

More States Need to Halt Prosecution of Youth as Adults



This month marks one year since the passage of [Proposition 57](#), a California ballot measure that prohibited district attorneys from filing charges against youth as young as 14 directly in adult criminal court through a practice known as “direct file.” The initiative passed with [64 percent](#) of the vote, signaling strong popular support for curtailing prosecutorial authority and expanding

access to the rehabilitative benefits of the juvenile justice system.

While juvenile courts are premised on [rehabilitation](#) and required to provide young people with education, mental health and other age-appropriate services, the adult criminal justice system offers no such guarantee. Youth placed in adult courtrooms are exposed to the [trauma](#) of stigmatizing, high-stakes proceedings and may face lengthy adult sentences devoid of rehabilitative opportunities. Furthermore, youth prosecuted and convicted as adults are saddled with lifelong [criminal records](#), severely limiting access to education, housing and employment, and potentially impacting their right to vote or their immigration status.

Research supports the notion that adult court prosecution is

fundamentally inappropriate for young people. Studies comparing youth tried in juvenile courts to those processed as adults find that criminal prosecution is associated with [poorer mental health](#) outcomes, including higher rates of depression and post-traumatic stress disorder, and elevated risk of rearrest after release. Though proponents of these policies claim they are necessary to deter serious crime, research has linked direct file, transfer and waiver policies to [increased levels](#) of youth violence.

Though the burden of these laws falls most heavily on youth relegated to criminal courts, the effects also filter into the juvenile justice system, disadvantaging young people who retain their status as juveniles. In states that permit prosecutors to exercise discretion over transfer petitions or the filing of adult charges, the very threat of criminal prosecution can be used to exact [unfavorable plea agreements](#), exposing young people, unnecessarily, to additional juvenile justice system contact.

Fortunately, [decadeslong reductions in youth crime](#) have allowed the pendulum of juvenile justice policymaking to swing towards common-sense reforms that honor youthfulness and emphasize treatment over punishment. In California, Proposition 57 ensures that youth are no longer subject to unchecked prosecutorial authority and cannot be criminally prosecuted without first receiving a transfer hearing in juvenile court.

All California youth are now presumed suitable for the treatment and care of the juvenile court, and prosecutors carry the burden of proving otherwise. [By law](#), California juvenile court judges must look beyond the seriousness of a young person's offense and consider the "[totality of the circumstances](#)," including their social history, mental health, level of participation in the offense and success with prior interventions, when determining whether they can be transferred to adult criminal court. By abolishing direct file

and establishing a higher standard of proof for transferring youth to the adult criminal justice system, California is expected to prosecute many fewer youth as adults in the coming years.

Several other states have introduced reforms aimed at correcting longstanding overreliance on punitive, criminal sanctions for young people. Recently, [New York](#) and [North Carolina](#) used their budget processes to expand the age bounds of their juvenile justice systems to ensure that 16- and 17-year-old youth can no longer be automatically placed in adult courtrooms.

In [Indiana](#), state law now permits youth to be processed in juvenile court for any remaining lesser charges if they are tried and acquitted for a more serious offense in adult criminal court. This prevents prosecutors from gaining unfettered access to criminal prosecution through overcharging. In 2016, the [Vermont Legislature](#) granted original jurisdiction to the court's Family Division in all youth misdemeanor cases and in select youth felony cases, ensuring that most young people are processed in juvenile rather than adult criminal court.

Though incremental, these reforms have the potential to lessen criminal justice system involvement for thousands of youth, bringing the U.S. one step closer to ending the unjust prosecution of youth as adults and delivering on the full rehabilitative promise of the juvenile justice system.

Misguided and reactionary policymaking eroded the core values and protections of the juvenile justice system throughout the [1980s and 1990s](#). Yet relics of these policies remain, contrasting starkly with current realities. State lawmakers must heed contemporary research, record-low rates of youth crime and increasing [public support](#) for progressive justice reforms, and act now to halt the inhumane treatment of youth as adults.

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