BRIEF: CHARTING U.S. MINIMUM AGES OF JURISDICTION, DETENTION, AND COMMITMENT

The United States is an outlier throughout the world in the practice of trying young children in court and confining them. The most common minimum age of criminal responsibility internationally is 14 years old, and the United Nations has urged nations to set their minimum age of criminal responsibility to at least 14 years old.[1] Yet in the U.S., there are still only a bare majority of states (26) that have established any minimum age of prosecution. Of those states with a minimum age, no minimum age is as high as 14 years old, and the majority of states that have set an age of prosecution (16 states) have set it at the low age of 10 years old.
NJNJ has been working with our members and others around the country to change the shameful practice of prosecuting, detaining, and committing young children. The reasons for changing this practice are many, chief among them: young children do not have the adolescent brain development necessary to understand charges brought against them or meaningfully participate in their defense; young Black and Brown children are being disproportionately criminalized for their behavior; early contact with the youth legal system has a negative impact on future behavior of children, increasing inversely with the age of the first contact;[2] and younger children are at the greatest risk of being victims of violence when in custody.[3]

The chart and tables linked below provide detailed information on the laws in each state and the U.S. territories regarding the minimum age of arrest, pre-trial detention, and commitment for delinquency offenses in juvenile court, in order to further advocacy efforts and provide potential models states can look to as they reform their systems. Note that while some states and territories did not place age limitations in their state code for pre-trial detention and/or commitment, if they established a minimum age of juvenile court jurisdiction then we understood this age to also serve as the minimum age for pre-trial detention and commitment. We indicated this information in the chart and tables on pre-trial detention and commitment and specified if the state or territory had exceptions, or carve-outs, to their minimum age of juvenile court jurisdiction. We did not indicate other restrictions that a state or territory may have placed on pre-trial detention or commitment unless they were related to age. We also did not indicate age restrictions for the upper age of juvenile court jurisdiction or for transfer/waiver to adult court for criminal prosecution.

This topic can be especially challenging because of often confusing statutory language and frameworks. Please contact us if you have any edits, updates, or questions at info@njjn.org. We will update the chart regularly.


Click on the links below for access to each chart or table:
Chart of Minimum Age Laws for Juvenile Court Jurisdiction, Pre-trial Detention, and Commitment in the U.S. States and Territories - Public Google Doc

Table 1: Minimum Age of Juvenile Court Jurisdiction

Table 2: Minimum Age Restrictions for Pre-trial Detention in the Juvenile Court System

Table 3: Minimum Age Restrictions for Youth Commitment in the Juvenile Court System

ACKNOWLEDGEMENTS

Thank you to Jill Ward and her students at the Center for Youth Policy and Law at the University of Maine School of Law for initiating the chart and to Isabelle Long, law student at Georgetown University School of Law, for her pro bono assistance in researching and completing the chart and tables. The work was edited by Melissa Coretz Goemann, Senior Policy Counsel at the National Juvenile Justice Network (NJJN).

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Table 1:

<table>
<thead>
<tr>
<th>Minimum Age of Jurisdiction</th>
<th>Number of States and Territories</th>
<th>States and Territories</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>24 states; 4 territories</td>
<td>Alabama, Alaska, District of Columbia, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Michigan, Missouri, Montana, New Jersey, New Mexico, Northern Mariana Islands, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Virginia, Virgin Islands, West Virginia, Wyoming</td>
</tr>
<tr>
<td>7</td>
<td>1 state</td>
<td>Florida</td>
</tr>
<tr>
<td>8</td>
<td>1 state</td>
<td>Washington</td>
</tr>
<tr>
<td>10</td>
<td>16 states; 1 territory</td>
<td>American Samoa, Arizona, Arkansas, Colorado, Connecticut, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin</td>
</tr>
<tr>
<td>11</td>
<td>1 state</td>
<td>Nebraska</td>
</tr>
<tr>
<td>12</td>
<td>5 states</td>
<td>California, Delaware, Massachusetts, New York, Utah</td>
</tr>
<tr>
<td>13</td>
<td>2 states; 1 territory</td>
<td>Maryland, New Hampshire, Puerto Rico [only for misdemeanors]</td>
</tr>
</tbody>
</table>

1. Except that the court does not have jurisdiction over a child under twelve unless there is a written recommendation from a licensed psychologist/psychiatrist/physician. Haw. Rev. Stat. §571-11.
3. Note that children age 8 to under 12 years old are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Wash. Rev. Code § 9A.04.050.
5. Except for the commission, by a child at least eight years old, of murder or a sexual offense as defined in Nev. Rev. Stat. § 62F.100. Nev. Rev. Stat. § 194.010. Note that children between the ages of 8 and 14 years old are not considered capable of committing crimes “in the absence of clear proof that at the time of committing the act charged against them they knew its wrongfulness.” Nev. Rev. Stat. § 194.010.
6. Except for the commission, by a child that is at least 8 years old, of an A-G felony, or who has been previously adjudicated delinquent. N.C. Gen. Stat. Ann. § 7B-1501.
9. Except for the commission of murder in the first or second degree, rape in the first or second degree, or using, displaying, or discharging a firearm during the commission of a Title 11 or a Title 31 violent felony as defined in Del. Code Ann. tit 11 § 4201(c). Del. Code Ann. tit 10 § 1002.
10. Except for children over the age of seven years old charged with aggravated criminally negligent homicide and certain manslaughter and murder offenses. N.Y. Fam. Ct. Act § 301.2 1.1(a)(3).
11. Except for the commission of various felonies including murder, aggravated kidnapping, aggravated sexual assault, aggravated arson, aggravated burglary, and aggravated robbery. Utah Code Ann. § 80-6-305 (2).
14. The minimum age is only applicable to the commission of misdemeanor offenses.
<table>
<thead>
<tr>
<th>Minimum Age of Detention</th>
<th>Number of States &amp; Territories</th>
<th>States and Territories</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>14 states; 4 territories</td>
<td>Alaska, District of Columbia, Georgia, Guam, Hawaii, Iowa, Kentucky, Michigan, Missouri, Montana, New Mexico, Northern Mariner Islands, Ohio, Oregon, Rhode Island, Tennessee, West Virginia, Virgin Islands</td>
</tr>
<tr>
<td>4</td>
<td>1 state</td>
<td>Massachusetts</td>
</tr>
<tr>
<td>7</td>
<td>1 state</td>
<td>Florida</td>
</tr>
<tr>
<td>8</td>
<td>1 state</td>
<td>Washington</td>
</tr>
<tr>
<td>11</td>
<td>4 states</td>
<td>Alabama, South Carolina, Virginia, Wyoming</td>
</tr>
<tr>
<td>12</td>
<td>7 states</td>
<td>California, Delaware, Indiana, Maine, Nebraska, New Jersey, Utah</td>
</tr>
<tr>
<td>13</td>
<td>6 states; 1 territory</td>
<td>Colorado, Louisiana [for misdemeanors only], Maryland, New Hampshire, New York, Oklahoma, Puerto Rico [for misdemeanors only]</td>
</tr>
</tbody>
</table>

*If a state codified a minimum age of juvenile court jurisdiction, then we used this age as the minimum age for detention even if it was not specifically codified in law, and we indicated this in a footnote.

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1. Note that Oregon requires that for children under 12 years old there must be judicial review and written findings describing why it is in the best interests of the youth to be placed in detention. Or. Rev. Stat. § 419C.133.
2. Child must be at least 12 years old to be committed to the department of youth services pending trial and must be at least 14 years old to be held in secure detention. Mass. Gen. Laws ch. 119, § 68.
4. State established a minimum age of 8 years old for juvenile court jurisdiction.
5. American Samoa established a minimum age of 10 years old for juvenile court jurisdiction with exceptions.
6. State established a minimum age of 10 years old for juvenile court jurisdiction.
7. State established a minimum age of 10 years old for juvenile court jurisdiction with an exception for murder.
8. State established a minimum age of 10 years old for juvenile court jurisdiction.
12. State established a minimum age of 10 years old for juvenile court jurisdiction with exceptions.
13. State established a minimum age of 10 years old (and 8 years old for certain offenses) for juvenile court jurisdiction.
14. State established a minimum age of 10 years old for juvenile court jurisdiction.
15. State established a minimum age of 10 years old for juvenile court jurisdiction.
16. State established a minimum age of 10 years old for juvenile court jurisdiction.
17. State established a minimum age of 10 years old for juvenile court jurisdiction.
18. State established a minimum age of 10 years old for juvenile court jurisdiction with an exception for murder.
19. State established a minimum age of 10 years old for juvenile court jurisdiction with exceptions.
Except for the commission of offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies. Ala. Code § 12-15-208(4). Children 11 and 12 years old can only be detained in secure custody by order of the juvenile court, unless they are charged with offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies if committed by adults. Ala. Code § 12-15-208(4).


State established a minimum age of 12 years old for juvenile court jurisdiction with exceptions for certain offenses. The California Department of State Hospitals Policy Manual Policy 3124.1 restricts detention for children 11 years old or younger, who are alleged to have committed offenses for which they can be charged (murder and sexual assault offenses), to non-secure custody and referral to a probation officer for a placement determination.

State established a minimum age of 12 years old for juvenile court jurisdiction with exceptions for certain offenses.

Detention is prohibited for children under age 12 unless they pose an imminent risk of harm to the community or the court makes a written finding that detention is essential to protect the community and no reasonable alternatives exist to reduce the risk. Ind. Code § 31-37-6-1.

A child must be least 12 years old to be detained at a secure detention facility for more than 7 days except by agreement of the parties. Me. Stat. tit. 15, §3203-A (4)(G).

Children aged 11 and under cannot be placed in detention except for the commission of a crime of the first or second degree or arson. N.J. Rev. Stat. § 2A:4A-34 (F).

State established a minimum age of 12 years old for juvenile court jurisdiction with exceptions.


State established a minimum age of 13 years old for juvenile court jurisdiction with exceptions.

Except for the commission, by a child ten years old or older, of a homicide. N.Y. Fam. Ct. Act § 304.1.

Oklahoma requires a number of conditions to be met before a child aged 12 years old or younger can be placed in a juvenile detention facility. Okla. Stat. Ann. tit. 10A § 2-3-101(A)(1).

Puerto Rico established a minimum age of 13 years old for juvenile court jurisdiction for misdemeanor offenses.
### Minimum Age Restrictions for Youth Commitment in the Juvenile Court System*

<table>
<thead>
<tr>
<th>Minimum Age of Commitment</th>
<th>Number of States and Territories</th>
<th>States and Territories</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>14 states; 1 territory</td>
<td>Alaska, Florida, Georgia, Guam, Hawaii, Kentucky, 1 Michigan, Missouri, Montana, New Mexico, Ohio, Oklahoma, Rhode Island, Tennessee, West Virginia</td>
</tr>
<tr>
<td>7</td>
<td>1 state</td>
<td>Florida 2</td>
</tr>
<tr>
<td>8</td>
<td>2 states</td>
<td>Nevada, Washington 3</td>
</tr>
<tr>
<td>10</td>
<td>10 states; 3 territories</td>
<td>American Samoa, 4 Arkansas, 5 Connecticut, 6 District of Columbia, Idaho, Kansas, 7 Minnesota, 8 North Carolina, Northern Mariana Islands, South Dakota, 9 Texas, 10 Vermont, 11 Wisconsin 12</td>
</tr>
<tr>
<td>11</td>
<td>5 states</td>
<td>Alabama, 13 California, 14 New Hampshire, 15 New Jersey, 16 Virginia 17</td>
</tr>
<tr>
<td>12</td>
<td>14 states</td>
<td>Colorado, 18 Delaware, 19 Indiana, 20 Iowa, 21 Maine, Massachusetts, 22 Mississippi, New York, 23 North Dakota, Oregon, Pennsylvania, 24 South Carolina, 25 Utah, 26 Wyoming 27</td>
</tr>
<tr>
<td>13</td>
<td>3 states; 1 territory</td>
<td>Illinois, 28 Louisiana [for misdemeanors only], Maryland, 29 Puerto Rico [for misdemeanors only] 30</td>
</tr>
<tr>
<td>14</td>
<td>2 states; 1 territory</td>
<td>Arizona, Nebraska, Virgin Islands</td>
</tr>
</tbody>
</table>

* If a state codified a minimum age of juvenile court jurisdiction, then we used this age as the minimum age for commitment even if it was not specifically codified in law, and we indicated this in a footnote.


2 State established a minimum age of 7 years old for jurisdiction with an exception for forcible felonies. Fla. Stat. § 985.031.

3 State established a minimum age of 8 years old for juvenile court jurisdiction.

4 American Samoa has established a minimum age of 10 years old for juvenile court jurisdiction with exceptions.

5 State established a minimum age of 10 years old for juvenile court jurisdiction with an exception for murder.

6 State established a minimum age of 10 years old for juvenile court jurisdiction.

7 State established a minimum age of 10 years old for juvenile court jurisdiction.

8 State established a minimum age of 10 years old for juvenile court jurisdiction.

9 State established a minimum age of 10 years old for juvenile court jurisdiction.

10 State established a minimum age of 10 years old for juvenile court jurisdiction.

11 State established a minimum age of 10 years old for jurisdiction with an exception for murder.

12 State established a minimum age of 10 years old for jurisdiction with exceptions.

13 Except for the commission of offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies. Ala. Code § 12-15-208(4). Children 11 and 12 years old can only be detained in secure custody by order of the juvenile court, unless they are charged with offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies if committed by adults. Ala. Code § 12-15-208(4.)

14 Children under 11 years old cannot be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. Cal. Welf. & Instit. Code § 733. However, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities is closing June 30, 2023, so no youth can be committed there after that date. Cal. Welf. & Instit. Code § 736.5. Additionally, the state has established a minimum age of 12 years old for juvenile court jurisdiction with exceptions.
Minors under the age of 11 years old cannot be committed to the youth development center unless the court has referred the matter to and received the recommendation of an appropriate public or private agency or of a juvenile probation and parole officer that there is no other public or private home or institution suitable for such commitment. N.H. Rev. Stat. Ann. § 169-B:30. However, note that the age of juvenile court jurisdiction for most offenses is 13 years old.

Except for the commission of arson or a crime which, if committed by an adult, would be a crime of the first or second degree. N.J. Rev. Stat. 2A:4A-44 (c)(1).

Child can only be committed if they are at least 11 years old and have been adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-269.1. Otherwise, they must be at least 14 years old and adjudicated delinquent of (a) a felony, or (b) a Class 1 misdemeanor and have previously been found to be delinquent of either a felony or three or more Class 1 misdemeanors. Va. Code Ann. § 16.1-278.8 (A)(14).

Children under 12 years old, that have not been adjudicated as an aggravated juvenile offender, may be committed to the Department of Human Services only if they are adjudicated for an offense that would constitute a class 1, class 2, or class 3 felony if committed by an adult. Colo. Rev. Stat. Ann. § 19-2.5-1117 (1)(a).

Additionally, a child who is under 13 years old may not be sentenced to detention unless they have been adjudicated for a felony or weapons charge. Colo. Rev. Stat. Ann. § 19-2.5-1123(2).

State established a minimum age of 12 years old for juvenile court jurisdiction with exceptions.

A child must be 12 years old to be committed to a juvenile detention facility or the Wyoming Boys or Girls School. However, there is no age limitation for other dispositional placements, such as confinement in a residential treatment facility.

Child must be at least 13 years old to be committed to the Department of Juvenile Justice and the child must have been found guilty of a felony offense or first-degree murder. 705 Ill. Comp. Stat. 405/5-710 (1)(b). However, children 10 years of age or older may be placed in a juvenile detention home. 705 Ill. Comp. Stats. 405/5-710 (1)(a)(v).

State established a minimum age of 13 years old for juvenile court jurisdiction, with exceptions for various offenses for children that are at least 10 years old.

Puerto Rico established a minimum age of 13 years old for juvenile court jurisdiction for misdemeanor offenses.