

# Juvenile Justice Quarterly



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## State Policy and Legislative News

### Kentucky and Mississippi create juvenile justice related task forces

#### Kentucky

In early Apr. 2012, the Kentucky General Assembly passed [KY HCR 129](#), establishing the Unified Juvenile Code Task Force. The task force is charged with studying issues related to status offenders, alternatives to detention, reinvestment of savings to create community based treatment programs, and feasibility of establishing an age of criminal responsibility. Representative John Tilley and Senator Katie Stine co chair the committee. In a press release Tilley said "Frankly, the juvenile code is out-of-date...But this task force will give the legislature the foundation to change that."

[The Task Force's first regular meeting](#) took place Jul. 31, 2012, and regional judges testified about what they see as the most important juvenile justice reform needs in Kentucky. One of the judges told the task force that placing juvenile status offenders in the court system creates an adversarial

environment which does not address the real needs of juveniles and their families. The task force must submit a report to the Legislative Research Commission on Nov. 1, 2012, to suggest proposed legislation for 2013.

#### Mississippi

The Mississippi Legislature recently passed legislation establishing a juvenile detention alternatives task force. [SB 2598](#) will support the expansion of the [Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative \(JDAI\)](#) to establish more effective and efficient systems to accomplish the purposes of juvenile detention without jeopardizing community safety. Mississippi now has five sites participating in JDAI. The new law also recommends the task force develop juvenile detention licensure standards to apply to all juvenile detention facilities in the state.

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## Federal News

Effective Aug. 10, 2012, the Senate will no longer need to confirm the administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Under the Presidential Appointment Efficiency and Streamlining Act, passed by Congress and signed by the president earlier this summer, the Senate will no longer have to confirm the nominations of 170 government positions, including the administrator of the OJJDP. Some in the

juvenile justice community oppose this decision because they believe it may diminish the importance of the office. Proponents of the Appointment Efficiency and Streamlining Act argue that the selection and appointment process of administrators will be simplified, enabling them to get to work faster on the important issues. [Melodee Hanes](#) is the acting administrator of the OJJDP.

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## From the Courts

### Courts address due process, juvenile representation

#### **New Jersey**

In Aug. 2012, a three-judge appeals panel in New Jersey [ruled that juveniles in the state currently housed in youth detention facilities are entitled to hearings before being transferred to adult prisons for disciplinary reasons](#). The decision strikes down a state administrative regulation that allowed officials to move some juvenile offenders to adult prisons without notifying them of the proceedings or giving them a chance to challenge the transfer. The ruling stems from a case involving a juvenile offender sentenced to four years in a juvenile facility after being found

delinquent on armed robbery charges in 2010. After the juvenile turned eighteen, he was charged with subsequent disciplinary infractions and the Juvenile Justice Commission then determined he should be transferred directly to adult prison. “The transfer of a juvenile to an adult prison significantly changes the focus of incarceration away from rehabilitation and toward security and punishment,” Judge Alexander Waugh, Jr. wrote on behalf of the panel. “For those reasons, we conclude that there must be a sufficient level of procedural due process to protect the juvenile’s interests.”

#### **Illinois**

In Aug. 2012, the Illinois Supreme Court ruled in the case [In re Austin M.](#) that children have the same right to advocacy as adults charged with crimes. The juvenile defendant’s attorney in the case acted as an advocate for the defendant, but also as a guardian ad litem (GAL). The Court said that an attorney may not act both as a GAL and as defense counsel for a minor in juvenile delinquency proceedings. The majority held that an attorney may not assume both roles, finding that such “hybrid representation” constitutes a conflict of interest.

### California decisions on adolescent development

[Graham v. Florida](#), a 2010 U.S. Supreme Court case, abolished the sentence of life without the possibility of parole for youth convicted of non-homicide crimes because it violates constitutional prohibitions against cruel and unusual punishment. A recent California Supreme Court case, [People v. Caballero](#), extended *Graham* by

ruling that sentencing a juvenile to 110 years before becoming parole eligible for attempted murder denied Caballero a meaningful way to show reform.

In this case, the state argued first that even though the defendant, Rodrigo Caballero, did not kill anyone in his gang shooting, he still intended to kill when he pulled the

trigger. Secondly, they asserted that Caballero’s sentence of 110 years was not the same as a life sentence without parole.

However, the California Supreme Court ruled that the sentences were essentially the same and that “although proper authorities may later determine that youths should remain incarcerated for their



natural lives, the state may not deprive them at sentencing of a meaningful opportunity to demonstrate their rehabilitation and fitness to reenter society in the future.”

Key to their ruling was their interpretation of another recent Supreme Court case [Miller v. Alabama](#). The Court found that *Miller* made it clear that *Graham’s* “flat ban” on life without parole sentences for juvenile

offenders in non-homicide cases applies regardless of the defendant’s intent to kill.

Accounting for a juvenile’s youth in sentencing for specific crimes, and determining what expanse of time will grant a meaningful opportunity for them to exhibit reform, is an issue before many states in light of the recent Court decisions. For example, in Sep. 2012, California enacted [SB 9](#), a resentencing bill that

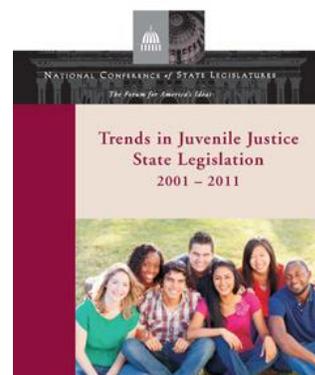
enables a convict serving life without parole, who was under 18 years old at the time they committed their crime, to submit a petition for resentencing. To submit the petition the defendant must have served at least 15 years of their sentence and must not have tortured their victim during the commission of their crime, among other limitations.

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## NCSL Publications

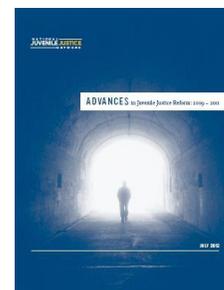
### *NCSL Report Shines Light on State Trends in Juvenile Justice Legislation Over Past Decade*

As juvenile crime rates have dropped over the last decade, state legislatures have reexamined juvenile justice policies to balance the interests of both public safety and the rehabilitation of young offenders, while seeking to make them as cost effective as possible as well during a difficult budget climate. A new report, *Juvenile Justice Trends in State Legislation, 2001–2011*, released in August by the National Conference of State Legislatures (NCSL), explores trends in juvenile justice state legislation over the past decade including distinguishing juveniles from adult offenders, restoring the jurisdiction of the juvenile court, increasing due process protections for juveniles, and detention reforms.



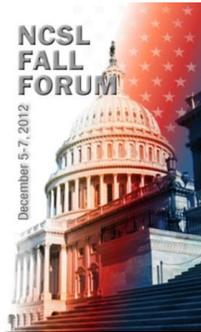
## Other Juvenile Justice Publications

On Thursday, September 20, 2012 the National Juvenile Justice Network released [Advances in Juvenile Justice Reform: 2009–2011](#), a 63–page compendium of recent juvenile justice reforms. The document includes a wide array of youth justice reforms from across the country: new laws, administrative rule and practice changes, court decisions, and innovative commissions and studies.



## Mark Your Calendar

### NCSL's Fall Forum, Dec. 5–7, 2012, Washington, D.C.



[NCSL's 2012 Fall Forum](#) will take place in **Washington, D.C., Dec. 5–7**. The meeting will focus on how best to advance the States' Agenda and address the challenging policy issues of our time, including budget deficits, health care coverage, education expenses, transportation funding, energy costs and more.

### NCSL Webinar and Technical Assistance

NCSL Juvenile Justice staff are available to visit your legislature in 2012 to provide testimony or other technical assistance on a variety of juvenile justice issues. Please contact: Sarah Brown, (303) 364–7700 ext. 1361 or at [sarah.brown@ncsl.org](mailto:sarah.brown@ncsl.org).



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