

Juvenile Justice Quarterly



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For more information please visit [NCSL's Juvenile Justice Bill Tracking Database](#).

State Policy and Legislative News

Pennsylvania limits shackling young offenders , Louisiana ends juvenile life without parole (JLWOP) for non-homicide offenses, California passes "Fair Sentencing for Youth Act", and more.

As of Dec. 2012, more than 100 bills were enacted in 40 state legislatures related to juvenile justice. The laws relate to a variety of topics including juvenile competency, due process, and sentencing and detention reform. Here is a sampling of some of the bills enacted.

In May 2012, the Pennsylvania General Assembly passed [Senate Bill 817](#), which addresses placing juveniles in shackles during court appearances. The new law requires the removal of restraints before a court proceeding unless there is a safety or escape risk determined on the record by the court and after the child has had a chance to be heard.

Louisiana [Senate Bill 317](#), signed into law in Jun. 2012, ended life without parole sentences for youth who commit non-homicide offenses, according to the standard set forth by the U.S. Supreme Court in [Graham v. Florida](#). The new law offers offenders who committed non-homicide crimes when they were under age 18 parole eligibility after 30 years. A three-person parole board must take into account the youth's state of mind, as determined by an expert in adolescent brain development and behavior.

In Sep. 2012, California passed [Senate Bill](#)

[9](#), the "Fair Sentencing for Youth Act," which allows individuals who were under age 18 at the time of their crime to ask the sentencing court to review their case and consider a new sentence that permits parole after serving 15 years. The law delineates that young offenders are not eligible if the crime involved torture or the killing of officials such as law enforcement officers. For the opportunity of parole or a reduced sentence, the offender must file a petition that includes a statement of remorse and progress toward rehabilitation. If an offender's petition for resentencing is turned down, the inmate may ask again after 20 years and then again during their 24th year in custody. Before the passage of the "Fair Sentencing for Youth Act" only representatives from the Department of Corrections or the Parole Board could recommend a young person's sentence be recalled. The sponsor of the bill, Senator Leland Yee, said that this legislation "provides the opportunity for compassion and rehabilitation that we should exercise with minors." [Some argued](#) however, that the bill might not be tough enough on crime and may encourage gangs to recruit younger teens to commit crimes, with the possibility that they could be paroled if caught.

State Policy, cont.

In the final days of 2012, Michigan enacted two juvenile justice laws related to competency and record expungement. [House Bill 4555](#) establishes competency standards for youth in Michigan, specifically the presumption of incompetence for any child under age 10 and a process for attorneys to raise competency for children older than 10 in juvenile court. The law requires those examining for competency to have experience in child and adolescent forensic evaluations and that the a child's competency evaluation must be conducted in the least restrictive environment. Michigan also

passed [HB 5600](#), which allows youth to petition for record expungement after 1 year instead of after 5 years.

In 2012, eight states—[California](#), [Colorado](#), [Hawaii](#), [Louisiana](#), [Ohio](#), [Oregon](#), [Vermont](#), and [Washington](#) — passed legislation to help victims of sex trafficking, who often are juveniles, reenter society by vacating or expunging prostitution charges. For example, Hawaii's new law allows sex trafficking victims to vacate prostitution convictions if they file a court motion proving they were trafficking victims.

On the Fiscal Front

According to the report, it costs New Jersey \$136,000 per year to detain one youth in a Juvenile Justice Commission facility.

A new report, [Kids Count Special Report: Juvenile Justice](#), published by Advocates for Children of New Jersey, details the success of community-based juvenile justice programs in New Jersey. In 2004, New Jersey became part of the Juvenile Detention Alternative Initiative (JDAI), a national project to reduce the number of juveniles in secure detention. JDAI shifts the justice system's focus from locking up juveniles toward addressing their behavior in the community, when it can be done safely. This report details JDAI's impact on the 16 New Jersey counties that have

implemented its principles over the last eight years.

According to the report, it costs New Jersey \$136,000 per year to detain one youth in a Juvenile Justice Commission facility. JDAI has helped New Jersey reduce its average daily population in these facilities by 400 youths. Four counties were even able to close their detention facilities by sending the few detainees to neighboring counties. All of the measures have resulted in an annual savings of \$16 million dollars.

According to the New Jersey Attorney General

Jeffrey S. Chiesa, "This report chronicles important, positive change as a result of New Jersey's commitment to juvenile detention reform. A young person's placement in the juvenile justice system should not depend on whether he or she comes from a suburb or one of our urban centers. It should not depend on race, ethnicity or gender. In New Jersey, many individuals and agencies have worked together successfully to establish a fair and consistent approach to juvenile justice, while at the same time maintaining public safety and saving taxpayers millions of dollars."

From the Courts

In Ohio, the state supreme court recently ruled that a juvenile’s right to counsel does not extend to questioning during police interrogations. In the case of [In re M.W.](#), a police officer stopped a vehicle driven by M.W., a juvenile. After the police officer questioned M.W., the youth admitted to participation in a firearm-enhanced robbery that occurred a few nights earlier. M.W. was arrested and brought to a police station where he signed a waiver of his rights and a statement admitting guilt. M.W. was ultimately found delinquent by a juvenile court magistrate.

On appeal, M.W. challenged the juvenile courts ruling on the basis that Ohio law ([Ohio Rev. Code. Ann. §2151.352](#)) guarantees juveniles a

right to counsel during “proceedings.” The court ruled against M.W., holding that a “proceeding” includes only those conducted by the juvenile court and that during police interrogations the juvenile’s right to counsel has not yet attached.

The opinion was published on Oct. 3, 2012, and in response a new bill, [Ohio HB 597](#), was introduced on Oct.10, 2012 by Representatives Tracy Maxwell Heard and Ross W. McGregor. The proposal would extend a juvenile’s right to counsel to any “custodial interrogation,” which includes any questioning that occurs while police are holding a juvenile. HB 597 would also disallow a youth to waive their right to an attorney. Currently

in Ohio juveniles can waive their right to counsel after consulting with their legal guardian or attorney.

Representative Heard stated, “In deference to the Court, I held the bill pending their ruling. The decision is not what I had hoped, but understandable. It is the judiciary’s responsibility to interpret the law as conflicts arise. When the law is interpreted to not protect children, it is a legislator’s job to write a law that does.”

When the bill is considered by the Ohio General Assembly, legislators will weigh the pros and cons of these protections for juveniles against the objectives of police to question a suspect and investigate criminal activity.



State in Focus *Update* – New York

The [Jun. 2012 edition](#) of *Juvenile Justice Quarterly* featured New York’s judicial and legislative juvenile justice reforms.

One of those reforms was the [“Close to Home Initiative” \(NY AB 9057\)](#), which allows low level offenders to be placed in residential facilities closer to their

homes, not in secure facilities hundreds of miles upstate. As a result of this Initiative, the New York Office of Children and Family Services announced in Jan. 2013 the closure of seven juvenile justice centers.





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NCSL Publications

NCSL LegisBrief: Disproportionate Minority Contact

One in four U.S. residents—almost 70 million Americans—is under age 18. Some 59 percent of those young people are white and 31 percent are racial minorities, yet racial minorities accounted for 68 percent of those detained by law enforcement, according to 2010 reports from the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP). The over-representation of minority youth in the juvenile justice system is called “disproportionate minority contact” (DMC). State legislatures have addressed this issue by creating task forces, requiring minority impacts statements, and improving data collection requirements throughout the juvenile detention process.

Access the full LegisBrief [online](#).

Juvenile Justice Publications

Mental Health Services in Juvenile Justice

Models For Change Knowledge Brief: Mental Health Services in Juvenile Justice: Who pays? What gets paid for? And who gets to decide? – The brief gives an overview of the effects, opportunities and challenges the changing financial health care system has on juvenile justice practitioners and stakeholders.

Mark Your Calendar

NCSL Webinar and Technical Assistance

- NCSL Juvenile Justice staff are available to visit your legislature in 2013 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.
- NCSL will be hosting a juvenile justice reform webinar in the spring of 2013. Stay tuned for details on [NCSL's Juvenile Justice webpage](#).

NOTE: Links to external websites and reports are for information purposes only and do not indicate NCSL's endorsement of the content on those sites.

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