adults.<sup>13</sup> It found that increasing the probability of punishment lead to decreases in crime. The greater the difference between the stricter adult systems and the more lenient juvenile systems, the more the crime rate declined. In the few states where the probability of punishment was greater in the juvenile system than in the adult system, crime increased when juveniles moved into the adult system. These findings support the idea that for young offenders, when there is less likelihood of punishment there is more crime, and when there is more likelihood of punishment there is less crime.

A study of Florida crime records found very different results than the national study.<sup>14</sup> This study analyzed the impact of moving from a more lenient juvenile system to a more punitive adult system on the rate at which adolescents committed crime. Deterrence theory predicts that being subject to the more punitive sentencing of the adult system should lead to a decline in crime as juveniles turn 18. However, an analysis of Florida arrest records showed a large increase in the rate at which juveniles were arrested and punished when they turned 18, and no corresponding decline in criminal behavior.

## Studies of the Effects of Confinement on Future Offending

Several studies have focused on how the circumstances of confinement influence the nature of crimes committed by adolescent offenders after their release. One study found that exposing younger, incarcerated offenders to more serious offenders in adult prison exacerbates the seriousness, as well as the duration of their criminal careers.<sup>15</sup>

In another study focusing on different kinds of institutions, youth incarcerated in smaller, decentralized units usually associated with the juvenile justice system, had lower recidivism rates than comparable youth held in larger, centralized units common in adult facilities. Using cost-benefit analyses, the study found that since reoffending rates are so high among young offenders, the more expensive, small institutions are worth the additional costs because of their impact on reducing recidivism. This finding held true even without factoring in costs to crime victims. Because of the high costs of incarceration, most studies that look at cost-benefit ratios find clear savings from investments in programs that effectively reduce future criminal activity of young offenders.<sup>16</sup>

## Summary

This brief reviews how prosecuting adolescent offenders in either juvenile or adult courts may influence future offending. Overall, the studies of specific deterrence are consistent in showing that when young offenders are prosecuted in the adult court system, they are more likely to reoffend and to reoffend more quickly. Consistent with these conclusions are studies showing that incarceration in smaller, more decentralized units and incarceration that reduces exposure to older, more serious offenders also decrease future offending.

The research on general deterrence presents a mixed set of results. Studies looking at the impact of transfer laws on general deterrence show no decrease in crime as a result of threats that youth will be prosecuted as adults. Studies that look at the actual sentences show that increasing the probability of punishment leads to a decrease in crime, regardless of whether the punishment took place in the juvenile or the adult system.

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# Policy Options and Considerations for Further Deliberation

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North Carolina, Connecticut, and New York are the only states in the country that draw the line of adulthood for criminal justice purposes at age 16. Forty-seven states use 17 or 18 as the age at which most adolescent offenders are treated as adults. In addition to age of jurisdiction, 29 of the 50 states use other approaches (i.e., transfers or waivers) to handle 16- and 17-year-olds who have been charged with a crime. Other sections of this report describe how other states handle 16- and 17-year-olds who have been charged with a crime and the research on sentencing strategies and adolescent development.

Below are three among numerous policy options available to North Carolina policymakers for dealing with 16- and 17-year-olds who have been charged with a crime. For each option, some or all of the following are included: anticipated results, the number of offenders expected to be affected, examples of resource needs, and identification of at least one state currently using the option.

With regard to resources, the General Assembly's Fiscal Research Division is working with the NC Department of Juvenile Justice and Delinquency Prevention (NCDJJD), the NC Department of Correction (DOC), the Judicial Branch, and other agencies to determine the potential costs of shifting 16- and 17-year-olds into the juvenile system. There are numerous questions regarding the resource

implications of such a change. Two of the primary questions are 1) What would it cost to place the 16- and 17-year-olds into the various juvenile programs (including community, intermediate, and commitment levels)?, and 2) What is the current cost to the DOC of supervising and providing programs for 16- and 17-year-olds in state prisons and on probation? This information will help inform policymakers about possible cost shifts from DOC to cover new costs stemming from the potential change.

*Note: The following policy options are not recommendations, nor are they in priority order. Rather, they are intended to inform the important discussion under way in North Carolina regarding how best to handle 16- and 17-year-olds who have been charged with a crime.*

## **Option 1: Status Quo - Continue to treat 16- and 17-year-old offenders as adults, regardless of their crime.**

### *States Using this Option*

Currently, Connecticut and New York have the same age structure as North Carolina. Both Connecticut and New York, however, make it easier for 16- and 17-year-olds to clear their criminal records after a period of good behavior.

*Note: In 2006, the Juvenile Jurisdiction Planning and Implementation Committee of the Connecticut*

*General Assembly created a plan to examine the state's policies concerning 16- and 17-year-olds who have been charged with a crime. The Committee's final report and recommendations are available at <http://www.cga.ct.gov/hdoljpic/>*

### ***Variation to the Status Quo***

Some states use an adult blended sentencing model in which adult court judges have the discretion to order young offenders to begin sentences in the juvenile system and, under conditions specified by the judge, finish sentences in the adult system.

### ***Anticipated Result***

All offending 16- and 17-year-olds would continue to be tried in the adult criminal system, regardless of their crime. If convicted, 16- and 17-year-olds would be sentenced in adult courts and would have permanent criminal records, unless they petition the court to have their record expunged.

*Note: Under current North Carolina law, expungement is available only for misdemeanor offenses committed prior to age 18, except for misdemeanor possession of alcohol or drugs, and one, low-level felony for simple possession of cocaine.*

Programming, treatment, and other services for 16- and 17-year-olds would continue to be operated by the Department of Correction and are similar to those available to adults. Some of these services are designed specifically for youthful offenders.

### ***Some Resource Considerations***

Resources could remain at current levels; however, state DOC officials would need to continue to develop programming for adolescent offenders and may be responsible for meeting federal requirements for mental health, social services, and education. Over the past few years, the NCDJJD has been developing a continuum of evidence-based services, many of which are appropriate for 16- and 17-year-old offenders. The services would generally not be available to young offenders in the adult system.

## **Option 2: Raise the minimum age at which adolescent offenders are tried in adult court to 18 but either allow or mandate that felonies and select other cases continue be handled in adult criminal courts.**

Twenty-nine states use various kinds of transfer laws to put serious crimes committed by 16- and 17-year-olds into the adult criminal courts, even when the age of adult jurisdiction is 18. They do this by allowing prosecutors (through direct file legislation), judges (through waivers), or the legislature (through excluding certain kinds of cases from juvenile court) to move some classes of crimes committed by 16- and 17-year-olds to the adult system. (*For explanations of direct file and waiver laws, see Brief 3.*)

For example, under this option North Carolina could raise the adult age to 18 but give prosecutors the authority to “direct file” any case involving a 16- or 17-year-old in adult court, as is done in Vermont. The legislature could also limit direct file by either excluding certain offenses such as minor felonies, or adding certain offenses, such as misdemeanors. South Carolina and Tennessee allow a judge to move any case involving an adolescent over the age of 16 to adult jurisdiction. Cases involving 16- and 17-year-olds that would remain in adult court would be governed by adult rules. Cases sent to juvenile court would be governed by juvenile rules. Some states designate 16- and 17-year-old offenders for the adult system based on the offender's prior record.

### ***States Using this Option***

Vermont, Nebraska, South Carolina, and Tennessee use some aspects of this option.

### ***Anticipated Result***

The outcomes for felony and other serious offenders could be much like the status quo, depending on the criteria set by the legislature. Most felony cases and cases involving repeat offenders would continue to be tried in adult court, and these offenders would continue to be sent to the adult system for punishment.

For misdemeanor offenses, most adolescent offenders who were previously sent to adult courts would be in the juvenile justice system and would have access to a broad array of community-based services. As discussed in Brief 4 of this report, research has shown that recidivism rates for adolescents are lower when these offenders are handled by juvenile versus criminal courts.

### *Some Resource Considerations*

Law enforcement officers and court personnel would have to process some 16- and 17-year-olds within the rules and procedures of the juvenile justice system which would require changes to pre-trial or pre-adjudicated hearings, parental permission, investigations, non-testimonial identification procedures, and custody.

With regard to facilities, there would be few additional resource needs because felonies committed by 16- and 17-year-olds could continue to be handled in adult court and receive adult supervision. There would be minimal impact on the use of adult and juvenile correctional facilities. The juvenile system could continue to use facilities designed for younger, more serious offenders.

Most misdemeanor cases involving 16- and 17-year-olds would be handled through the juvenile system. The age of dispositional jurisdiction would have to be adjusted, however, to allow time for a meaningful disposition. The effect of having youth 18 and older in the juvenile system would have to be addressed. While jury trials are infrequent in misdemeanor cases in adult court, these would decline even further as more misdemeanors would be handled in juvenile court.

There would be an increase in the resources needed for probation and other community services. If existing staff ratios and supervision rules remained in place, most 16- and 17-year-old misdemeanor offenders would get substantially more supervision in the juvenile system. Since juvenile probation caseloads are smaller than those for adults, the increase in the caseload for juvenile court counselors would be larger than the decrease in the adult probation caseload. There would be a net increase in the need for juvenile court counselors.

Compared to adults, a larger percentage of juvenile offenders receive services such as mental health and substance abuse treatment. NCDJDP has worked with other social service agencies to create an integrated community service model which would have to serve older offenders. There would be a net increase in the need for resources, particularly in the juvenile system.

### **Option 3: Increase the age of juvenile jurisdiction to 18 for all non-traffic crimes or infractions**

*Note: This is a recommendation of the North Carolina Sentencing and Policy Advisory Commission. The Commission also recommends that traffic offenses committed by persons younger than 16 should remain in the jurisdiction of the juvenile courts, as under current law.*

*In 2006, the NC General Assembly passed a study bill that tasked the Sentencing Commission with studying “issues related to the conviction and sentencing of youthful offenders aged 16 to 21,” and whether the State should amend the laws concerning those offenders (whether in the Criminal Procedure Act or the Juvenile Code, but not limited to either).*

*The Commission released its findings and recommendations in March 2007. (See report [http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/yo\\_%20finalreporttolegislature.pdf](http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/yo_%20finalreporttolegislature.pdf).)*

### *States Using this Option*

Forty-seven states use 17 or 18 as the age at which those charged with a crime are considered adults.

### *Anticipated Result*

All 16- and 17-year-olds previously handled by adult court would be handled by the juvenile system. The juvenile court would maintain the ability to transfer more serious cases to the adult system.

Using 2004 data, the NC Sentencing Commission estimates that if the age at which an adolescent offender is tried in the criminal justice system were raised from 16 to 18, 12,767 offenders age 16 and

17 would be shifted to the juvenile system. The question of duration of dispositional jurisdiction would have to be examined.

### *Some Resource Considerations*

As explained in the NC Sentencing Commission Youthful Offender Subcommittee Final Report, this change would have a systemic impact on the judiciary, executive branch agencies, and local governments. NCDJDP services would have to be expanded or modified to deal with older and potentially more serious offenders.

### **Further Considerations for North Carolina Policymakers**

The issues raised in this brief have numerous stakeholders. They include a range of state and local policymakers, juvenile and criminal court judges, child welfare and public education professionals, district attorneys, probation officers, law enforcement, prosecutors, and public defenders, among others. Two additional considerations that currently have particular significance in North Carolina are disposal of juvenile records and compulsory school age.

### **Disposal of Juvenile Records**

Most states have provisions for disposing of a juvenile's legal or social history record. Records can be disposed of by sealing, expunging, or destroying. Laws typically also describe certain conditions that must be met for disposing of records (e.g., no new offenses for a certain amount of time). Usually the law provides for the sealing of records for a given time period and then, at the expiration of that time, the destruction of those records.

Some believe North Carolina's current expungement law places an unfair burden on the poor and less well-educated people because it entails hiring a lawyer and filing a case in court. It also places a burden on local courts. Some states have automatic expungement for adolescent offenders and first-time offenders if they do not reoffend for a designated period of time.

### **Compulsory School Age**

Discussion is under way in North Carolina at both the state and school district levels about the possibility of raising the compulsory school age from 16 to 18. If this were to occur without a change to the juvenile jurisdiction laws, the NC Department of Correction would be required to expand its education system to meet the needs of 16- and 17-year-old adolescent offenders in custody.

In addition to records expungement and compulsory school age are a wide range of other issues that stakeholders are likely to raise with regard to the issues addressed in this briefing report.

Broadly, whether to prosecute adolescents as juveniles or adults encompasses three related but distinct groups of issues:

1. What procedures should be followed and what rights should exist pre-trial or pre-adjudication with respect to investigation, non-testimonial identification procedures, arrest or custody, detention, bail, etc.?
2. What rights and procedures should apply during the fact-finding stage with respect, for example, to jury trials, self-representation, grand jury, etc.?
3. What are the purposes, the means of determining, and the nature of court-imposed consequences following the fact-finding stage? Is the adolescent sentenced as an adult or subject to an individualized disposition with an emphasis on rehabilitation?

Following are other questions that policymakers are likely to encounter. This list is not intended to be comprehensive but recognizes critical questions that policymakers are likely to face.

- How does the proposed change impact efforts to develop a seamless, comprehensive system of juvenile justice which was started with reform and is less than a decade old?

- To what extent are taxpayers willing to pay for rehabilitation versus incarceration of adolescent offenders?
- Who (and how) would meet adolescent offenders' educational and mental health needs?
- What needs would emerge from implementation (personnel, automated systems enhancements, etc.)?
- Would there be resistance from criminal court judges if a change in the age of juvenile jurisdiction required them to hear more juvenile cases?
- How would changing the status quo affect North Carolina families, including families of adolescent offenders, families of those victimized by adolescent offenders, and other families?
- How can families help prevent and intervene in adolescent crime?
- How can North Carolina families help the policy dialogue concerning age of jurisdiction for adolescent offenders?

# Appendices

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## Chart of Legal Ages in NC, Glossary of Terms, Additional Resources, Acronyms

In light of the multiple systems that have a stake in the issues discussed in this briefing report, we provide the following table, which reflects the current legal age in North Carolina to engage in different activities:

### Current Legal Age in North Carolina to:

Drop out of school	16
Petition court for emancipation	16
Buy a lottery ticket	18
Buy or use tobacco	18
Receive a death sentence	18
Get married without parental consent	18
Drive a car without restrictions	18
Vote	18
Consume or buy alcohol	21

# Glossary of Terms

**Adjudication:** A legal case in which a youth has pled guilty or is determined guilty of the charged offense, and the actual finding of guilt. Dismissal of charges can result if adjudication is withheld and certain conditions are imposed.

**Adjudicatory Hearing:** The trial stage of a juvenile case when a judge weighs evidence before determining if the youth is guilty of the offense.

**Adolescent Offender:** For the purposes of this briefing report, a person under the age of 18 who has been charged with a crime.

**Adult Court:** (*see criminal court*)

**Aggravating Factors:** Issues that may add to the seriousness of the offense, such as prior offenses, weapon use, heinous crimes and threats to victims or witnesses.

**Alternative Sanctions:** Recommendations a court may use as dispositions (sentence) that provide an alternative to incarceration and are appropriate for the offense.

**Amenability:** The legal definition describes an individual who can be rehabilitated when given treatment or an intervention. This is determined during the adjudicatory hearing. The developmental psychology definition is the extent to which an individual's nature has the potential to change, regardless of his or her exposure to an intervention and regardless of the type of intervention.

**Bindover:** Occurs when a juvenile court submits a case to the adult criminal court. (*see waiver*)

**Blended Sentence:** In certain states, specified offenses tried in the juvenile system can elicit sentences that incorporate sanctions from the juvenile and/or criminal system. It is typically used for the most serious offenders within the juvenile system.

**Blended Sentencing:** The ability of both the juvenile court and criminal court to impose a juvenile disposition and/or an adult sentence.

**Criminal blended sentences:** Laws that enable adult criminal courts to impose sanctions that would ordinarily be only available to juvenile courts.

**Juvenile blended sentences:** The juvenile courts impose both criminal and juvenile sanctions on serious juvenile offenders.

**Exclusive blended sentences:** Allows judges to sanction adolescent offenders in either the juvenile or adult systems.

**Inclusive blended sentences:** Allow judges to sanction adolescent offenders in both the juvenile or adult systems.

**Capital Offense:** Crime punishable by death.

**Classification:** A court or agency official's legal decision that identifies which category of program placement is assigned for an offender. The decision is based on statutory and agency guidelines.

**Cognitive-behavior Training** (*e.g. Aggression Replacement Training*): A psychological treatment that focuses on correcting the flaws of an individual's thought process in order to change his or her behavior.

**Commitment:** Placement of a youth under the juvenile justice system's supervision. Commitment dispositions vary from low-risk nonresidential commitment to maximum-risk commitment which is akin to a convicted adult going to prison.

**Community Corrections:** A progressive method of corrections that supports an array of programming, such as prerelease centers, halfway houses, residential drug and alcohol treatment facilities, restitution, and day reporting centers.

**Complaint:** An allegation of a criminal offense against a juvenile.

**Comprehensive Assessment:** An evaluation of a juvenile offender's physical, psychological, educational, vocational and social conditions, and family environment based on information collected to determine the offender's need for services and recommended disposition.

**Compulsory School Age:** The age by when parents or guardians must make sure their child gets a suitable education by attending school or otherwise.

**Concurrent Jurisdiction:** Both juvenile and criminal systems have jurisdiction of certain types of cases, and the prosecutor determines which system will handle the case. Transfers under these circumstances are also referred to as prosecutorial waiver, prosecutor discretion, or direct file.

**Confidentiality Protection:** A state's provisions for guarding juvenile confidentiality. Under specific conditions, a youth's records can be made accessible to schools, youth agencies, law enforcement officials, prosecutors, victims, and the public.

**Continuum of Care:** The juvenile justice system's comprehensive range of services, from the least to the most restrictive environments. Youth are assigned to a certain treatment based on their risk to the community and the type of intervention needed.

**Criminal Court:** Handles all adult criminal offenders and juveniles who are transferred to adult court.

**Culpability:** The extent to which an individual can be held accountable for damage or injury he or she causes.

**Delinquent Act:** Any act done by a juvenile that would be a crime if committed by an adult.

**Delinquency Offense:** An offense for which an adult could be prosecuted in criminal court, including crimes against persons or property, drug offenses, and crimes against public order. This excludes status offenses.

**Detention Center:** Any public or private residential facility that has construction features designed to physically restrain the movements and activities of those within the facility that are held in lawful custody. It serves as a temporary placement for juveniles who are accused of committing an offense or any person accused of committing a criminal offense until they can be placed in a youth development center or other arrangement.

**Detention Hearing:** A judicial hearing where the court determines if there is probable cause to believe the youth committed a delinquent act, whether there is an existing, valid court order requiring the continued detention of the youth, and whether there is a danger that the youth will not show up for trial or will cause harm to him or herself or others before the adjudicatory hearing. The detention hearing is usually within 24 hours of when a youth is taken into custody.

**Deterrence, General:** A punishment strategy that uses penalties to lower the probability of criminal behavior in the general population.

**Deterrence, Specific:** A punishment strategy that uses penalties to prevent convicted individuals from repeating the criminal or deviant activity in the future.

**Direct File:** The act of filing a petition by the state's attorney to try a youth in adult criminal court instead of juvenile court.

**Disposition:** The juvenile court's decision regarding the consequences for a case, such as whether or not the juvenile should undergo any treatment or services, and if so, what type (equivalent to a sentence in criminal court).

**Dispositional Hearing:** A juvenile case hearing (equivalent to a sentencing hearing in criminal court) when the court obtains a predisposition report with information and recommendations to help determine the appropriate sanctions, hears from the defense lawyer, and determines whether a community-based or other sanction, such as probation or commitment to the custody of the agency in charge of for juvenile justice, will be used.

**Diversion:** When a juvenile case is not approved for a court hearing but is referred to other programs or services.

**Exclusion Laws:** State laws that maintain that certain criminal cases involving adolescent offenders must be automatically sent to adult criminal courts.

**Expunction:** When an individual files a petition in the court in which they were adjudicated to have his or her criminal record erased.

**Expungement:** The erasing or destruction of a juvenile record once an individual reaches the law's designated age.

**Intake:** The initial process that is applied to youth referred to the juvenile justice system, status offenders, and children in need of services. It involves an individual assessment of the youth to determine whether the youth should receive detention, release, or referral to a diversionary program or agency for unofficial or nonjudicial methods.

**Judicial Waiver:** When a court decides to move a youth's case from being handled in the juvenile system to the adult criminal system. This is the most common mechanism for transfers.

**Jurisdiction:** The limits or territory in which a body or governing system can use its authority and apply its laws.

**Jurisdiction, Extended:** In many states, under certain circumstances, a juvenile court can expand its jurisdiction to a set age that is above the normal upper age limit of the juvenile court's jurisdiction.

**Juvenile:** An individual at or below the upper age limit of the original juvenile court jurisdiction.

**Juvenile Code:** North Carolina's comprehensive set of laws that deal with delinquent, abused, and dependent juveniles among other issues relating to juveniles.

**Juvenile Court:** Handles all offenders who are not old enough for or transferred to adult court.

**Juvenile Court Counselor:** The individual in charge of probation and after care services of juveniles who are on probation or are released from training school.

**Juvenile Emancipation:** A legal process that releases minors from parental control and frees parents of financial obligations to their child.

**Juvenile Offender:** A youth who is within the juvenile court jurisdiction and has a complaint filed against him or her.

**Misdemeanor, Minor:** Includes simple assault, drug possession, disorderly conduct, and carrying a weapon.

**Misdemeanor, Serious:** Includes robbery, breaking and entering, and forgery.

**Office of Juvenile Justice and Delinquency Prevention:** A United States Department of Justice agency in charge of national leadership, coordination, and resources to prevent and respond to juvenile offending and child victimization.

**Protective Factors:** Conditions that weaken the influence of risk factors in a young person's life; includes positive personal characteristics, positive adult relationships, and healthy principles.

**Recidivism:** A tendency to slip back into a previous criminal behavior pattern.

**Reincarceration:** Occurs when individuals are jailed within a year of their previous incarceration.

**Risk Factors:** Certain problem behaviors or conditions that put youth at risk for juvenile delinquency. There are four main categories: community, family, school, and individual/peer.

**Sanction:** A penalty imposed by juvenile or adult courts.

**Status Offenses:** Noncriminal juvenile offenses applied to youth because of their status as minors. This includes being truant, running away from home, possessing alcohol or cigarettes, and violating curfew. Only those under age 18 can receive status offenses.

**Statutory Exclusions:** State laws that maintain juvenile courts do not have jurisdiction over certain types of cases committed by youth. These crimes are automatically managed in the criminal court system without necessitating any transfer from the juvenile system.

**Therapeutic Foster Care:** Combines specially-trained foster parents with therapeutic services to create a setting where adolescents with a history of emotional disturbance, antisocial behavior, or delinquency can learn pro-social behaviors and skills including conflict resolution, anger management, and self-awareness.

**Transfer Laws:** Laws that allow for moving a youth's case from juvenile court to the criminal court system. This can occur through judicial waiver, direct file, and statutory exclusion.

**Truancy:** A deliberate absence from school without permission or authorization.

**Violent Crime:** Crimes that include murder, forcible rape, armed robbery, robbery, and aggravated assault.

**Waiver:** When a juvenile offender's case is passed from the juvenile court system to the criminal court system at the discretion of a judge or a mandate.

**Discretionary Waiver:** Prosecution bears the burden of proof for moving a youth to adult court to be tried. These types are often denied by state law.

**Mandatory Waiver:** State law defines age, offense, or prior record criteria for moving a youth to adult jurisdiction.

**Presumptive Waiver:** Defense bears the burden of proof for moving a youth to adult court to be tried. Usually triggered by offense type, age, and criminal record.

**Reverse Waiver:** The process by which a juvenile charged in or transferred to criminal court for trial as an adult is transferred to juvenile court for adjudication.

**Waiver Petition:** The prosecutor or intake officer can request that a case typically heard in a juvenile court will be heard in criminal court.

**Wrap-around Service Programs:** Programs that offer comprehensive services to meet the mental health needs of children and their families. Programs provide community support and full treatment services to maximize effectiveness.

**Youth Development Center:** North Carolina's Youth Development Centers provide mentoring, education, and therapeutic treatment to prepare youth to reenter their communities. YDCs promote learning and development through a wide range of educational and vocational courses. Four of NC's five YDCs provide custody and treatment to adjudicated males ranging in age from ten to eighteen and in some cases until age 21. One YDC houses females.

**Youthful Inmate:** (*see Youthful Offender*) In this context the only difference between a youthful inmate and a youthful offender is that the inmate is incarcerated while the offender may not be.

**Youthful Offender:** All states do not apply the same definition to the term youthful offender. Historically, the NC Department of Correction has considered youthful offenders to be any offender age 21 or under who is involved with the Department of Correction. While some prisons that traditionally house youthful offenders now also house inmates through age 25, this is a product of the declining youthful offender population and the need to use available space in the facilities, not a product of policy change with regard to sentencing.

SOURCES:

[http://www.ncjrs.gov/html/ojjdp/ojjdpreport\\_11\\_2000/appendixf.html](http://www.ncjrs.gov/html/ojjdp/ojjdpreport_11_2000/appendixf.html)

[http://ojjdp.ncjrs.org/pubs/reform/ch2\\_j.html](http://ojjdp.ncjrs.org/pubs/reform/ch2_j.html)

<http://www.usconstitution.net/glossary.html>

[http://www.juvenilejusticefyi.com/juvenile\\_justice\\_glossary.html](http://www.juvenilejusticefyi.com/juvenile_justice_glossary.html)

# Additional Resources

## *Organizations*

### **1. American Bar Association (ABA): Juvenile Justice Section**

<http://www.abanet.org/dch/committee.cfm?com=CR200000>

The Juvenile Justice Section of the ABA is an interdisciplinary forum of defenders, judges, prosecutors, corrections staff, law students, and others interested in improving the juvenile justice system for children, parents, and the professionals who serve them. It has links to two ABA publications, Juvenile Justice News (<http://www.abanet.org/crimjust/juvjus/jjnews.html>) and Criminal Justice Magazine (<http://www.abanet.org/crimjust/juvjus/cjmag/18-3ls.html>).

### **2. National Conference of State Legislatures (NCSL), Criminal Justice Program**

<http://www.ncsl.org/programs/cj/juvenilejustice.htm>

The National Conference of State Legislatures is a bipartisan organization that serves the legislators and staffs of the nation's 50 states, its commonwealths, and territories. NCSL provides research, technical assistance, and opportunities for policymakers to exchange ideas on the most pressing state issues, including juvenile justice. NCSL provides information about successful state initiatives and monitors changes to juvenile and criminal justice legislation in all 50 states.

### **3. National Center on Juvenile Justice (NCJJ)**

<http://www.ncjj.org/>

NCJJ is a research center providing information on juvenile and family justice systems. The Center is the research division of the National Council of Juvenile and Family Court Judges. Many of its reports are issued jointly with the US Department of Justice.

#### **State Juvenile Justice Profiles**

<http://www.ncjj.org/stateprofiles/>

Updated information and analysis regarding each state's juvenile justice system, illustrating the uniqueness of the 51 separate juvenile justice systems with direct links to individual and agency contacts.

#### **Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws**

<http://ncjj.servhttp.com/NCJJWebsite/pdf/transferbulletin.pdf>

This document reviews state laws dealing with issues relating to age and criminal jurisdiction with detailed analysis of how all 50 states deal with youth between 16 and 18 years of age who come in contact with the criminal justice system.

#### **Statistical Briefing Book**

<http://www.ojjdp.ncjrs.org/ojstatbb/index.html>

This NCJJ publication jointly produced with the US Department of Justice, Office of Juvenile Justice and Delinquency Prevention is a comprehensive statistical guide to juvenile crime and juvenile crime trends.

#### **4. National Governors Association (NGA)**

<http://www.nga.org/portal/site/nga>

NGA provides governors and their senior staff members with services that range from representing states on Capitol Hill and before the Administration on key federal issues to developing policy reports on innovative state programs and hosting networking seminars for state government executive branch officials. The NGA Center for Best Practices focuses on state innovations and best practices on issues that range from education and health to technology, welfare reform, and the environment. NGA also provides management and technical assistance to both new and incumbent governors.

#### **5. Office of Juvenile Justice and Delinquency Prevention (OJJDP)**

<http://ojjdp.ncjrs.org/>

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), a component of the US Department of Justice, helps states, local communities, and tribal jurisdictions in their efforts to develop and implement effective programs for juveniles. OJJDP sponsors numerous research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming. OJJDP also runs the Juvenile Justice Clearinghouse (<http://ojjdp.ncjrs.org/programs/ProgSummary.asp?pi=2>) for information about juvenile justice systems.

#### **6. Coalition for Juvenile Justice (CJJ)**

<http://www.juvjustice.org/>

The Coalition for Juvenile Justice represents fifty-six governor-appointed advisory groups that support the juvenile court system in the U.S. states, territories, and the District of Columbia. CJJ provides training and technical assistance related to the federal Juvenile Justice and Delinquency Prevention Act.

#### **7. National Council on Crime and Delinquency (NCCD)**

[http://www.nccd-crc.org/nccd/n\\_index\\_main.html](http://www.nccd-crc.org/nccd/n_index_main.html)

The National Council on Crime and Delinquency promotes effective, humane, fair, and economically sound solutions to family, community, and justice problems. NCCD conducts research, promotes reform initiatives, and seeks to work with individuals, public and private organizations, and the media to prevent and reduce crime and delinquency.

#### **8. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice**

[http://www.adjj.org/content/resource\\_page.php?filter=download](http://www.adjj.org/content/resource_page.php?filter=download)

The MacArthur Foundation Research Network provides information to practitioners, policymakers, and the public at large on adolescent development to help inform juvenile justice policies, practices, and programming. The Network works to achieve these goals through the critical analysis of juvenile justice policies and practices, the design and implementation of new research on adolescent development and juvenile justice, and the communication of the results of these activities to policymakers, practitioners, journalists, and other social scientists and legal scholars.

### **9. Child Welfare League of America (CWLA): Juvenile Justice Division**

<http://www.cwla.org/programs/juvenilejustice/jjabout.htm>

CWLA promotes the well-being of children, youth, and their families, and protecting every child from harm. The Juvenile Justice division works to reduce the incidence of juvenile delinquency nationwide and to reduce reliance on incarceration for accused or adjudicated delinquent youth. CWLA's Juvenile Justice Division publishes a free quarterly newsletter (<http://www.cwla.org/programs/juvenilejustice/jjdnewsletter.htm>) which explores the link between involvement in the child welfare and juvenile justice systems.

### **10. Criminal Justice Resources: Juvenile Justice**

<http://www.lib.msu.edu/harris23/crimjust/juvenile.htm#mining3>

This website, maintained by the Michigan State University library, offers a comprehensive bibliography on juvenile and criminal justice issues.

### **11. North Carolina Sentencing and Policy Advisory Commission**

<http://www.nccourts.org/Courts/CRS/Councils/spac/Default.asp>

The Sentencing Commission was created by the NC General Assembly in 1990 to make recommendations to the General Assembly for the modification of sentencing laws and policies, and for the addition, deletion, or expansion of sentencing options as necessary to achieve policy goals.

### **12. National Juvenile Justice Network**

<http://www.njjn.org/index.html>

The National Juvenile Justice Network enhances the ability of statewide juvenile justice coalitions to advocate for fair, equitable, and developmentally-appropriate adjudication and treatment for all youth and families involved in the juvenile justice system.

### **13. Institute for Intergovernmental Research**

<http://www.iir.com/>

A nonprofit research and training organization, specializes in law enforcement, juvenile justice, criminal justice, and homeland security issues.

## ***Information about Best Practices in Juvenile Justice***

### **1. Changing Lives: Delinquency Prevention as Crime-Control Policy**

This new book by Peter W. Greenwood, the former Director of the Rand Corporation's Criminal Justice Program, presents a recent and comprehensive review of research on interventions that reduce juvenile crime. The book demonstrates how research has led to the development of a wide array of innovative programs and are much more cost-effectively than more popular and widely used approaches. [http://www.adjj.org/content/published\\_works.php?cat\\_id=4&content\\_id=23&filter=monograph](http://www.adjj.org/content/published_works.php?cat_id=4&content_id=23&filter=monograph)

## **2. Best Practices of Youth Violence Prevention: A Sourcebook for Community Action (Best Practices)**

This publication from the Centers for Disease Control and Prevention's (CDC) National Center for Injury Prevention and Control (NCIPC) looks at the effectiveness of specific violence prevention practices in four key areas: parents and families; home visiting; social and conflict resolution skills; and mentoring. The web site provides ordering information on the free publication as well as downloading links. <http://www.cdc.gov/ncipc/dvp/bestpractices.htm>

## **3. Center for the Study and Prevention of Violence**

<http://www.colorado.edu/cspv/index.html>

This Center at the University of Colorado host the Blueprints for Violence Prevention project, which identifies effective violence prevention projects. The Center also provides informed assistance to groups committed to understanding and preventing violence, particularly adolescent violence; the site includes a database focusing on the collection and evaluation of research and information concerning youth violence.

## ***Publications***

### **1. The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Criminal Court**

[http://www.adjj.org/downloads/3582issue\\_brief\\_5.pdf](http://www.adjj.org/downloads/3582issue_brief_5.pdf)

This report from the MacArthur Foundation Research Network reviews the evidence on the impact of prosecuting adolescents as adults or as juveniles in two states that have different laws for handling adolescent offender. In New York, juveniles as young as 13 are charged in adult court, while in New Jersey nearly all cases of juvenile offenders below the age of 18 are processed in juvenile court. By comparing similar offenders in the two settings who were arrested and charged with the same felony offenses during the same time period, the researchers were able to determine whether treating juveniles as adults in the legal system is an effective deterrent to crime and how placing youth in adults as opposed to juvenile facilities influenced recidivism.

### **2. NC Sentencing and Policy Advisory Commission Report on Study of Youthful Offenders, March 2007**

[http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/yo\\_%20finalreporttolegislature.pdf](http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/yo_%20finalreporttolegislature.pdf)

This report makes a number of recommendations to the NC General Assembly on issues related to youthful offenders aged 16 to 21 years.

### **3. Youth under Age 18 in the Adult Criminal Justice System**

[http://www.nccd-crc.org/nccd/pubs/2006may\\_factsheet\\_youthadult.pdf](http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf)

Recent review (2006) of state and federal policies regarding placing youth under 18 in the adult system.

### **4. Juvenile Offenders and Victims: 2006 National Report**

<http://www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/NR2006.pdf>

This federal report, presented each year to the US Congress, provides a comprehensive view of juvenile crime and state policies across the nation.

**5. Update on Blended Sentences - Maryland State Commission on Criminal Sentencing Policy**  
<http://www.msccsp.org/publications/blended.html>

This is an overview of how states use blended sentences to deal with 16-, 17- and 18-year-old offenders.

**6. Risk and Protective Factors of Child Delinquency**  
<http://www.ncjrs.org/pdffiles1/ojjdp/193409.pdf>

This report from the Office of Juvenile Justice and Delinquency Prevention provides the latest research dealing with the prevention and reduction of child delinquency.

**7. Problem of Lemons and Why We Must Retain Juvenile Crime Records**  
<http://web.archive.org/web/20050304030730/http://www.cato.org/pubs/journal/cj18n1-6.pdf>

This report from the Cato Institute, a public policy research organization in Washington, DC, analyzes the dangers of expunging the criminal records of young offenders when they become adults. They pay special attention to the impact of expungement on poor people and members of minority groups. The article was published in volume 18, number 1 Spring/Summer 1998 issue of *"The Cato Journal."*

**8. Youth, Guns, and the Juvenile Justice System**  
[http://www.urban.org/UploadedPDF/410417\\_youth\\_guns.pdf](http://www.urban.org/UploadedPDF/410417_youth_guns.pdf)

Funded by the Joyce Foundation, this report reviews recent trends in youth gun violence, policy responses to gun violence, and the growing variety of data resources for research on youth violence.

## Relevant Acronyms

ART	Aggression Training Replacement
BARJ	Balanced and Restorative Justice
CINS	Child in Need of Services
CJ	Criminal Justice
CSSD	Court Support Services Division
DMHAS	Department of Mental Health and Addiction Services
DOC	Department of Correction
DOJ	Department of Justice
DPI	Department of Public Instruction
ESL	English as a Second Language
IDEA	Individuals with Disabilities in Education Act
JCPC	Juvenile Crime Prevention Council
JJ	Juvenile Justice
JJIS	Juvenile Justice Information System
LEAA	Law Enforcement Assistance Administration
MST	Multisystemic Therapy
NCCIW	North Carolina Correctional Institute for Women
NCDJDP	North Carolina Department of Juvenile Justice and Delinquency Prevention
NC GS	North Carolina General Statute
NCSL	National Conference of State Legislatures
NIJDP	National Institute for Juvenile Justice and Delinquency Prevention
OJJDP	Office of Juvenile Justice and Delinquency Prevention

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and public policy to improve the  
lives of children and families*



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