



TREATING KIDS LIKE KIDS: Establishing a Minimum Age of Juvenile Court Jurisdiction

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THE NATIONAL YOUTH JUSTICE NETWORK: ABOUT US



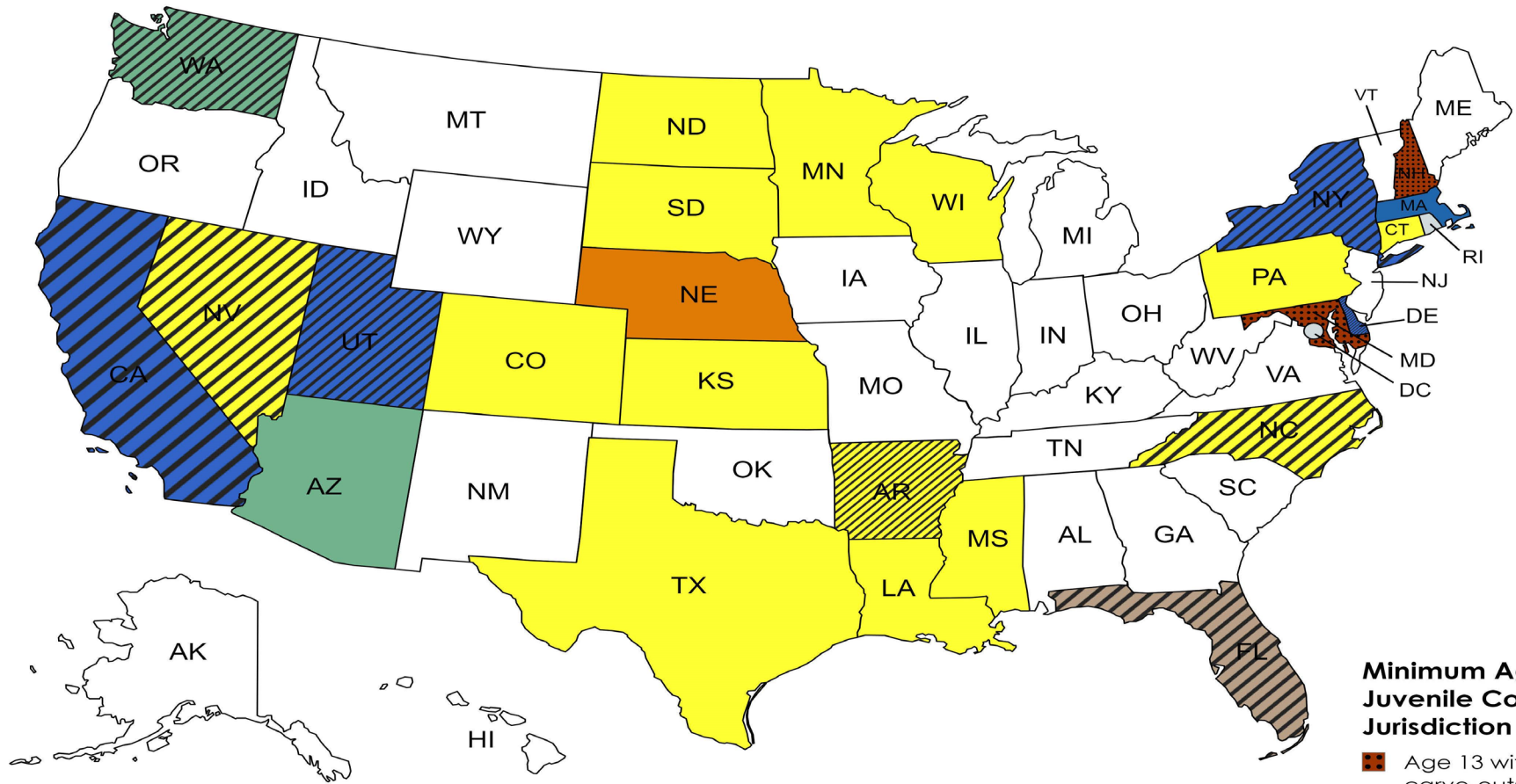
- ❑ **LEAD** a national movement of 60 state-based community advocacy organizations, alumni of our Youth Justice Leadership Institute, and allies and national partners across 42 states and DC
- ❑ **WORK** to create systemic youth justice transformation in states across the country that prioritize community-based, trauma-informed , and healing-centered responses to youth needs
- ❑ **PURSUE** anti-racist youth justice transformation, understanding that our youth justice systems are inextricably bound with the systemic and structural racism that defines our society

Age of Juvenile Court Jurisdiction

- ▶ “Juvenile court jurisdiction” means the age at which children can be prosecuted for a delinquency case in a juvenile court.
- ▶ We will be discussing the lower age limit – the minimum at which children can be prosecuted.
- ▶ This advocacy is sometimes referred to as “raising the floor.”
- ▶ Currently, 26 states in the U.S. have established a minimum age of juvenile court jurisdiction.
- ▶ The U.S. federal government does not have a minimum age but there is legislation to establish a minimum age of 12 years old.

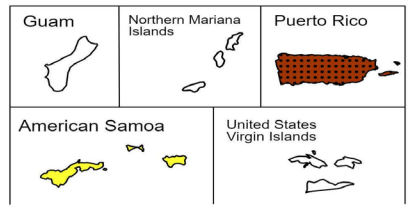


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Minimum Age of Juvenile Court Jurisdiction

-  Age 13 with carve-outs
-  Age 12
-  Age 12 with carve-outs
-  Age 11
-  Age 10
-  Age 10 with carve-outs
-  Age 8
-  Age 8 with carve-outs
-  Age 7 with carve-outs
- NO minimum age



State Laws on Minimum Age of Jurisdiction

Minimum Age of Jurisdiction	Number of States	Which States?
Age 13	2	Maryland, New Hampshire
Age 12	5	California, Delaware, Massachusetts, New York, Utah
Age 11	1	Nebraska
Age 10	15	Arkansas, Colorado, Connecticut, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin
Age 8	2	Arizona, Washington
Age 7	1	Florida

Movement on Raising the Minimum Age of Jurisdiction or Confinement

- In 2018, California established a minimum age of juvenile court jurisdiction of 12 years old and Massachusetts raised their age from 7 to 12 years old.
- Since then:
 - ❑ 8 more states have raised or established a minimum age of jurisdiction (UT, CT, DE, FL, MD, NH, NY, NC)
 - ❑ 5 states have raised or established a minimum age of confinement (CA, IN, ME, MS, NE)
- Currently, New Jersey has a bill to establish a minimum age of juvenile court jurisdiction of 14 years old and Minnesota and Pennsylvania have bills to raise their ages from 10 to 13 years old.

International Standards

- ▶ The UN Committee on the Rights of the Child, which monitors the implementation of the UN Convention on the Rights of the Child (CRC), issued General Comment No. 24 in 2019 in which they encouraged nations to **increase their minimum age of criminal responsibility to at least 14-years-old with no exceptions carved out.**
- ▶ In 2019, the United Nations Global Study on Children Deprived of Liberty released its report also recommending that nations set the minimum age of prosecution in juvenile court at 14-years-old.



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Minimum Ages Internationally

- “Minimum age of criminal responsibility” is the term most commonly used internationally.
- Fourteen is the most common age of criminal responsibility internationally.
- Australia currently has a minimum age of 10 years old and is trying to raise it to 14: [Australia video](#)

Why set a minimum age?

- ▶ Young children don't have the capacity or competency to stand trial.
- ▶ Capacity - the inability of children to appreciate the nature and wrongfulness of what they have done, to fully know right from wrong.
- ▶ Competency – In *Dusky v. United States*, the U.S. Supreme Court held that competency to stand trial is a constitutional right and established a standard for determining competency:
 - ❑ “The ‘test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding -- and whether he has a rational as well as factual understanding of the proceedings against him.’”
- Legal experts and social scientists have voiced significant concerns about young children's competency to understand and exercise their legal rights in any meaningful way.

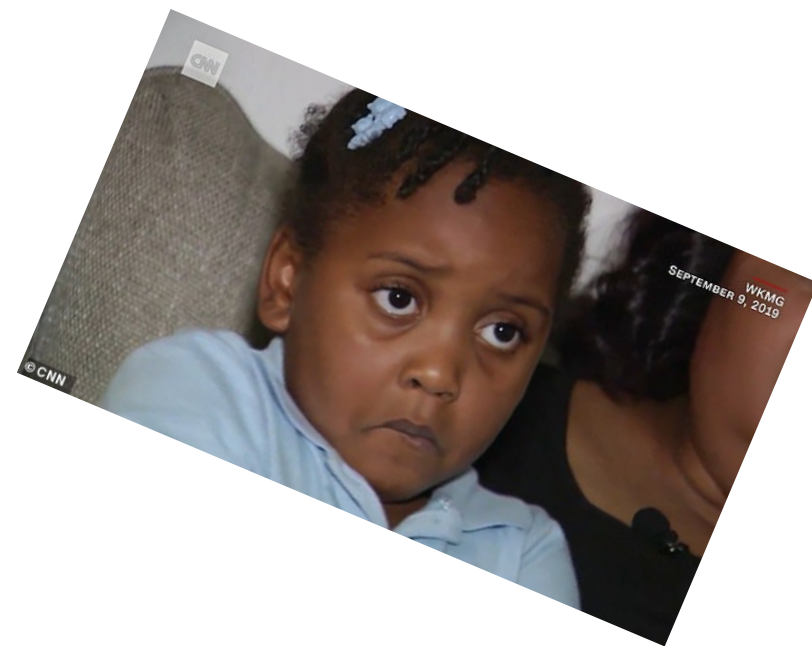
Why not just rely on caselaw?

- ▶ Applying competency and capacity laws to young children on a case-by-case basis can result in inequitable and unfair treatment of young children.
 - ▶ Many youth do not receive high quality evaluations, a problem disproportionately impacting youth of color.
 - ▶ Some of the issues uncovered in a California study on capacity law implementation:
 - ❑ Inconsistency in the administration of capacity assessments;
 - ❑ Lack of trainings on how to administer assessments;
 - ❑ inconsistency in the multiple factors counties were considering;
 - ❑ Prosecutors who were circumventing the law.

Disproportionate Criminalization

- ▶ Research has found that adults with a history of child incarceration were disproportionately Black or Hispanic, male, and from lower socio-economic backgrounds.
- ▶ Of the 5-9 year olds arrested between 2000 and 2019, 43 % were Black even though they only comprised 15% of the youth population of that age range.
- ▶ Looking at all youth, Black youth are more than four times as likely to be detained or committed in juvenile facilities as their white peers, according to nationwide data (Oct. 2019).
- ▶ This data also shows that in New Jersey, Wisconsin, District of Columbia, and Connecticut, Black youth are at least 10 times more likely to be held in placement as are white youth.

Arresting and Prosecuting Young Children Causes Trauma



Kaia Rolle

- ▶ Kaia Rolle was handcuffed and arrested in Florida for throwing a temper tantrum in first grade.
- ▶ **Video** shows the child tearfully pleading with the officers to let her go before they restrained her with zip ties.
- ▶ Prior to the arrest she was a happy, outgoing child.
- ▶ Now two years later, at 8 years old she suffers from PTSD and separation anxiety. Her grandmother says she lives a “solitary lifestyle.”
- ▶ “Kaia was so short that the officer had to find a footstool so that she would be at the appropriate shot so he could take her mugshot.”

What the research tells us

- ▶ Younger children are at the greatest risk of being victims of violence when in custody
 - ▣ A 2014 report found that more than one quarter of youth under 13 years old were victims of some type of violence while confined, compared to nine percent of 20-year-olds.
- Youth incarceration is traumatic to both youth and their families and can create “a state of toxic stress that disrupts healthy brain development.”
- Incarceration at a young age (7 to 13-years-old) is associated with the highest rates of poor adult health outcomes for physical and mental health—including worse adult general health, functional limitations, depressive symptoms, and suicidality, compared to youth first incarcerated at older ages and youth never incarcerated.

Alternatives to arrest and prosecution

- ▶ Families often provide the best support and accountability for their children.
- ▶ For children struggling with more significant problems, other systems can provide support and address the root causes of a child's behavior without justice system involvement:
 - ▶ Mental health system
 - ▶ Child welfare system
 - ▶ School system
- ▶ Law enforcement can still respond to dangerous situations and mitigate the immediate danger.

State Example: Maryland

- ▶ Maryland raised their age to 13 in 2022 with an exception for children at least 10 years of age that are alleged to have committed a crime of violence.
- ▶ Alternatives to prosecution include:
 - ▶ Child in Need of Services petitions
 - ▶ Anyone can file such a petition with the Dept. of Juvenile Services (DJS)
 - ▶ DJS can refer a child to services or petition to the court to provide formal supervision
 - ▶ Local Care Teams (LCT) - multidisciplinary teams that exists in every county in the state.

NYJN Recommendation

- NYJN recommends that all states set a reasonable minimum age for prosecuting children in court and **we recommend that age be no lower than 14-years-old.**
- For further details see our policy platform at:
 - https://www.njcn.org/uploads/digital-library/updated%20March%202021%20NJCN%20Policy%20Platform_RaiseTheMinimumAge.pdf
- Join our coalition to raise the minimum age by emailing Melissa Goemann at Goemann@nyjn.org.

RESOURCES

- ▶ NYJN website section: [Raising the Minimum Age for Prosecuting Children](#)
- ▶ NYJN [Policy Platform](#) and [Policy Toolkit](#) on Raising the Minimum Age (raise the age to 14)
- ▶ [Brief: Charting U.S. Minimum Ages of Jurisdiction, Detention, and Commitment](#)
- ▶ [American Bar Association Resolution](#) (raise the age to 14)
- ▶ [Child and Adolescent Health Group Statement](#) (raise the age to 12)
- ▶ [American Academy of Pediatrics](#) (raise the age to 12)

Questions?

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