



## CHILDREN'S POLICY AND LAW INITIATIVE OF INDIANA

### *Elimination of Direct File*

*Indiana is one of 8 states with the highest numbers of youth in the adult system.*

Research supports that charging children as adults is a failed public policy. As a result of 15 years of reforms, the number of children held in adult prisons in the U.S. has dropped 68% since 2005, and the number held in adult jails has dropped 50%. In 2019, the United Nations called on countries to establish 14 years old as the minimum age of prosecution (as a child); and never automatically transfer any child under the age of 18 into adult court. *Campaign for Youth Justice 2020*

### Background Information

In Indiana, there are two possible ways for children under 18 to be under the jurisdiction of an adult court: direct file (lack of jurisdiction) and waiver of jurisdiction. Juvenile courts lack jurisdiction over individuals 16 and 17 years old who have committed certain felonies as listed in the Direct File Statute IC 31-30-1-4. Unlike waiver of jurisdiction, prosecutors, and not judges, make the decisive decision to transfer children, as a charging decision. According to the Indiana Criminal Justice Institute Annual Report, there were 158 juvenile cases under adult court jurisdiction in the 2019-20 fiscal year:

- The vast majority of cases—85%--were direct file cases. A total of 135 juvenile cases were directly filed to adult court, while only 23 juvenile cases were waived to adult court.
- **Black males disproportionately comprised the majority** of children in the adult system. Three-fourths of children directly-filed to adult court were Black, while 15% were White. For waivers to adult court, half were Black, 40% were White and 10% were Hispanic.
- A majority of youth cases (56%) did not result in prison sentences; rather the cases ended by **probation (33%)** ranging in length from 1 to 7 years; **community corrections (14%)**; or **jail sentence (9%)**.

This data reinforces the need to end this arbitrary and racially charged practice in Indiana. The juvenile system is uniquely designed to address the needs of young people with outcomes focused on rehabilitation; whereas the adult system is focused on penal accountability and punishment, and leads to deeper, life-long involvement in our justice system.

#### JUVENILE SYSTEM

- Pre-arrest diversion options;
- Family-focused interventions & community services;

#### ADULT SYSTEM

- Bail option to get out of adult jail;
- Public courtroom and record;
- No age-appropriate services for youth;

<ul style="list-style-type: none"> <li>▪ Education, mental health services, age-appropriate treatment;</li> <li>▪ Staff training in adolescent development;</li> <li>▪ Restricted or no use of pepper spray or isolation;</li> <li>▪ Rehabilitation focus;</li> <li>▪ Options for record sealing and expungement*</li> </ul>	<ul style="list-style-type: none"> <li>▪ Isolation used frequently, as is chemical sprays and use of force;</li> <li>▪ Outcomes focus on public safety;</li> <li>▪ Individual Accountability focus;</li> <li>▪ Permanent Record &amp; collateral consequences</li> </ul>
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CONSEQUENCES

- Children are NOT mini adults, and should not be treated as such.
- **Children are more capable of fundamental change than adults.** Science has shown us that children have the capacity for fundamental change as they mature. Children’s brains are not fully developed until their mid 20s which leaves them vulnerable to: impulsivity, peer pressure, not fully appreciating the consequences to their actions, and more motivated by the thrill of rewards. Placing children in the adult system denies them the opportunity to evolve.
- Sentencing children to adult incarceration decreases public safety and makes communities less safe; children who do adult time are at least 34% more likely to recidivate, and they are re-arrested at faster rates and for more dangerous crimes than children who enter the juvenile system.
- **It’s difficult to protect children in the adult system from physical abuse and mental trauma.** They are more likely to experience physical and sexual abuse, commit suicide, and be subjected to prolonged periods of isolation.
- Consistent data indicates egregious disproportionality and racial disparities in prosecutorial decision-making.
- Most children naturally age out of criminal behavior by their mid-20s; yet, system involvement drives deeper justice system involvement and criminal behavior.
- **States that have reformed direct file laws have saved taxpayer dollars** (avg. \$12 million annually) while **protecting public safety** and **holding juvenile offenders accountable**.

ACTION

**Developing identities** make young people **excellent prospects for rehabilitation**. Justice is best served when these rehabilitative principles at the core of human rights standards are central to the process afforded children accused of breaking the law. Eliminating the direct file statute would dramatically reduce the number of children in the adult system, and eliminate some of the most egregious racial disparities in Indiana’s justice system. It would reinforce the national trend toward rehabilitating young people and reducing inhumane and harmful public policies that unnecessarily condemn children.