

Juvenile Justice Quarterly



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State Policy and Legislative News

Colorado Amends Direct File Law, Washington Establishes a Juvenile Gang Court, Utah Passes Competency Standards

Legislatures in Colorado, Washington and Utah enacted juvenile justice legislation in April 2012.

Colorado

A new law in Colorado changes discretion to pursue adult charges against some juveniles. The Colorado General Assembly enacted [House Bill 1271](#), which signed into law on April 20, 2012. Under the law, state district attorneys may not file adult charges in cases involving juveniles accused of low- and mid-level felonies, and defendants ages 15 and younger must start in the juvenile court system, regardless of the charge. The law also provides that a judge will decide whether defendants age 16 or 17 – and accused of serious offenses – will be tried in juvenile or adult court. The judge must weigh the seriousness of the crime, the effect on the victim, the probability of the defendant's

rehabilitation, the defendant's maturity, and his or her criminal and mental health history. Defendants who are age 16 or 17 may still be tried as adults for the most serious offenses: murder, kidnapping and violent assaults. Juveniles with prior felonies may also be tried as adults for violent crimes, with discretion provided to district judges. "Judges are in the position to make a good, neutral decision," bill sponsor Rep. B.J. Nikkel (R-Loveland) told the Denver Post.

Washington

Counties in Washington can now establish juvenile gang courts. The Legislature passed [House Bill 2535](#), providing that counties may establish juvenile gang courts that provide early and continuous supervision for young offenders involved in gang activity. According to the Legislature, the bill's goal is to

implement a youth gang court strategy to rescue kids from gangs and break the cycle of criminal activity through courts that are designed to facilitate intervention programs such as mental health counseling, education, chemical dependency treatment and skill building. The new law also requires counties that set up gang courts to keep records on re-offense rates.

Utah

The Utah Department of Human Services is now required to conduct juvenile competency evaluations in the least restrictive setting. [House Bill 393](#) also requires the department to use a second examiner to evaluate a juvenile and to prepare an attainment plan when a minor is found not competent to proceed. The bill then gives the juvenile court jurisdiction over such minors.



The court ruled that judges needed to examine all circumstances of a case and therefore, sentencing schemes that mandate life in prison without the possibility of parole for juvenile offenders violates the eighth amendment.

From the Courts

Landmark Juvenile Life Without Parole Decision

On June 25, 2012, the United States Supreme Court, in [Miller v. Alabama](#), ruled that imposing mandatory life sentences without the possibility of parole on juveniles violates the Eighth Amendment of the United States Constitution. The Eighth Amendment “guarantees individuals the right not to be subjected to excessive sanctions”, and requires that punishments be proportionate to the crime committed. In this case the Court determined that proportionality must take into account “the mitigating qualities of youth.” The Court’s rationale extended from previous cases, [Roper v. Simmons](#) and [Graham v. Florida](#), detailing how juveniles are different from adults – prone to impulsive behavior and less able to understand the full impact of their actions – and why this makes them somewhat

less culpable for their crimes, even when egregious. In the present cases, those who sentenced Evan Miller and Kuntrell Jackson had no discretion to impose different punishments because of mandatory minimum sentencing. Under these sentencing structures, judges deciding Miller’s and Jackson’s sentences could not consider youth, or any other factors, that that may make the sentence disproportionate to the crime. The court ruled that judges needed to examine all circumstances of a case and therefore, sentencing schemes that mandate life in prison without the possibility of parole for juvenile offenders violates the eighth amendment.

This ruling does not prevent states from imposing life sentences without the possibility of parole for homicide cases,

only that a defendant’s age must be considered in making the sentencing determination.

Chief Justice John Roberts and justices Antonin Scalia, Clarence Thomas and Samuel Alito dissented in the 5–4 decision. The Justices argued that decisions about appropriate sentences for juveniles is in the purview of state policy makers, and that their judgments should prevail over that of the Supreme Court.

The brief for the state of Alabama notes that mandatory minimum sentences impacting juveniles exist in 26 states and with the Federal Government.

The [National Juvenile Defender Center](#) has more information and resources about Juvenile Life Without Parole cases throughout the country.

Case Holding Juvenile Sex Offender Designation Unconstitutional

On April 3, 2012, the Ohio Supreme Court held it unconstitutional to require a juvenile convicted in a juvenile court to submit to automatic, lifetime sex-offender registration and notification requirements. Based upon a review of national trends and its own assessment, the court concluded that the social and

economic effects of lifetime sex offender registration harms the rehabilitative goals of the juvenile court system. The case [In re C.P., Slip Opinion No. 2012–Ohio–1446](#) challenged and held unconstitutional the Ohio law [Ohio Rev. Code Ann. § 2152.86 \(2012\)](#).

State in Focus – New York

Judicial and Legislative Reforms in New York

New York and North Carolina are the only two states that automatically charge 16-year-olds as adults. Starting in 2012, New York chief judge Jonathan Lippman is changing how the state handles the 50,000 16- and 17-year-olds arrested in the state each year. Lippman has started pilot programs—adolescent diversion parts, or ADPs—in nine counties to handle cases involving 16- and 17-year-olds charged with low-level crimes. “I don’t think our present system serves either public safety or life in our communities,” Lippman told [Stateline](#). “I think it’s counter-productive and makes our children into hardened criminals rather than helping them lead meaningful lives.”

The adolescent diversion courts take into account the juvenile offender’s age and circumstances and

emphasize accountability, treatment and supervision. Each arrested youth is interviewed and assessed for family factors and history of violence to determine whether he or she is at a low, moderate, or high risk of recidivism. The appropriate intervention then is determined. For low-risk offenders, charges generally are dismissed after a court appearance. A customized treatment plan will be developed for offenders with a moderate or high risk of recidivism, and they will be supervised by the adolescent diversion judge.

On March, 30, 2012, The New York General Assembly passed, and Governor Andrew Cuomo signed, the [“Close to Home Initiative” \(NY AB 9057\)](#) as part of the 2012 budget bill. The legislation authorizes the City of New

York to provide juvenile justice services to adjudicated youth who reside in the city. Low-level offenders would be placed in residential facilities closer to their homes, instead of in secure facilities hundreds of miles upstate. “This legislation aims to transform the juvenile justice system by authorizing the city to develop a system for its youth that strives to provide an effective continuum of diversion, supervision, treatment and confinement, ensuring that the least restrictive, most appropriate level of care is provided for all youth.” Proponents of the policy say that, by housing young people closer to home and focusing on rehabilitation, the new model will save money, make neighborhoods safer and reduce the chances that they will reoffend.



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On the Fiscal Front

Reforms to the Arkansas juvenile justice system made in 2009 have delivered significant improvements, according to a [report released by the](#)

[National Council on Crime and Delinquency](#). In 2007, Arkansas Senator Shane Broadway (D), Bryant, introduced Senate Resolution 31, which

called for a committee to improve the state's juvenile justice system for youth committed to the Division of Youth Services and to reduce the need for



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large juvenile detention facilities.

The reform process began when a 50-member task force of key participants in the state's juvenile system assembled to develop work plans. Shortly after the task force was created, the department commissioned a comprehensive review of Arkansas's juvenile justice system by outside consultants.

An initial report, [Juvenile Justice Reform in Arkansas](#), released in May 2008, outlined the challenges Arkansas faced and established a framework to better meet the needs of juveniles, their families and the community. The Arkansas Department of Human Services [Division of Youth](#)

[Services released a more detailed comprehensive five-year plan for reform](#) for 2009 to 2013.

The Division of Youth Services has implemented many reforms outlined in the report, including increasing community-based dispositional alternatives for judges, placing "commitment reduction" incentives in service provider contracts, and improving the systemic collection and interpretation of department data. In 2009, the Arkansas legislature passed several bills that improved resources for community-based treatments and revised their juvenile code to increase their utility.

These and other changes have achieved measurable

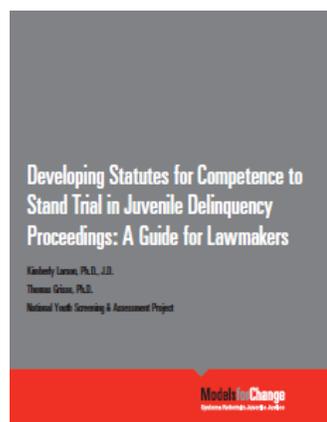
gains for Arkansas. Between 2008 and 2011, the number of juvenile commitments in the state decreased by 20 percent, the average length of stay in state treatment facilities decreased from 216 days to 175 days, and the number of beds in the state's largest juvenile detention center was reduced from 143 to 100. The Division of Youth Services was able to reinvest an additional \$700,000 into community-based services in 2011 due to the reduced need for residential facilities.

Resources:

[Arkansas SB 533 \(2009\)](#);
[Arkansas SB 606 \(2009\)](#);
[Arkansas SB 668 \(2009\)](#);
[Arkansas SB 757 \(2009\)](#);
[Arkansas SB 776 \(2009\)](#).

ModelsforChange

Systems Reform in Juvenile Justice



Juvenile Justice Publications

Developing Statutes for Competence to Stand Trial in Juvenile Delinquency Proceedings: A Guide for Lawmakers

The National Youth and Screening Assessment Project released a [guide](#) which provides a comprehensive review of juveniles' competence to stand trial and outlines important factors for policymakers who are considering creating applicable legislation for juvenile court proceedings. Released in November, 2011, the guide is part of the John D. and Catherine T. MacArthur Foundation's Models for Change Initiative.

Transfer of Juveniles to Criminal Court is Not Correlated with Falling Youth Violence

Jeffrey Butts, director of the Research and Evaluation Center at the John Jay College of Criminal Justice in New York, recently completed an [analysis](#) that refutes the claim that transferring youth to criminal court is responsible for decreasing crime rates.

Addressing the Needs of Multi-System Youth Strengthening the Connection between Child Welfare and Juvenile Justice

The Georgetown Public Policy Institute’s Center for Juvenile Justice Reform (CJJR) and Robert F. Kennedy Children’s Action Corps (RFK) released [*Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice*](#), supported by the John D. and Catherine T. MacArthur Foundation, through the Models for Change: Systems Reform in Juvenile Justice Initiative. The paper provides a framework for jurisdictions to use in their efforts to better serve youth known to both the child welfare and juvenile justice systems—commonly referred to as crossover or dually involved youth.



Mark Your Calendar

2012 NCSL Legislative Summit, Chicago, August 6-9



This summer, the nation’s legislators and staff will gather in Chicago to Build Strong States at the 2012 NCSL Legislative Summit. The Summit gives you the best value – speakers, training, resources, experts, events and more – in the shortest time anywhere. The meeting, structured around the needs of legislators and legislative staff, will be your only opportunity this year to share experiences and learn together with many legislative colleagues from across the nation.

To register, click [here](#). For more information, click [here](#)



The Forum for America’s Ideas

National Conference of State Legislatures
7700 East First Place
Denver, CO 80230

Phone 303 364 7700
Fax 303 364 7800
Website: www.ncsl.org

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