

RED
PRACTICE
MANUAL

Chapter 7: Reducing Racial and Ethnic Disparities at Transfer

CENTER FOR
Children's
Law and Policy

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Reducing Disparities at Transfer

I. Introduction

Nationally, [adult jails hold an estimated 4,600 youth daily](#),¹ and an [estimated 1,200 youth may be found in prisons across the United States on a given day](#).² While African American youth represent 16% of the youth population in the United States,³ they represent 62% of youth prosecuted in the adult system.⁴ Although the disparities are not as substantial for Latino youth, they are still 43% more likely to be transferred to the adult system than white youth and 40% more likely to be sent to adult prison.⁵ Native youth are 1.5 times as likely as white youth to be transferred to adult court.⁶ This decision point presents an opportunity to address significant disparities and prevent potential harms to youth when they are handled in the adult system.⁷

The harms of transfer have been widely documented. In many adult facilities, youth receive few, if any, rehabilitative services. Many adult facilities fail to provide the education required by state and federal laws.⁸ And adult jails, especially smaller ones, are caught in a dilemma - they can either house youth with adult inmates, which may expose them to more experienced criminals or to abuses, or they may isolate youth to separate them from adult offenders. Isolation, however, carries with it known harms including deterioration of mental health such as depression, anxiety, suicide and psychosis,⁹ and physical harms from lack of exercise, sleep disturbance, dizziness, joint pain, and other physical symptoms.¹⁰

Harms of Transfer

- Less access to rehabilitative services
- Inadequate, or no, education opportunities as required by federal and state laws
- Reliance on isolation to separate youth from adult inmates

The Justice Department's regulations implementing the [Prison Rape Elimination Act](#) seek to provide greater protections for youthful offenders housed in adult jails and prisons by requiring that youth be housed separately from adults. The regulations require facilities to make best efforts to avoid resorting to isolation of youth to accomplish this goal, but for smaller facilities there may be no other option.¹¹

Research has shown that transfer does not have a deterrent effect on youth,¹² and, further, that most youth prosecuted in the adult system are *more* likely to recidivate than youth with similar backgrounds and charges who are prosecuted in the juvenile system.¹³ Despite these findings and some legislative movement to roll back transfer provisions (described below), all states continue to maintain mechanisms to transfer youth to the adult system.

Addressing disparities at this decision point requires information from different sources and collaboration with a different collection of stakeholders than other decision points in the juvenile justice system, since youth are moving between two distinct court systems. In the past few years, states have begun to roll back some aspects of their transfer laws, but reductions in disparities have not been documented.

A. Mechanisms for Transfer

In most jurisdictions, youth under age 18 who commit acts that would be considered crimes if committed by an adult are handled in the juvenile justice system, with some possibility of transfer to the adult system for the most serious offenses. Generally, there are three ways a youth may be transferred to adult court: prosecutorial discretion, judicial waiver, or statutory exclusion.

Types of Transfer to Adult Court

Prosecutorial Discretion	Judicial Waiver	Statutory Exclusion
<ul style="list-style-type: none">• Also called “direct file” or “concurrent jurisdiction.” Under this type of transfer prosecutors have the option of filing charges against youth in either the juvenile or adult court.	<ul style="list-style-type: none">• Under this type of transfer, a judge decides whether a case should be handled in juvenile or adult court, usually based on criteria such as whether the youth is amenable to treatment in the juvenile justice system.	<ul style="list-style-type: none">• Under this type of transfer, certain crimes, if charged, may only be heard in adult court.

In some jurisdictions, “blended sentencing” schemes allow juvenile courts to impose both juvenile and adult sentences, which contribute to the adult system population of youth as well.¹⁴ In a number of jurisdictions, once a youth is prosecuted (or in some cases convicted) in adult court once, he is always considered an adult for future charges.¹⁵ In addition, a handful of states keep all youth of a certain age under the jurisdiction of the adult system. In [New York](#) and [North Carolina](#), all 16 and 17 year olds are handled in the adult system. In [Georgia](#), [Louisiana](#), [Michigan](#), [Missouri](#), [South Carolina](#), [Texas](#), and [Wisconsin](#), 17 year olds remain in the adult system for all offenses.¹⁶

Individuals wishing to examine disparities in transfer should begin by learning which mechanisms are available in their states and gathering data separately for each of the different mechanisms.

B. A Data Collection Example: Maryland

In Maryland, a state Commission on Juvenile Justice Jurisdiction found, as early 2001, that the state’s exclusionary laws (those automatically charging youth in adult court for certain crimes) had a [disproportionate effect on African-American youth](#).¹⁷ While 50% of youth arrested in Maryland were African American, 80% of youth charged with excluded offenses were African American.¹⁸

The Commission recommended improvements to the state’s data collection systems, improvements to case processing, dedication of more resources to those responsible for considering and processing transfer cases, and more study of the reasons for the disparities after improvement to the data systems. During the 2001 legislative session, the Maryland Legislature did adopt new provisions requiring a preliminary hearing within 15 days of the bail hearing and a transfer

Offenses Excluded from Juvenile Court Jurisdiction in Maryland

- Abduction
- Kidnapping
- Second-degree murder or attempted second-degree murder
- Voluntary manslaughter
- Second degree rape or attempted second-degree rape
- Robbery or attempted robbery
- Second and third degree sexual offenses
- Possessing, using, wearing, carrying, transporting, selling, or transferring a firearm
- Carjacking or armed carjacking
- Assault in the first degree

MD Code, Courts and Judicial Proceedings, §3-8A-03(d)

hearing within 30 days of charging.¹⁹ However, the legislature did not make changes to the transfer law, nor did the state collect ongoing data or do further research as recommended by the commission over the decade following the report.²⁰

Just Kids: Baltimore’s Youth in the Adult Criminal Justice System - A Report of the Just Kids Partnership to End the Automatic Prosecution of Youth as Adults¹

- 99% of youth held in the Baltimore City Detention Center were African American
- 68% of youth charged as adults were either transferred “back” to the juvenile system or their cases were dismissed
- On average, youth waited five months in jail for their hearings to determine whether they would be transferred to the juvenile system
- Only 10% of the youth charged as adults were sentenced to time in adult prisons
- 10% of youth in the study had been waiting more than 16 months in adult jail without trial or other resolution of their cases

The [Just Kids Partnership](#) came together to bring attention to Maryland’s charging and housing of youth in the adult system as state officials were planning a new 180-bed jail for youth charged as adults in Baltimore, projected to cost more than \$100 million. A new option for housing youth was necessary because conditions for youth in the Baltimore City Detention Center, the adult jail, were found by the U.S. Justice Department to be unconstitutional, and were also the subject of ongoing litigation.²¹ The Partnership issued [a report](#) in October 2010 analyzing youth tried in the adult system in Baltimore City. It reported that 400 of the approximately 1,250 youth charged as adults in Maryland each year came from Baltimore City.²² (Baltimore’s youth population represents approximately 9% of Maryland’s total youth population.²³) The Partnership examined 135 cases of youth charged as adults in Baltimore City, all of whom were African-American. The study found that while African-American youth represented 29% of youth in Maryland, they were 60% of youth waived to criminal court and almost 80% of youth charged with offenses automatically handled in adult court.²⁴

To further the analysis, [Advocates for Children and Youth](#) (ACY) gathered data on the youth charged in adult court between 2009 and 2011 in Baltimore City. They found

that 907 youth were sent to adult court during that time, and that 255 of those were subsequently transferred “back” to juvenile court for processing. Of those 255, ACY conducted a study of 100 youth, to see what their eventual case outcomes were. In [a study published in 2013](#), ACY summarized the findings: 93% of the youth were African-American, and 3% were Latino. Of those 100 youth, 20% of the cases were dismissed, and 51% received a community-based disposition, suggesting that the courts found that the vast majority of these matters did not require a “deep end” response.²⁵ The powerful information from these two studies, along with [bed space analyses](#) conducted by the [National Council on Crime and Delinquency](#),²⁶ convinced the state first to revise its plans down to 120 beds at a cost of \$70 million and then later to scrap plans to build the facility, choosing to renovate a much smaller facility for the

Effective Systems Reform Work - Transfer and Baltimore City

- 39% decline in the number of youth charged as adults statewide from 2011 to 2014
- Average daily population in jail and central booking declined from 55.4 to 24.4 from 2012 to 2014
- The Department of Juvenile Services, Department of Public Safety and Correctional Services, Circuit Court, State’s Attorney, and Public Defender reached an agreement to house youth awaiting transfer at the Baltimore City Juvenile Justice Center in 2014
- State went from wanting to build a 180 bed, \$100 million facility for Baltimore youth charged as adults to deciding not to build a new facility
- A 2015 state law requires most youth awaiting transfer hearings to be housed in juvenile facilities

limited number of adult-charged youth who could not be kept in the [Baltimore City Juvenile Justice Center](#) (BCJJC), the city’s juvenile detention center, which is operated by the [Maryland Department of Juvenile Services](#) (DJS).²⁷

Baltimore is now managing a significant portion of its former jail population of youth under 18 by housing them in the juvenile detention facility, BCJJC, even while they await their hearings to transfer to the juvenile justice system. This arrangement does not violate the “sight and sound separation” requirement of the federal Juvenile Justice and Delinquency Prevention Act.²⁸

In July 2013, DJS, the [Department of Public Safety and Correctional Services](#) (DPSCS), the [Circuit Court for Baltimore City](#), the [Baltimore City State’s Attorney](#), and the [Public Defender](#) reached an agreement regarding youth charged as adults in Baltimore City. They agreed that all youth charged as

adults who are eligible for a transfer to the juvenile system will be housed in the BCJJC while they wait for their transfer hearing.²⁹ The Public Defender's and State's Attorney's offices have agreed upon a joint motion that is filed at the time of the youth's bail hearing so that within 2 days of arrival at the [Baltimore City Booking and Intake Center](#), youth are sent to the juvenile detention center to await their hearings.³⁰

The effective systems reform work that Baltimore City has done to reduce the juvenile detention population, in part through the Juvenile Detention Alternatives Initiative (JDAI), opened the bed space in BCJJC for this option to be possible. In addition, the number of youth charged as adults who are held in adult jails has dropped across the state by 39% - from 760 admissions in 2011 to 467 in 2014.³¹ Now, in Baltimore, while African American youth are still charged in the adult system, only those who are ineligible for transfer back to juvenile court, or who were denied transfer following a hearing, remain in the jail.³² In 2014, the average daily population, including both the jail and the central booking facility, is 24.4 youth per day, down from 55.4 in 2012.³³

The information and accompanying advocacy has also helped fuel a drive toward legislation to reduce the allowable circumstances for youth to be processed in adult court in Maryland. In 2013, a legislatively established [Task Force on Juvenile Court Jurisdiction](#) recommended that the legislature eliminate a law prohibiting youth in certain situations from being transferred back to juvenile court.³⁴ While the legislature did not eliminate the law, it did remove a provision that prevented youth who had been transferred back to juvenile court for previous charges from requesting such transfer again.³⁵

Maryland Law Permits Housing Transferred Youth in Juvenile Facilities Unless

- (1) They are released;
- (2) There is a finding that housing the youth in a juvenile facility would be dangerous to the youth or others; or
- (3) There is no room in the juvenile facility.

The task force also recommended further study of the feasibility of expanding juvenile court jurisdiction to remove grounds for transfer,³⁶ but a bill in the 2015 legislative session to require the study to be completed did not pass.³⁷ However, the agreement to allow Baltimore youth pending transfer to be housed in the juvenile detention facility set an example that did lead to legislative change in 2015. New changes to the law require that youth who were automatically excluded from juvenile jurisdiction be housed in juvenile facilities unless 1) they are released, 2) there is a finding that housing the youth in the juvenile facility would be dangerous to the youth

or others, or 3) that there is no room in a juvenile facility.³⁸ Maryland's slow move toward reversing its prosecution of youth in the adult system has been fueled by jurisdiction-specific data collection and committed advocacy. DJS now collects data regularly on race and ethnicity of youth charged in adult court who are housed in juvenile detention facilities.

C. How Can Systems Identify Whether Disparities Exist in Adult Court Transfer?: Missouri's Analysis

In Missouri, transfer ("certification" in Missouri) to adult court occurs pursuant to judicial hearing.³⁹ One of the ten factors to be considered by the judge is "Racial disparity in certification."⁴⁰ Through this provision, the legislature has acknowledged the existence of racial disparities in the transfer process. While overall rates of certification declined between 2009 and 2013 for all race categories, African American youth remain disproportionately represented in certifications. In 2013, African American youth were 63% of youth certified, despite being 15% of the youth population.⁴¹ No reported decision has identified the findings that a court must make to consider this factor in a transfer hearing. Most judges appear to have determined that it is sufficient to make a finding that race was not a factor at any point in the certification decision.⁴²

However, some court watchers argue that the consideration of this factor should be more significant. Former state representative Steve Gaw, who was one of the main sponsors of the bill that added this provision in 1995, says that "[r]equiring judges to take into account racial disparity in decisions of certification was intended to force judges to think about the issue in making the decision, evaluating the factors that might have resulted in different treatment of the individual before them, and hopefully leading to more results where race was not a deciding factor in the certification decision."⁴³ Professor Mae Quinn of [Washington University's juvenile justice representation clinic](#) argues that a meaningful assessment of racial disparities by juvenile court officers should include consideration of data on racial disparities in arrest, certification hearings, and approval of adult court prosecutions.⁴⁴

In recognition of the growing certification disparities, Missouri engaged in a collaborative project to conduct a detailed analysis of its transferred youth in 2012 and 2013. The [Missouri Juvenile Justice Advisory Group](#), the [Office of State Courts Administrator](#), the [Department of Public Safety](#), and the [Missouri Juvenile Justice Association](#) engaged a researcher to examine youth certified to adult court as well as comparable youth who were eligible for certification but remained in juvenile court. The [research revealed](#) that African American youth made up only 31% of the felonies

committed during the study period, but 62% of the certifications.⁴⁵ Five percent of African American youth with a felony were certified, while only one percent of white youth with a felony were certified.⁴⁶

Further analysis helped reveal that African American youth had a higher representation among the most serious felonies and felonies against persons, helping to explain their overrepresentation among the certified group.⁴⁷ However, the research included regression analysis to determine which individual factors most predicted certification. While age and gender played more of a role in certification, race still remained the third most predictive demographic factor, with youth two times as likely to be certified if they are African American.⁴⁸ This type of analysis allows the conversation to move past guessing about causal factors, and to confirm not just overrepresentation but also impact of race on certification decisions.

Data Collection and Corresponding Questions to Identify Disparities at Transfer

- **Crucial Data Points:** Offense type, race, ethnicity, gender, location, and time of the offense.
 - Are there differences in the profile of transferred individuals?
 - Where transfer is discretionary, are there differences between the youth transferred and those who are not?
- **Dismissals, Pleas, and Verdicts**
 - Do outcomes look different by race or ethnicity? For example, do youth of color have charges that are more often dismissed by the time they get to court?
 - Do the initial charges and pleas to lesser charges suggest anything different about initial charging practices or handling of plea negotiations?
 - Does the opportunity for bail look different across racial lines?
 - Are acquittal rates at trial any different?
 - Do the lengths of time and types of facilities to which youth are sentenced differ along racial or ethnic lines?
- **Qualitative Data**
 - How do stakeholders experience the transfer process?
 - Do youth have the same access to representation regardless of race or ethnicity?
 - Does language ability of the youth or family become a factor in transfer decision-making?

II. What Can be Done About Disparities at Transfer?

A. Strategies

As described above, remedies to disparities at transfer require engagement of a different group of individuals from work at other decision points. Some of the most significant opportunities for reform are in the legislative arena. For example, laws may be changed to **expand juvenile court jurisdiction**, either by raising the age of general jurisdiction or by expanding the crimes that may be handled in juvenile court. Some jurisdictions have **moved transfer decisions** from prosecutors to judges, thus offering defendants the opportunity for a neutral arbiter to decide whether transfer is appropriate.

Over the past decade, [states have begun to roll back their transfer of youth](#) to adult court in a variety of ways. As the [Campaign for Youth Justice](#) has chronicled, the trends fall into four categories. Eleven states have passed laws limiting housing of youth in adult jails and prisons.⁴⁹ Five states have expanded juvenile court jurisdiction to include older youth who previously would have been tried as adults.⁵⁰ Fifteen states have established task forces to re-examine transfer or have changed

Trends in Rolling Back the Transfer of Youth to Adult Court

- Five states expanded juvenile court jurisdiction to include older youth (CT, IL, MS, MA, NH)
- Fifteen states changed their transfer laws to retain more youth in the juvenile justice system (AZ, CO, CT, DE, IL, NV, IN, UT, VA, WA, OH, MD, NE, NY, DC)
- Eleven states passed laws limiting housing youth in adult jails and prisons (CO, ID, IN, ME, NV, HA, VA, PA, TX, OR, OH)
- Twelve states changed their mandatory minimum sentencing laws to account for the developmental differences between youth and adults (CA, CO, GA, IN, TX, MO, OH, WA, FL, HA, WV, IA)

their transfer laws to retain more youth in the juvenile justice system.⁵¹ Finally, twelve states have changed their mandatory minimum sentencing laws to account for developmental differences between youth and adults, provide for post-sentence review of youth sentenced to life without parole, or made similar changes.⁵²

Thus, a community that finds disparities in rates of prosecutorial discretionary transfer could **seek legislatively to reduce the types of crimes** that can be transferred or **require a judicial hearing** prior to transfer rather than leaving the choice to prosecutorial discretion. Other opportunities for change beyond legislation are available at the local level as well. Individual communities can **negotiate with their local prosecutors about how transfer discretion is used**, establishing agreed-upon criteria for discretionary transfer. And whether most transfer decisions are left to prosecutors or judges, engaging in dialogue and **sharing information about the harms** associated with transfer **and any data** reflecting disparities can support re-examination of the practice. Similar efforts at judicial education could help to support increased “reverse waiver” as well.

In addition, ensuring that attorneys representing youth in transfer matters are equipped with the information, skills, time, and staff supports to represent youth effectively at this critical juncture of their cases can help ensure that these decisions are fair and based on all available evidence and arguments. When communities come together to discuss the ways in which adolescent development may contribute to hasty criminal acts and also to the opportunity for rehabilitation, there is an opportunity for rethinking transfer practices. As noted above, these efforts may be driven by external entities like the Just Kids Partnership and Advocates for Children and Youth in Maryland or by system insiders like the government agencies in Missouri.

Some legislatures have chosen to avoid the harms of adult prisons until conviction by **requiring that youth be housed in juvenile detention facilities** while they await trial in adult court. Virginia, for example, passed a law in 2010 requiring that youth charged in adult court be housed in juvenile detention centers unless a judge finds that the youth is a threat to security or safety in the detention center.⁵³ While such a scheme presents challenges to operators of juvenile detention facilities (youth awaiting adult charges usually stay much longer, and while not required, some facilities feel the need to keep adult-charged youth separate from juvenile system youth) the challenges are both manageable and preferable to leaving youth in dangerous adult settings. Other jurisdictions require that youth convicted in the adult system remain in a juvenile facility until reaching the age of eighteen.

B. Localities Do Not Have to Wait Until the State Changes the Law

While these developments are generally accomplished through state law changes, there are examples of localities making these changes on their own.

1. Multnomah County, Oregon

For example, Multnomah County, Oregon passed a resolution in 2008 allowing youth to be held pending adult court trial in the juvenile detention center. The [County reports](#) that, with modest programming changes to support youth with longer stays, they have maintained this population successfully and without increase in violence or other operational challenges. The County celebrates its ability to meet the developmental needs of these youth, offer age-appropriate education services, provide cognitive-behavioral skill-building programs and have staff who are trained in adolescent development work with the youth.⁵⁴ In addition, the state of Oregon has a law allowing youth sentenced to the Department of Corrections to serve the sentence in a youth correctional facility if the youth was under 18 at the time of the offense and is under 20 at the time of the sentencing.⁵⁵ In 2013, recognizing the harms that even a brief stay in prison can cause, the state adopted a new provision allowing youth to be moved straight to the [Oregon Youth Authority](#) (OYA) after sentencing, without first having to pass through a state prison.⁵⁶

2. Outagamie County, Wisconsin

In Wisconsin, all 17 year olds charged with a crime are under the jurisdiction of the adult system. In Outagamie County, Wisconsin, local stakeholders reached an agreement to allow 17 year olds who haven't been charged with dangerous violent offenses to receive services in the juvenile system and avoid adult court prosecution. Through an agreement between the District Attorney's office and the juvenile probation department, a pilot began in August 2015 under which youth are offered the opportunity to accept and complete voluntary services from the juvenile probation department. If they complete the services successfully, the charges are never filed. The County has just begun to gather data on the youth completing the program, but this provides a promising example of opportunity to address transfer at the local level even where state law is fixed.⁵⁷

III. Next Steps

The numbers of transfers in any individual community may not be large, but the opportunity to make meaningful change in the lives of youth facing adult court charges cannot be understated. Data collection, community conversation, establishment of local standards for limiting transfer, and development of options for alternative detention or sentencing are all steps that can lead to local reform. In combination with efforts to roll back aspects of transfer law in some states, there is real possibility for impacting youth through reform work at this decision point.

A. Practice Tips

- ✓ Gather data on transferred youth (see examples of data collection from Maryland and Missouri above).
- ✓ Expand juvenile court jurisdiction.
- ✓ Move transfer decisions from prosecutors to judges.
- ✓ Reduce the types of crimes that require mandatory transfer.
- ✓ Negotiate with prosecutors about how they use their transfer discretion.
- ✓ Share information about the harms associated with transfer.
- ✓ Disseminate data reflecting disparities in transfer.
- ✓ Require that all youth be housed in juvenile detention centers pending trial.
- ✓ Support zealous representation in transfer proceedings.

¹ Minton, T.D. & Golinelli, D.G. (2014). *Jail inmates at midyear 2013 - statistical tables*.

² Carson, E.A. (2014). *Prisoners in 2013*. U.S. Department of Justice.

³ National Council on Crime and Delinquency. (2007). *And justice for some: Differential treatment of youth of color in the justice system*. Oakland, CA: Author.

⁴ Arya, N. & Augarten, I. (2008). *Critical condition: African-American youth in the justice system* (Race and Ethnicity Series No. 2). Washington, DC: Campaign for Youth Justice.

⁵ Arya, N., Villarruel, F., Villanueva, C., & Augarten, I. (2009). *America's invisible children: Latino youth and the failure of justice*. (Race and Ethnicity Series No. 3). Washington, DC: Campaign for Youth Justice.

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- ⁶ Arya, N., & Rolnick, A. (2008). *A tangled web of justice: American Indian and Alaska Native youth in federal, state, and tribal justice systems*. (Race and Ethnicity Series No. 1). Washington, DC: Campaign for Youth Justice.
- ⁷ Soler, M. (2010). Missed opportunity: Waiver, race, data and policy reform. *Louisiana Law Review*, 71, 17-33.
- ⁸ Boyd, R.F. (2002). *Re: Baltimore city detention center findings*.
- ⁹ American Academy of Child and Adolescent Psychiatrists. (2012). *Solitary confinement of juvenile offenders*.
- ¹⁰ Fujio, C.C., & Corrandini, M. (2013). *Buried alive: Solitary confinement in the US detention system, executive summary*. Cambridge, MA: Physicians for Human Rights.
- ¹¹ Youthful Inmates, 28 C.F.R. § 115.14 (2012).
- ¹² Redding, R.E. (2010). *Juvenile transfer laws: An effective deterrent to delinquency?*. (Bulletin # NCJ 220595). Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
- ¹³ Hahn, R., & et al. (2007). *Effects on violence on laws and policies facilitating the transfer of youth from the juvenile to the adult justice system: A report on recommendations of the task force on community preventive services*. (Morbidity and Mortality Weekly Report 56). Atlanta, GA: Center for Disease Control and Prevention. Mulvey, E.P. & Schubert, C.A. (2012). *Transfer of juveniles to adult court: Effects of a broad policy in one court*. (Bulletin # 2007-MU-FX-0002). Washington, DC: Office of Juvenile Justice and Delinquency Prevention (no effect of transfer on recidivism when controlling tightly for other variables, except that transfer increased likelihood of rearrest for youth charged with property crimes and decreased likelihood of rearrest for youth charged with crimes against persons such as felony assault and robbery).
- ¹⁴ Ziedenberg, J. (2011). *You're an adult now: Youth in adult criminal justice systems*. Washington, DC: National Institute of Correction.
- ¹⁵ As of 2011, 34 states had some form of "once an adult, always an adult" laws. Griffin, P., Addie, S., Adams, B., & Firestine, K. (2011). *Trying juveniles as adults: An analysis of state transfer laws and reporting*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention. For example, in Maryland, a child who has previously been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult is under the jurisdiction of the adult criminal court unless transferred back to juvenile court. MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-03(d)(5).
- ¹⁶ JJGPS Juvenile Justice Geography, Policy, Practice & Statistics. *Jurisdictional boundaries*. (n.d.). Sickmund, M. (2014). Which state will be the last to "raise the age"? In *Juvenile Justice Information Exchange*. N.Y. JUD. FAM. CT. ACTS § 301.2; N.C. GEN. STAT. ANN. § 7B-1601, 1604; GA. CODE ANN. § 15-11-2; LA. CHILD. CODE ANN. art. 804; MICH. COMP. LAWS ANN. § 712A.2; MO. ANN. STAT. § 211.021; N.H. REV. STAT. ANN. § 169-B:2; S.C. CODE ANN. § 63-19-20; TEX. FAM. CODE ANN. § 51.02, 51.04; WIS. STAT. ANN. § 938.02, 938.12.
- ¹⁷ Maryland Department of Juvenile Justice. (2001). *Final report to the governor and general assembly: Commission on juvenile justice jurisdiction*. Baltimore, MD: Commission on Juvenile Justice Jurisdiction.
- ¹⁸ Id.
- ¹⁹ Id.
- ²⁰ Hess, W. Furr, L., Armstrong, K., Francis, S., & White, A. (2010). *Just kids: Baltimore's youth in the adult criminal justice system*. Baltimore, MD: Just Kids Partnership.
- ²¹ Boyd, R. F. (2002). *Re: Baltimore city detention center findings*. The litigation over the jail was originally filed as *Duvall v. Lee*, Civ. No. K-76-1255, (1976). The latest settlement agreement in the case was approved by the court on April 6, 2010, *Duvall v. O'Malley*, Civ. Action No. JFM-94-2541 (2010).
- ²² Hess, W. Furr, L., Armstrong, K., Francis, S., & White, A. (2010). *Just kids: Baltimore's youth in the adult criminal justice system*. Baltimore, MD: Just Kids Partnership.
- ²³ The W. Haywood Burns Institute for Juvenile Justice Fairness & Equity. (n.d). *Unbalanced juvenile justice*.

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- ²⁴ [Hess, W. Furr, L., Armstrong, K., Francis, S., & White, A. \(2010\). *Just kids: Baltimore's youth in the adult criminal justice system*. Baltimore, MD: Just Kids Partnership.](#)
- ²⁵ [Tashea, J., & Passarella, A. \(2013\). Baltimore city juvenile court review: Transferred juveniles from adult system and their outcomes. *Advocates for Children and Youth: Issue Brief*.](#)
- ²⁶ [Hartney, C. & Marchionna, S. \(2010\). *Critique of Maryland's population forecast: No call for a new youth detention facility*. Oakland, CA: National Council on Crime and Delinquency.](#) [Hartney, C., & Arifuku, I. \(2011\) *Bed space forecast for Baltimore youth detention facility*. Oakland, CA: National Council on Crime and Delinquency.](#)
- ²⁷ [Wenger, Y. \(2013, January 16\). State scraps plans to build youth jail in Baltimore: Plans call for new juvenile treatment facility and retrofit of men's prerelease center. *The Baltimore Sun*.](#)
- ²⁸ A juvenile who has been transferred, waived, or certified is otherwise under the jurisdiction of a criminal court may be detained or confined in a juvenile correctional facility or juvenile detention center with other juveniles who are under the jurisdiction the juvenile court. This is not a violation of the separation requirement because the youth is not a juvenile "alleged to be or found to be delinquent" (he or she has been charged with a criminal, not a delinquent act) and the youth is not an "adult inmate." Once the youth reaches the state's full age of majority and the state's maximum age of extended juvenile court jurisdiction, he or she must be separated from the juvenile population within six months. Office of Juvenile Justice and Delinquency Prevention, JJDP Compliance Manual (2010).
- ²⁹ [Maryland Department of Juvenile Service. \(2014\). *Data resource guide fiscal year 2014*. Baltimore, MD: Author.](#)
- ³⁰ Tolentino, B. (personal communication 2015, March 10).
- ³¹ [Farrar-Owens, M. \(2014\). *Juveniles charged as adults and held in Maryland's detention facilities: Trend analysis and population projections*. Baltimore, MD: Maryland Department of Juvenile Services.](#)
- ³² Tolentino, B. (personal communication 2015, March 10).
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