

ADULTS OR KIDS?

States debate what the best response is to teenagers who commit crimes.

BY SARAH HAMMOND

When teenagers break the law, do they need rehabilitation or punishment? For several years in the 1990s, state lawmakers decided to treat young lawbreakers as adults, sending them to prison with tough sentences. In recent years, however, some states are rethinking the wisdom of such punishment.

Last session, Connecticut, which automatically tried 16- and 17-year-olds in adult court—giving it the largest number of inmates under the age of 18—changed course.

What the public didn't know, says Connecticut Representative Toni Walker, was that "only 3 percent of these young people are dangerous."

For years, Representative Walker has been trying to change Connecticut's treatment of youths in the criminal justice system. The process was arduous. Members of the Juve-



**REPRESENTATIVE
TONI WALKER
CONNECTICUT**

nile Jurisdiction Planning and Implementation Committee, which Walker chairs, looked at the number of kids involved in the system. They talked with local police chiefs, children's advocates, lawyers, judges and staff from the departments of Children and Families and of Corrections. They examined what was working in other states.

What really turned lawmakers around, Walker says, was learning that high school drop-outs are often the same kids ending up

Sarah Hammond specializes in juvenile justice and victims' issues for NCSL.



in the criminal justice system. When kids aren't in school, they get in trouble, she says. The majority of young people tried as adults in Connecticut are arrested for minor, non-violent crimes such as drug possession, fighting and disorderly conduct. "We realized it was finally time to take action," she says.

Last year, the legislature raised the age of juvenile court jurisdiction from 16 to 18, returning 16- and 17-year-olds to the juvenile system starting July 1, 2009.

"The 'adultification' of young people who commit crimes has become a significant part of many states' anti-crime policies even though research shows that it harms children

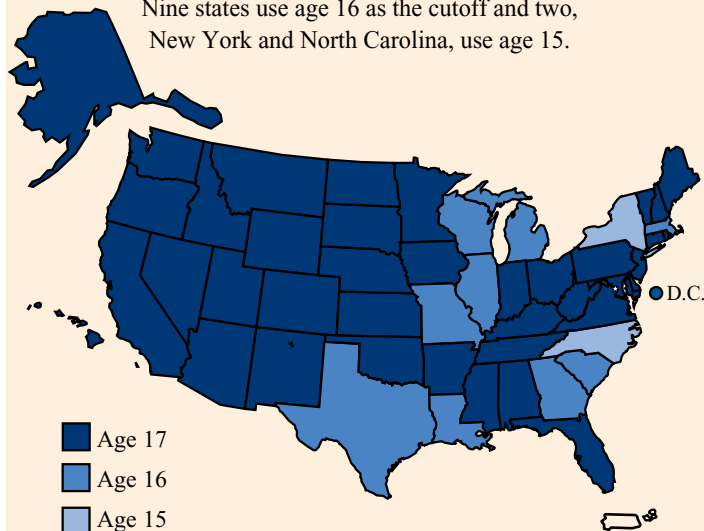
and does not improve public safety," says Walker.

She says the new law places Connecticut at the forefront of a trend to reduce the number of youth sent to the adult system. At the same time, it will create safer communities by strengthening the juvenile justice system where education and treatment is emphasized over punishment. "The end result of this effort is a product of statewide collaboration and is expected to save tax dollars over time," Walker says. Young offenders will have more opportunity to be rehabilitated in the juvenile system and not as likely to re-offend, thus reducing crime and the costs

DECIDING WHO CAN BE TRIED AS A JUVENILE

There is no uniform maximum age for juvenile courts in all 50 states. Each legislature defines who is eligible for juvenile and adult courts. But the majority of states (39), now including Connecticut, send teens through age 17 to juvenile court.

Nine states use age 16 as the cutoff and two, New York and North Carolina, use age 15.



Many states have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect or dependency matters—typically through age 20.

associated with crime.

“Holding kids accountable is an important component of rehabilitation,” Walker says. “There are still penalties in place for kids who commit crimes. But we will hold them accountable in a setting that’s designed to improve their behavior rather than exacerbate it. Sending kids to adult prisons is a great way to create adult criminals.”

WHAT WORKS?

There are still those who contend that safety must be No. 1 as legislatures update juvenile justice systems or send juveniles to adult court.

They argue that juvenile offenders have become more violent. Kids are using guns instead of knives and knives instead of fists. Additionally, drug sales and substance abuse are widespread. A dangerous mix of guns, gangs and drugs have become endemic to our society and now cross over from cities into suburban areas.

States have ways to try juveniles in adult court when the crime is particularly heinous. All but Nebraska, New Mexico and New York use judicial waiver, meaning a juvenile court judge can send a case to adult criminal court based on the circumstances of the offender or the alleged act. Twenty-nine states have statutory exclusion which automatically keeps certain juvenile offenders, usually based on age and offenses, from being tried in juvenile court. Fifteen states allow concurrent jurisdiction, sometimes called prosecutorial discretion or direct-file, which lets prosecutors decide how to file charges in many cases. Most states have some combination of these mechanisms.

OTHER RECENT STATE ACTIONS

After approving an executive proposal in 2006 that decreased the age of juvenile jurisdiction from 17 to 16, Rhode Island lawmakers reversed the action this session, keeping 17-year-olds in juvenile court.

Lawmakers in Illinois, Missouri, New Hampshire, New York, North Carolina and Wisconsin have debated legislation to raise their ages in the past two years, but the measures did not move forward.

In Virginia a new measure, however, did change the “once an adult, always an adult” law. Previously, a one-time transfer of a youth to adult court was enough to keep that teen in the adult system for all future proceedings, no matter how minor the charge, even if he was acquitted or had the case dismissed. The new law requires that youth must now be convicted of an offense when they are transferred to adult court in order to be tried in adult court for all future offenses.

Another way states are rethinking adult treatment of young people is by focusing on how and when to protect the confidentiality of juvenile records for schooling, employment or other transitions to adulthood. New laws in Arkansas, Illinois, Kansas, New Mexico and New York deal with the protection of juvenile records.

Only three states have lowered the maximum age of juvenile court jurisdiction in recent years. This is considered a drastic step because it moves an entire age group of adolescents into the adult system. Wyoming did so in 1993, moving 18-year-olds to adult court. New Hampshire and Wisconsin changed their systems in 1996, moving 17-year-olds to adult court. But in 2007, New Hampshire voted to again consider 17-year-olds juveniles.

SUPPORTING RESEARCH

Although there are some juveniles who truly need to be incarcerated, it is often circumstances, such as child abuse, neglect or poverty, that lead to criminal behavior, says Representative Walker. “The key to treating youthful offenders is effective ‘habilitation,’ not rehabilitation.”


A Center for Disease Control Prevention Task Force found that juveniles who enter the adult justice system, on average, commit more violent crimes following release than juveniles retained in the juvenile justice system. Researchers at the John D. and Catherine T. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice found that adolescents processed in New York adult courts, which they enter at age 16, were more likely to be re-arrested more often and more quickly for serious offenses than those in New Jersey, where youth are kept out of adult court until age 18.

And the Wisconsin Legislative Audit Bureau reported that young criminals coming out of Wisconsin’s prisons are even more likely to re-offend and end up back behind bars than their adult counterparts.

THE ROAD AHEAD

Growing research along with analysis of state data can help guide states as they make critical judgments about when young criminals should be treated as adults. The change in the age of juvenile jurisdiction in Connecticut will move more than 10,000 new cases a year from the adult criminal justice system to the juvenile justice system. This was one of the challenges facing Representative Walker as she pushed the law through.

“As states face the fiscal burdens of growing prison populations, public safety concerns and the desire to prevent juvenile offenders from becoming career criminals,” she says, “I hope other states consider Connecticut’s experience.”

 **CHECK OUT** each state’s options to impose adult sanctions on juvenile offenders at www.ncsl.org/magazine.