



The Children's Policy and Law Initiative of Indiana Minimum Age for Youth Prosecution

Policies designed to advance youth justice, protect children in the delinquency system, and disrupt the pipeline from school-to-prison

SETTING A MINIMUM AGE FOR YOUTH PROSECUTION AND DETENTION IN INDIANA

Indiana has no law establishing a minimum age for juvenile delinquency jurisdiction; children of any age can be prosecuted in juvenile court. The Council for State Governments has recently reported that in 2019, in 12 counties that account for approximately 50 percent of the children in Indiana, over 400 children between the ages of 6-11 were referred as delinquent children. Children under 12 do not belong in the juvenile justice system alongside older children, who range of up to 18 years of age. Such placements are harmful to a child's mental health and places them at risk for psychological distress, as well as physical and sexual abuse. Even short periods of time in the juvenile justice system can have profound, adverse lifelong consequences for younger children. Alternative pathways through education, mental health and child welfare should be provided for families in crisis. Such a change in the law would bolster pathways to community-based services, which would benefit both child and public safety.

Recommendation

Indiana Code 31-30-1-2 should be amended to exclude children 11 years old and younger from juvenile prosecution. Similarly, Indiana Code 31-37-7-2 should be amended to prohibit children 11 years old or younger from being held in secure juvenile detention facilities. These reforms would set a minimum age limitation of 12 for both detention and prosecution, making Indiana law conform to what is already the minimum age for sentencing a youth to a juvenile correctional facility in Indiana.

Why Not Incarceration?

- Arrest and secure confinement, even for a single day, has a significant negative impact on a child's mental and physical well-being, as well as their future education and employment opportunities.
- Younger children are less likely to understand court proceedings and meaningfully participate in their own defense.
- Processing younger children in the juvenile justice system does not result in preventing future crime, but increases the likelihood of future criminal behavior by disrupting education and deterring psychosocial development.
- Detention and incarceration with older youth exposes children to inappropriate peer role models and increases the likelihood of reoffending. Limited opportunities for positive experiences exacerbate academic, social and emotional difficulties.

- There is a high societal cost of prosecuting cases that are mostly minor offenses and are largely dismissed or not proven true.

What does race have to do with it?

Status and Misdemeanor cases account for 80% of cases referred to juvenile court in Indiana, and school-based referrals are a major contributor. Research consistently shows that low risk youth who are diverted from system involvement are less likely to reoffend and more likely to complete high school. Black youth are two times as likely as their white peers to be referred and three times as likely to be adjudicated delinquent. Establishing a minimum age would protect very young children from the harms and trauma imposed by the juvenile justice system and help address racial disparities in justice system responses.

Developmentally-Appropriate Treatment

When young children engage in law breaking behavior, family dysfunction or behavioral health issues are often involved, and these situations are best treated outside the juvenile justice system. Services through the child welfare system, such as in-home supports, can be accessed when parental supervision is implicated; and the behavioral health system—such as psychiatric treatment, counseling, intensive home or community-based services—can help treat children with mental health issues. The American Academy of Pediatrics (AAP) and Society for Adolescent Health and Medicine both advocate for minimum age laws to reduce child arrest and prosecution to protect the well-being of very young children and promote behavioral health investments in schools and the community.

References

Council of State Governments Justice Center, *Preliminary Assessment of Indiana's Juvenile Justice System* (April 2021) and *First Presentation of Findings to the Indiana Juvenile Justice Reform Taskforce* (September 2021)
Indiana Youth Institute, *Data Report: Youth in the Justice System* (March 2021)