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National Juvenile Justice Network
1200 G St. NW, Suite 800
Washington, DC 20005
https://njjn.org/

Cover photo: Mary Taylor, Pexels.
Our nation’s youth legal system is far from just. The racial disparities that pervade our youth justice systems from beginning to end are not random occurrences. Rather they are rooted in the history of white supremacist systems created to surveil, oppress, and control Black and Brown youth.

From the system of enslavement that marked the beginning of our country, through emancipation and Jim Crow, our country’s legal systems have been developed with racist structures and policies embedded at the core. This has led to the profoundly unequal treatment of people of color, including youth who have been over-represented in youth courts, excluded from resources, provided differential detention in harsher, less humane settings, and disproportionately confined in the youth legal system.

At the turn of the twentieth century, age-segregated courts furthered a framework of criminalizing Black youth while also denying them access to community support. This framework has revised and repurposed itself into what we see today: the continued characterization of Black and Brown youth as inherently threatening and violent, and biased treatment in every aspect of the youth legal system—from arrest to adjudication, sentencing to incarceration. Youth of color are disproportionately surveilled and arrested by school police officers, ensnaring them in the school-to-prison/deportation pipeline. Policies that make it possible to arrest and detain elementary school children not developed enough to even fit into handcuffs hit communities of color the hardest. Black and Brown bodies are leveraged for profit by private incarceration facilities. And policymakers responsible for ensuring the well-being of all children deny the clear impact of structural racism and bias on the way youth of color are treated by the legal system.

We know young people need support fulfilling their full potential in order to thrive in their lives. But we also know what research has confirmed and communities of color have long understood—that our youth court systems exacerbate youth trauma, alienating them from necessary support structures including their families, communities, and educational services. At the National Juvenile Justice Network (NJJN), we envision a better way to set youth on the path to success, bettering public safety outcomes at the same time, through investments in mental and physical health services, education, and employment which can all create a safer world and brighter future for our children.

“"We envision a better way to set youth on the path to success, bettering public safety outcomes at the same time, through investments in mental and physical health services, education, and employment which can all create a safer world and brighter future for our children.""
Landscape of 2021 Youth Policy Advances

101 Advances, 35 states, and countless better outcomes for kids.

States in blue are states that made legislative, legal, or policy advances.
Raising the Minimum Age

Preventing children from coming into contact with the legal system is the best way to protect youth from the harms of the legal system and safeguard their childhood. In this way the campaign to establish a minimum age of prosecution is crucial to ensuring all children continue to grow and thrive. This is particularly true for Black and Brown children who are disproportionately criminalized at a young age.

We’ve all seen horror stories of a 6-year-old in Florida being arrested, the 9-year-old in New York arrested and pepper sprayed, and the 8-year-old and other young girls arrested in Rutherford Co, TN. These cases are all eerily similar—they are all very young Black girls who had NOT committed ANY crimes. There was no need for a police response in any of these cases, let alone arrests. This is why we must expand resources to communities to ensure any needed services can be accessed without the traumas of arrest and prosecution.

Yet, 25 states still shockingly have no minimum age for prosecuting children in juvenile court. And no state in the country meets the internationally recommended standard of 14 for the minimum age of prosecution. We cannot expect young children reading “Diary of A Wimpy Kid” to be able to understand and exercise their legal rights. Not only do young children fail to grasp complex court proceedings or connect them to their behavior in a meaningful way, they also face great risk of physical and sexual abuse and harm to their development if they are confined, and they experience greater risk of future involvement with the criminal legal system the earlier that they are criminalized. In 2021, advocates made great progress in raising the age at which children can be prosecuted in juvenile court:

- Nineteen states introduced minimum age legislation and eight of them—Connecticut, Delaware, Florida, Maine (detention age), Mississippi (commitment age), New York, New Hampshire, and North Carolina, successfully passed legislation raising their state’s minimum age of prosecution, detention, and/or commitment.
- Thanks to laws which passed in Delaware and New York, the minimum age for prosecuting children in juvenile court is now 12 years old in five states and New Hampshire now has the highest minimum age of prosecution at 13 years old.

The chart below provides information on the current state laws on the minimum age for juvenile court jurisdiction as of December 31, 2021:

<table>
<thead>
<tr>
<th>Minimum Age of Jurisdiction</th>
<th>Number of States</th>
<th>Which States?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 13</td>
<td>1</td>
<td>New Hampshire</td>
</tr>
<tr>
<td>Age 12</td>
<td>5</td>
<td>California, Massachusetts, Utah, Delaware, New York</td>
</tr>
<tr>
<td>Age 11</td>
<td>1</td>
<td>Nebraska</td>
</tr>
<tr>
<td>Age 10</td>
<td>16</td>
<td>Arkansas, Arizona, Colorado, Connecticut, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin</td>
</tr>
<tr>
<td>Age 8</td>
<td>1</td>
<td>Washington</td>
</tr>
<tr>
<td>Age 7</td>
<td>1</td>
<td>Florida</td>
</tr>
</tbody>
</table>
Ending For-Profit Confinement, Restraints, and Seclusion

The privatization of youth confinement is a glaring example of the commoditization of Black and Brown bodies that occurs when private companies are allowed to make a profit on confining children. After issuing a policy platform outlining the harms of for-profit facilities for youth, NJJN launched a more extensive campaign following the death of 16-year-old Cornelius Frederick after being restrained by staff for throwing a sandwich at Lakeside Academy in Kalamazoo, Michigan.

In examining the for-profit industry, it is impossible not to draw parallels to our nation’s dark history of the slave trade, with children transported across state lines, placed in facilities away from their families, and in egregious cases restrained, all while stakeholders turn a profit. It is imperative we end this industry. Instead of investing in companies looking to turn a profit, we must invest in community based, trauma-informed health services that wrap support around children and families so they can heal and grow together.

To that end the following advances were made in the past year:

- **California** began bringing home young people from Sequel-run as well as other facilities across the country after budgeting $8 million dollars to do so.
- **Connecticut passed legislation** requiring the Commissioner of Correction to review the Department of Correction’s use of chemical agents in facilities housing youths under eighteen years of age and provide a detailed report on this data to the General Assembly.
- **Illinois passed legislation** prohibiting the Department of Juvenile Justice from using isolation or room confinement as a punishment in response to youth behavior, in line with the Department’s consent decree and national standards for juvenile facilities. They also passed legislation prohibiting restraints on youth in care during transport by the Department of Children and Family Services.
- **Maine passed legislation** limiting the use of physical restraints and seclusion in schools to instances where the student’s behavior poses imminent danger to themselves or others and there is no less restrictive, effective intervention available.
- **Michigan passed an emergency rule** banning prone restraints and has a final rule pending that will prohibit the use of many restraints in child care institutions, including private secure juvenile justice facilities, such as chemical restraints, restraining youth to fixed objects, prone restraints, and restraint for punishment or discipline, and it also limits seclusion.
- **The Michigan Supreme Court adopted a rule** limiting the shackling of youth in court. Prior to the new rules, shackling youth was used indiscriminately.
- **New York passed legislation** preventing youth 21 years or younger from being held in solitary confinement and limiting their keep-lock placement (confinement prior to a disciplinary hearing) to 48 hours.
- **Utah passed legislation** limiting the use of restraint and seclusion in congregate care programs.
Mandating Use of Racial Impact Statements to Prevent Systemic Oppression

Fighting for racial justice and an end to racial disparities in our nation’s youth legal systems requires confronting structural racism that permeates our nation’s laws. Our enactment of youth justice policies must actively assess a proposal’s impact on youth and communities of color. According to nationwide data collected in October 2019, Black youth are over four times as likely to be detained or committed to juvenile facilities as white youth.¹

NJJN believes that racial impact statements are a critical tool to expose the inequities of the system and hold legislators and system stakeholders accountable for the effects of their decision-making. Additionally, racial impact statements are a tool for communities of color to exercise their power to ensure legislative bodies prevent harmful legislation, instead prioritizing efforts and investments that benefit Black and Brown youth advocates moved legislation forward in the following states in 2021:

- **Maine** passed a racial impact statement law requiring department and agency heads to provide legislative committees with data, analysis, and other information to prepare a racial impact statement upon request and established a process to pilot and study the use of racial impact statements.

- **Maryland**
  The Maryland General Assembly started a pilot project in which nonpartisan analysts at the state Department of Legislative Services will generate racial impact statements on criminal justice bills.

- **Virginia**
  H.B. 1990 provides that up to three racial impact statements can be requested by the House Committee for Courts of Justice and the Senate Committee on the Judiciary per regular legislative session with the statements to be prepared by the Joint Legislative Audit and Review Commission (JLARC).

Highlights

Our members and allies across the nation continue to impact and transform the youth legal system and other systems that youth come in contact with to treat youth and families with dignity, humanity, and fairness. Below are details of the 2021 youth policy advances which many NJJN members and allies played leading roles in moving forward.

Access to Counsel

- **Maine**
  - LD 320 gives young people access to attorneys while they are committed, a guarantee that is not currently in place, and establishes more frequent judicial review in hopes of minimizing lengths of stay.

- **Missouri**
  - SB 53 provides limitations on waiver of right to counsel.

- **North Dakota**
  - HB 1035 creates a presumption that all children in delinquency proceedings are indigent so that they will be afforded a right to counsel.

- **Oregon**
  - S. 575 provides for court-appointed counsel for individuals eligible for expunction of delinquency records.

Competency

- **Indiana**
  - SB 368 establishes a procedure for determining youth competency in delinquency proceedings.

Comprehensive Reform

- **North Dakota**
  - HB 1035 is the first major overhaul of North Dakota’s juvenile justice code since 1969. It made several significant changes to North Dakota law including the following:
    - Clarifies categories for children encountering the legal system to distinguish between juvenile delinquency, deprivation, and child welfare.
    - Changes the designation of “unruly child” to “child in need of services” allowing these children to access social services without entering the youth legal system.
    - Creates a presumption that all children in delinquency proceedings are indigent so that they will be afforded a right to counsel.
    - Restricts the use of out-of-home placements to only when necessary to meet treatment needs.
    - Requires the use of validated risk and needs assessments to support diversion and placement decisions.

**Advancing a Public Health Vision of Justice That Supports:**

- **Fully resourced communities**—healthy, accessible and family-sustaining housing, employment, healthcare and schools
- **Investments for healthy environments**—engaging youth programming and wrap around support services
- **Dismantling Structural Racism**—challenging policies, practices, and narratives that harm Black and Brown Youth
- **Accountability, not courts**—helping youth learn from mistakes and make amends with restorative justice and therapeutic services
Conditions of Confinement

- **Connecticut**  
  - HB 6667 ensures that the education of system-involved youth is monitored by one body, the Department of Children and Families (DCF). It also requires DCF to create and implement a plan to improve educational and vocational outcomes for incarcerated youth, toward diplomas to students educated in DCF education units that meet certain requirements, to develop a system to standardize the conversion of transferred credits, and to require the transfer of student education records to occur within five days after receiving notice that a child was transferred.  
  - SB 972 makes all voice communication free for individuals in correctional or juvenile detention facilities and saves families with incarcerated loved ones more than $12 million a year. Any service used to supplement the voice communication service, such as video communication and electronic mail services, must also be free of charge.

- **Maine**  
  - LD 963 requires that the Commissioner of the Department of Corrections ensure that treatment, recovery, prevention, diversion and restorative justice programs for youth under the jurisdiction of the youth legal system are culturally informed and provide language services for that youth and their family.

- **Utah**  
  - HB279 improves education for incarcerated youth by enabling youth attending school in secure juvenile facilities to qualify for concurrent enrollment credits. It also enables incarcerated youth to get higher education by creating the Dixie State Higher Education for Incarcerated Youth Program which provides an option for incarcerated youth to participate in higher education courses through virtual learning; creates a pathway for incarcerated youth to receive certificates, Associates, or Bachelor's degrees through DSU; and provides ongoing funding to DSU to administer the program and fund youth.

Confidentiality

- **Alabama**  
  - SB 206 provides that personal identifying information contained in law enforcement records for youth under 18 years of age that were charged as adults is not public information. This may not be published or printed unless the district or circuit court orders the records be released in the interest of the person charged, in the interest of public safety, or in the interest of national security.

- **Delaware**  
  - HB 243 prohibits law enforcement from releasing the name of a minor or a mug shot or other photograph of a minor that they arrested or suspect of an offense unless the young person is charged with a violent felony or the release of information is necessary to protect the public's safety.

- **Maine**  
  - LD 1676 establishes a presumption of confidentiality with respect to juvenile history record information and juvenile case records and prohibits the on-line dissemination of all juvenile case records including those that are open to public inspection. Details include:  
    - Juvenile case records that are open to public inspection may be inspected only at the courthouse.
– Establishes a protocol for the handling of juvenile records in court proceedings that generally allows for public access in cases involving serious violent offenses and presumes confidentiality in cases involving low level offenses; includes a mechanism to allow the court to determine exceptions to either confidentiality or public access that involves notice to the youth, their parents/guardians, and attorney and an opportunity to be heard.

– A young person’s identity may not be disclosed if their records are not open to the public except to the victim upon request to the court.

– Makes juvenile case records and juvenile court proceedings confidential when competency of the young person is in question.

– Ensures that highly sensitive juvenile and family information is protected from dissemination while also permitting public access to the court’s final decision in open cases.

– The victim may inspect the order even if the public may not.

– Establishes a civil penalty for improperly sharing juvenile records.

**Diversion, Detention, Commitment**

- **Colorado**
  - [SB 21-066](http://example.com) makes several changes and clarifications to the diversion statute including the following: clarifying that diversion funds can go to entities other than the district attorney’s office; establishing that a youth is eligible for diversion as long as they meet the diversion criteria; clarifying that an approved validated assessment tool can be used for decisions on the length of supervision and necessary services; and clarifying that a risk screening tool is to be used to inform the level and intensity of supervision.

- **Illinois**
  - [SB 2370](http://example.com) puts restrictions on the detention of young people that are also wards of the Department of Children and Family Services and states that detention shall not be used as a shelter care placement for minors in the custody or guardianship of the Department of Children and Family Services.

- **Maine**
  - [LD 221](http://example.com) requires the Maine Department of Corrections (DOC) to report annually on benchmarks for diversion, detention and commitment; on plans to implement recommendations of the 2020 Maine Juvenile Justice System Assessment; on the use of DOC funds diverted from Long Creek Youth Development Center; on staffing levels at Long Creek and related challenges; and on efforts to improve housing options and stability for youth transitioning out of the system. It also requires that by February 1, 2022, the DOC identify options for 2-4 small, secure, therapeutic residences for detained or committed youth, not to exceed a total occupancy of 20 youth statewide.
  - [LD 320](http://example.com) repeals the requirement that an indeterminate commitment to a juvenile correctional facility be for at least one year. It includes additional criteria for the court to consider when deciding whether to commit a youth, including whether the youth was under the age of 14 at the time of the alleged conduct or if they committed a class D or E crime. It also improves due process and strengthens the right to counsel, including allowing youth to petition for review of their disposition every 180 days.
Drug Policy

- **Connecticut**
  
  **SB 1201** legalizes the possession of up to 1.5 ounces of cannabis by individuals 21 years of age and older and establishes that individuals under the age of 18 cannot be arrested for simple cannabis possession. The bill establishes that neither the smell of cannabis nor suspected possession of up to five ounces of marijuana is a legal basis for police to stop and search individuals.

- **New Jersey**
  
  Amendment to P.L.1979, c.264 subjects those under 18 found in possession of cannabis or alcohol to a point of violation warning or juvenile intervention, without filing a complaint with the court.

- **New York**
  
  **S 2523** decriminalizes the possession and sale of hypodermic needles and syringes.

Expungement and Sealing

- **Colorado**
  
  **HB 1214** creates an automatic sealing process for arrest records when no criminal charges are filed. The bill also provides that certain drug convictions are eligible to be automatically sealed after seven to ten years and creates opportunities for individuals to petition to have their records sealed if they receive a full and unconditional pardon or have multiple conviction records that are eligible for sealing.

- **Delaware**
  
  - **SB 111**, known as “The Clean Slate Act,” creates an automatic expungement process for adult and delinquency charges that are eligible for mandatory expungement.
  
  - **SB 112** expands eligibility for mandatory expungement of adult and delinquency cases including convictions or adjudications for underage possession or consumption of alcohol, possession of marijuana, or possession of drug paraphernalia.

- **Indiana**
  
  **SB 368** provides for automatic expungement of certain misdemeanor delinquency offenses once individuals reach 19 years old, or one year after they are discharged from the juvenile court (whichever is later), within sixty days. However, judges can choose not to automatically expunge if they find that it would not serve the interests of justice.

- **Maine**
  
  **LD 1676** allows for the automatic post-adjudication sealing of a juvenile record for low-level offenses (Class D, E and civil adjudications) after the young person has completed the court ordered disposition.

- **Nevada**
  
  **AB 251** allows individuals 18 or older to petition the juvenile court for an order expunging all records relating to acts that if committed by adults would have been misdemeanors and child in need of supervision records. Previously, individuals had to wait until they turned 21.

NJN Policy Recommendations

For Anti-racist, Community-centered Justice

- Keeping Youth with Mental Health Challenges out of the Legal System
- Raise the Minimum Age for Trying Children in Juvenile Court
- Reducing Youth Arrests: Prevention and Pre-Arrest Diversion
- Police Free Schools
- Defund the Police, Invest in Youth

To download these and any of NJN’s Publications, go to www.NJJN.org.
Oklahoma
HB 1799 allows an individual to petition for expungement of delinquency records under the following circumstances: they have successfully completed an informal adjustment, deferred adjudication, or probation period; the case has been dismissed by the court or closed due to the child aging out of the delinquency system; the individual has not been arrested for any adult criminal offense; and they have paid all court costs, restitution, and fees.

Oregon
S. 575 provides for the automatic expunction of delinquency records for individuals who have arrest records but were never petitioned to or adjudicated delinquent in juvenile court. The expunction occurs after the individual turns 18 years old. If a person is denied expunction, they can request court-appointed counsel.

Extreme Sentencing

Ohio
SB 256 prohibits a court from sentencing minors to life without the possibility of parole and provides parole eligibility to youth who were under the age of 18 at the time of the offense.

Maryland
SB 494 prohibits a court from sentencing minors to life without the possibility of parole and grants sentencing review to youth who were under the age of 18 at the time of their offense. It allows minors convicted as adults to file a motion to reduce the sentence if they have been imprisoned for 20 years.

Rhode Island
Rhode Island passed a budget bill that creates parole eligibility after 20 years for all people who were under the age of 22 when they committed the offense. However, it exempts people, including minors, that were sentenced to life without the possibility of parole.

Missouri
SB 26 provides parole eligibility after 15 years to people who were convicted of crimes other than first degree murder and capital murder when they were under the age of 18.

Legal Decisions

The United States Supreme Court addressed youth sentencing in the case of Jones v. Mississippi. While the Court did not adopt further procedural protections for youth facing life without parole, it did affirm the prior precedents in Miller v. Alabama (2012) and Montgomery v. Louisiana (2016) that sentencing judges must consider the mitigating attributes of youth before a child charged with homicide can be sentenced to life without parole, and the core constitutional proposition that “youth matters in sentencing.” Additionally, the Jones Court made clear that state legislatures and Congress are empowered to enact legislation that bans life without parole for children and provides further procedural protections.

The Supreme Court of the State of Washington issued an opinion in State v. Haag, holding that the sentence of 46 years to life amounted to an unconstitutional de facto life sentence and that the sentencing court erred in giving undue emphasis to retributive factors over mitigating factors. The court reversed the sentence and remanded the case to the trial court for a new sentencing hearing.
Fines and Fees

- **Colorado**
  HB 21-1315 eliminates many fines and fees for young people in the youth legal system and their parents and waives outstanding legal system debt. Fines and fees eliminated include: costs associated with confinement; processing fees for court appointed attorneys; fees for participating in programs such as restorative justice and community service; and late payment and penalty fees.

- **Georgia**
  The Chatham County, Georgia juvenile court adopted a policy against imposing fines and discretionary fees.

- **Hawaii**
  The prosecuting attorney of Kaua`i County, Hawaii, signed a policy stating that prosecutors will not seek discretionary fines and fees in delinquency cases and will object if the court or other parties seek to impose fines or fees.

- **Louisiana**
  HB 216 eliminates all fees for youth under 18 whether in juvenile or adult court. This law sunsets in 2026.

- **Michigan**
  The Macomb County Circuit Court decided to no longer impose fines and fees in delinquency cases and waived $84 million in outstanding court debt.

- **New Jersey**
  S-3319/A-5507 eliminates almost all remaining youth legal system fees and financial penalties, and waives the outstanding debt related to these fees.

- **New Mexico**
  HB 183 abolishes all court costs for children and their parents in delinquency proceedings and costs related to court appointed counsel, including the application fee. It also eliminates fines for possession of marijuana by a minor.

- **Oregon**
  SB 817 eliminates all fees and fines charged to youth and families involved in the youth legal system and waives outstanding juvenile system debt.

- **Texas**
  SB 41/HB 4417 repeals some fees in youth legal system cases.

- **Virginia**
  HB 1912 repeals the fee for incarcerating youth in state Department of Juvenile Justice facilities.
**Interrogation**

- **Delaware**
  HB 215 requires the recording of adult and youth custodial interrogations.

- **Illinois**
  SB 2122 provides that oral, written, or sign language statements of minors made during a custodial interrogation is presumed to be inadmissible as evidence in a criminal or juvenile court proceeding if the law enforcement officer engaged knowingly engages in deception.

- **Nevada**
  A. 132 requires the police to read a simplified version of the Miranda warnings to children before initiating a custodial interrogation and to advise them that they have a right to have a parent, guardian, or lawyer present.

- **New York**
  S6533 requires that the entire interrogation of a child, including the giving of any required notice to the child as to his or her rights and the child’s waiver of any rights, must be video recorded in a manner consistent with standards established by rule.

- **Oregon**
  SB 418 provides that a statement made by a minor during a custodial interview is presumed to be involuntary if the court determines that the law enforcement officer intentionally used information, they knew to be false to elicit the statement.

- **Utah**
  HB 158 provides that a child has the right to have a parent/guardian or friendly adult present during a custodial interrogation and the child may not be interrogated unless the child waives their constitutional rights and the child’s parent/guardian or friendly adult was present during the waiver and gave permission for the child to be interrogated. If a minor has been admitted to a detention facility, then the minor may not be interrogated unless they have had a meaningful opportunity to consult with their attorney, they waive their rights after consultation with the attorney, and the attorney is present for the interrogation.

- **Washington**
  HB 1140 provides that youth cannot be interrogated before consultation with an attorney, with exceptions in cases where the officer believes the youth is a victim of trafficking or that the information is necessary to protect an individual’s life from an imminent threat.

**Mandatory Minimums**

- **Colorado**
  HB 1091 provides that there will be no mandatory minimums for youth transferred from juvenile to adult court.

- **Illinois**
  HB 3513 removes mandatory penalties that create longer sentences for younger teens than for older youth who commit the same offenses. Youth labeled as Habitual Juvenile Offenders or Violent Offenders will no longer be committed until age 21, but instead will receive a proportionate extension to their stay. The bill also clarifies concurrent sentencing, so that calculating sentences is done uniformly for youth across the state.
Mental Health

- **Maine**
  LD 118 requires the Department of Health and Human Services (DHHS) to work with hospitals to develop a data collection and reporting system to document the number of children with behavioral needs who remain in hospital emergency rooms after they no longer need a medical hospital level of care. It also requires DHHS to report on the number of children served by crisis providers and the number of children who waited for the appropriate level of behavioral health treatment in a hospital emergency room for the preceding year and removes the requirement for the department to provide monthly reports on the status of children’s crisis services.

Policing

- **Colorado**
  SB 174 mandates the creation of a statewide model for peace officer credibility disclosure notifications and requires law enforcement agencies and district attorneys’ offices to adopt the policies and procedures in the model by January 1, 2022. The bill also requires the Peace Officer Standards and Training (P.O.S.T.) Board to create a searchable online database containing information related to a peace officer’s actions that resulted in a credibility disclosure notification.

- **Illinois**
  Senate Amendment 2 to House Bill 3653 makes wide-ranging criminal justice reforms that include the following:
  - Expands training and reliance on emergency medical response and crisis intervention techniques, rather than law enforcement response to conflict
  - Citation rather than arrest for low level (Class B/C) misdemeanor offenses
  - Body cameras requirement
  - Mandatory training on mental health, crisis intervention, and racial equity with certification requirements
  - Abolition of cash bail

**Perspective From the Field: Impact of Policing Reform in Illinois**

George Floyd’s killing at the hands of Minnesota police in the spring of 2020, and the resulting national protests, created urgency to act on reforms that have been debated and well-researched for years. Luis Klein, the Director of Policy and Strategic Initiatives at the Juvenile Justice Initiative in Illinois, describes some of the history behind the sweeping policing reforms that took place in Illinois:

“These policy changes have been vetted through years of debate and are rooted in research. Indeed, the National Academy of Science came out with a report in 2014 that showed, pretty definitively, that mass incarceration has a negligible (if any) impact on crime rates. It really proved that we have to create alternatives to mass incarceration, which was the genesis of where we are right now: an understanding among advocates and the Illinois Legislative Black Caucus that we have to start thinking outside the box.”
– End of mandatory minimums for low level offenses
– Required first offense to be after age 21 to qualify for habitual/forcible felony sentencing

Racial Impact Statements

• Maine
  LD2 requires, upon request of a committee of the Legislature, that the commissioner of a department or director of an agency provide the legislative committee with data, analysis, and other information necessary to prepare a racial impact statement. A racial impact statement is defined as an assessment of the potential impact that legislation could have on historically disadvantaged racial populations. It also establishes a process to pilot and study the use of racial impact statements and requires the Legislative Council to make a recommendation regarding whether to expand or eliminate the use of racial impact statements to the 131st Legislature no later than December 15, 2022.

• Maryland
  The Maryland General Assembly started a pilot project in which nonpartisan analysts at the state Department of Legislative Services will generate racial impact statements on criminal justice bills, using data and assistance from Bowie State University and the University of Baltimore’s Schaefer Center for Public Policy.

• Virginia
  H.B. 1990 provides that the Chair of the House Committee for Courts of Justice or the Chair of the Senate Committee on the Judiciary may request the Joint Legislative Audit and Review Commission (JLARC) to review and prepare a racial and ethnic impact statement for a proposed criminal justice bill to outline its potential impact on racial and ethnic disparities. The bill requires JLARC to provide copies of the impact statement to the requesting chair and the patron of the proposed bill. No more than three racial and ethnic impact statements may be requested by each chair for completion during a single regular session of the General Assembly.

Raising the Minimum Age of Juvenile Prosecution and Confinement

• Connecticut
  HB 6667 raises the age of juvenile court jurisdiction from 7 to 10 years old.

• Delaware
  HB 115 raises the age of juvenile court jurisdiction to 12 years old with carve-outs for murder, rape, and firearm offenses. The legislation allows for the prosecution of children under 12 years old for title 11 violent felonies and misdemeanor crimes of violence only until January 1, 2022. After that time, children under the age of 12 who are suspected of committing a Title 11 violent felony or misdemeanor violent felony will instead be referred to the Juvenile Offender Civil Citation Program.

• Florida
  HB 7051 establishes a minimum age of 7 years old for arresting, charging, or adjudicating a child delinquent, unless the violation is for a forcible felony. This portion of the law is known as the “Kaia Rolle Act.”
• **Maine**  
  *LD 320* prohibits detaining a child under the age of 12 in a secure detention facility for more than seven days, except by agreement of the parties. It establishes age 12 as the minimum age a child may be committed to a juvenile correctional facility.

• **Mississippi**  
  *SB 2282* raises the minimum age of youth detention and commitment to 12 years old. Prior to the bill’s passage, children could be committed to state training schools or detention facilities at as young as 10 years old.

• **New Hampshire**  
  *SB 96* raises the age for juvenile court jurisdiction to 13 years old unless they are alleged to have committed a violent crime. It also removes certain offenses as the basis for transferring a child to adult court.

• **New York**  
  *S4051A* raises the lower age of delinquency jurisdiction from age 7 to 12 for all offenses other than homicide offenses, ending the arrest and prosecution of most children under the age of 12. It also ends the use of secure detention for children under age 13, except for homicide offenses. The legislation also does the following:
  - Creates an alternative response pathway for assessment and services for youth through local departments of social services (LDSSs);
  - Provides training for police and LDSS staff to ensure appropriate response and so that children and families can access services, when necessary;
  - Ensures records associated with services for youth are confidential and cannot be disclosed to anyone who is not involved in their treatment; and
  - Requires the Office of Children and Family Services to produce an annual report documenting how programs are ensuring safety and well-being.

• **North Carolina**  
  *SB 207* excludes 6 and 7-year-olds from juvenile court prosecution, but they can be served by local juvenile justice services as “vulnerable youth.” It raises the age to 10 for juvenile prosecution of many cases but provides carve-outs for 8 and 9-year-olds charged with a Class A-G felony offense or who have been previously adjudicated delinquent.

### Family Voices: Importance of Raising the Minimum Age

A mother’s son was arrested at age 13 over a stolen cell phone and spent 891 days locked up in a Maryland juvenile detention facility. In March of 2022, she described the resulting mental damage to *The Baltimore Sun*: “He lost things that nobody can give back.”

### Re-entry

• **Delaware**  
  *HB 162* establishes a Fund for the Provision of Juvenile Re-Entry Services, dedicating $500,000 to the fund for Fiscal Year 2022 to be used for the provision of cognitive behavioral therapy services and vocational training services to youth released from secure facilities.
Restorative Justice

- Illinois
  SB 64 establishes a statutory privilege for communications made during restorative justice proceedings. It removes a barrier to restorative justice by establishing a limited legal privilege, similar to that in mediation, to make communications in restorative justice practices inadmissible in later court proceedings.

- New Jersey
  A-4663/S2924 establishes the “Restorative and Transformative Justice for Youths and Communities Pilot Program,” which provides an $8.4 million investment to establish a two-year pilot program consisting of four restorative justice hubs in Camden, Newark, Trenton and Paterson. The goal of these Hubs is to transition funding away from incarceration and towards community-based alternatives. This model also collaborates with law enforcement, the judiciary, schools, the department of children and families and other places that touch youth to build a pipeline of resources so that suspension, expulsion, incarceration and other state alternatives are the last resort for addressing youth behavior.

Restraint and Seclusion

- Connecticut
  SB 6667 requires the Commissioner of Correction to review the Department of Correction’s use of chemical agents in facilities housing youth under eighteen years of age and provide a detailed report on this data to the General Assembly by February 1, 2022.

- Illinois
  – HB 3513 prohibits the Department of Juvenile Justice from using isolation or room confinement for disciplinary purposes.
  – SB 2323 prohibits restraints on youth in care during transport by the Department of Children and Family Services, including chemical, manual, and mechanical restraints.

- Maine
  LD 1373 limits the use of physical restraints and seclusion in schools to instances where the student’s behavior poses imminent danger to themselves or others and there is no less restrictive, effective intervention available. Details include the following:
  – Limits physical to the least amount of force necessary to protect the student or other person and restraint must end immediately on cession of the dangerous behavior.
  – Prohibits use of restraints that restrict breathing or blood flow to the brain, including prone restraint; and also prohibits the use of seclusion or restraint that is contraindicated based on a student’s disability or medical condition.
  – Requires the Maine Department of Education to provide technical assistance to schools to support efforts to reduce the use of restraint and seclusion.
  – Requires schools and other covered entities report data on use of seclusion and restraint.
• Michigan
  – Michigan passed an emergency rule banning prone restraints and has a final rule pending that will prohibit the use of many restraints in child care institutions, including private secure juvenile justice facilities, such as chemical restraints, restraining youth to fixed objects, prone restraints, and restraint for punishment or discipline, and it also limits seclusion.
  – The Michigan Supreme Court adopted Rule 3.906 limiting the use of shackling and other restraints on young people in court. Restraints can be used only if the court finds that the youth is a risk to themself or others, the youth has a history of placing themself or others at risk, or the youth is at risk of fleeing from the courtroom. This determination must be made prior to the youth appearing before the court.

• New York
  S2836 prevents youth 21 years or younger from being held in solitary confinement and limits their keep-lock placement (confinement prior to a disciplinary hearing) to 48 hours.

• Utah
  SB 127 limits the use of restraint and seclusion in congregate care programs and requires facilities to develop written policies and procedures around their use that include numerous specified details. Seclusion can only be used if the purpose is to secure the immediate safety of the child or others and no less restrictive alternative is likely to do this.

School-to-Prison Pipeline
• Connecticut
  HB 6667 establishes a committee for the purpose of developing a plan to phase in a ban on suspensions and expulsions of students in any grade.

• Maine
  – LD 474 prohibits the expulsion of a child in fifth grade or below. It also prohibits the out-of-school suspension of a child in fifth grade or below unless there is imminent danger of serious injury to the student or others and a less restrictive intervention would be ineffective. It requires that a student subject to a school expulsion proceeding be provided with a list of free and low-cost legal services available to the student.
  – LD 1451 provides due process standards for expulsion proceedings and provides school boards with increased flexibility to allow superintendents and principals to consider alternatives to expulsion. It also adds restorative interventions as an option to the requirement to develop an individualized response plan to address dangerous student behavior.

Sex Offenses
• Illinois
  HB 24 requires education on possible criminal and legal liability from “sexting.” This bill continues Illinois’ practice of keeping sexting cases out of juvenile delinquency court.

• Utah
  SB 50 provides that if a minor is convicted in District Court for a sex offense, they are not required to register on the sex and kidnap offender registry, they must be sentenced consistent with a disposition that would have been made in juvenile court, incarceration is limited, and some convictions are subject to expungement.
Status Offenses

- **Idaho**
  
  HB 26 prohibits placing youth charged with status offenses in juvenile detention centers. However, it does not get rid of the Valid Court Order exception.

Youth in Adult Court

*Pre-Trial Detention of Youth Tried as Adults*

- **Alaska**
  
  HB 105 provides that unless found by a court to be in the interest of justice, after considering enumerated factors based on the requirements of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA), a minor being charged and tried as an adult must be held in a juvenile detention facility, and transferred to an adult correctional facility upon turning 18 years of age.

- **Connecticut**
  
  CT HB6667 requires the Judicial Branch to develop an implementation plan to securely house in the custody of the Judicial Branch any person under eighteen years of age who is arrested and detained prior to sentencing or disposition on or after January 1, 2023.

- **Indiana**
  
  SB 368 prohibits children from being housed pre-trial in adult jails unless it finds it to be in the best interests of justice after considering enumerated factors based on the requirements of the JJDPA.

- **Iowa**
  
  SF 357 complies with JJDPA restrictions on confining minors in adult facilities by providing that transferred minors awaiting trial must not be detained in adult facilities unless the court determines, after a hearing and consideration of specified factors, that such detention is in the best interests of the child. The court must issue written findings.

- **Missouri**
  
  SB 53 follows the JJDPA restrictions on minors in adult confinement by providing that all youth under the age of 18 who were certified to be tried in adult court prior to August 28, 2021, shall be transferred from adult jail to a secure juvenile detention facility, unless a hearing is held and the court finds that it would be in the best interest of justice to keep the young person in the adult jail.

- **Oklahoma**
  
  HB 2311 provides that for all youth under 18 juvenile detention facilities shall be the initial placement. However, youth aged 15 and older charged with murder in the first degree may be detained in an adult facility after a hearing in which the child is provided representation and the court makes a written finding that it is in the interest of justice that the child be placed in an adult facility after considering specified factors. The legislation also allows youth to be placed in adult facilities if they are sight and sound separated from adults and the facility meets the requirements for licensure of juvenile detention facilities and is appropriately licensed.

- **Utah**
  
  HB 384 does not fully comply with the JJDPA provisions but comes very close. It provides that if a minor is 16 or 17 years old and arrested for murder, in determining where to detain the minor the adult court should consider a number of factors.
• **North Dakota**
  While North Dakota did not amend their statute to comply with the JJDPA provisions, the ND Department of Corrections & Rehabilitation modified the ND Correctional Facility Standards to ensure that adult facilities deny any admission of individuals under the age of 18, including those charged as adults. Stakeholders have been notified that all persons under the age of 18, including those charged as adults, need to be held in youth facilities.

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

• **California**
  - **SB 1391** amends Proposition 57 to eliminate the transfer of 14 and 15-year-old youth to adult criminal court
  - **AB-624** establishes that an order transferring a minor from a juvenile court to a court of criminal jurisdiction is subject to immediate appellate review if a notice of appeal is filed within 30 days of the order transferring the minor.

• **Delaware**
  **HB 115** prevents the transfer of youth under the age of 16 to adult court unless they are alleged to have committed murder or rape.

• **Kentucky**
  **SB 36** amends KRS 635.200 to remove automatic transfer of a child from District Court to Circuit Court and amends KRS 640.010 to specify additional factors to be considered in determining whether a child’s case should be transferred from District Court to Circuit Court.

• **Maine**
  **LD 27** provides a young person who is being prosecuted as an adult the opportunity to appeal a bindover decision immediately following the decision, or following conviction in adult court, but not both.

• **Missouri**
  **SB 53** provides funding for the purpose of implementing and maintaining the expansion of juvenile court jurisdiction to 18 years of age.

• **Nevada**
  **AB 230** limits statutory exclusion to only murder and felonies that cause significant bodily harm (previously also encompassed handgun and sexual assault charges).

• **New York**
  **S. 282/A.6769** provides people who were eligible for youthful offender (YO) status but denied it in the past a new opportunity to apply for it. The measure is an important extension of the 2017 “Raise the Age” law.

• **North Carolina**
  **SB 207** provides that in cases where there had been automatic transfer to adult court of 16 and 17-year-olds, prosecutors can choose to keep the case in juvenile court when youth are charged with particular offenses.
• **Utah**

  **HB 384** makes a number of changes to youth transfer:

  - It limits the transfer of 14 and 15-year-olds to adult court to the offenses of murder and aggravated murder.
  - It provides that transfer proceedings for 14 and 15-year-olds and for 16 and 17-year-olds charged with serious offenses must start in juvenile court, shifts the burden to the prosecutor to show probable cause, and requires the prosecutor to prove that it is against the best interests of the minor and the public for the youth to stay in juvenile court. The court must consider a number of factors in making its determination.
  - A young person subject to transfer can petition to stay in juvenile court and be subject to extended jurisdiction that can go up to age 25.
  - A young person transferred or direct filed into adult court can stay housed in juvenile facilities until the age of 25.