

[2015 Session] Return Children Under the Age of 18 to the State's Juvenile Justice System, and Limit the Use of Secure Confinement for Children Under the Age of 13

Policy Background:

In Texas, a teen may be charged as an adult for a criminal offense at only 17 years of age. Holding 17-year-olds criminally responsible is inconsistent with our societal consensus for “maturity,” as well as with neurological research that has confirmed various findings: youth are inherently less likely to consider the potential outcomes of their actions; they are prone to risky behavior; and they are more vulnerable or susceptible to negative influences and outside pressures. [1]

Separately, children as young as 10 can be confined to both county and state secure juvenile facilities in Texas.

Texas policy-makers should extend the age of juvenile jurisdiction from 17 to 18 years, a common sense approach that would also remove youth from dangerous mental and physical conditions inside adult facilities. Policy-makers should also increase the age at which youth are permitted to remain in the juvenile system so they may have sufficient time to obtain critical rehabilitative programming.

Separately, policy-makers should raise the age of confinement to all secure juvenile facilities from 10 to 13 years of age. Elementary and middle school kids should be kept out of Texas facilities and served in the community, where they can continue to have the support of their loved ones while receiving rehabilitative services.

Key Facts:

- Texas is one of only 9 states that sets the age of adulthood at 17 or lower.[2]
- Studies have shown that raising the age of juvenile jurisdiction to 18 will ultimately save Texans \$88.9 million for every cohort of 17-year-olds moved into the juvenile system in Texas.[3]

- The majority of 17-year-olds are charged with low-level offenses that could be adequately handled in other ways, without subjecting them to an adult criminal record or adult prison. In fact, in 2013, 96% of 17-year-olds were arrested for misdemeanor and nonviolent offenses, with the top 5 offenses as follows: larceny, possession of marijuana, other assaults, liquor law violations, and disorderly conduct.[\[4\]](#)
- Because 17-year-olds are handled in the adult criminal justice system, they do not have a right to the rehabilitative services or legal protections provided by the juvenile justice system.
These services can include, but are not limited to, the following: anger management, counseling, cognitive behavioral therapy, education, family preservation, gang prevention/intervention, life skills, substance abuse prevention/intervention, and vocational skills.
Legal protections can include parent notification upon referral, private hearings, and private records.
- The U.S. Supreme Court has set the age of adulthood at 18 years old and has provided procedural protections for youth that differ from adults.[\[5\]](#) Because 17-year-olds in Texas are considered adults by state law and juveniles by federal law, confusion and jurisdictional questions often arise when 17-year-olds are arrested.
- Research shows that young people who are kept in the juvenile justice system are less likely to re-offend than young people who are transferred into the adult system. According to the Centers for Disease Control and Prevention, youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crimes.[\[6\]](#)
- In September 2003, the U.S. Congress unanimously passed PREA,[\[7\]](#) aimed at preventing sexual assault and victimization in juvenile facilities, adult prisons, jails, lockups, and other detention facilities. Over the course of 10 years, experts around the country developed what have become the PREA standards in an effort to substantially reduce the occurrences of prison rape in adult and juvenile facilities. The “Youthful Inmates Standard” has greatly impacted adult county jails, forcing them to expend thousands per week in extra costs to comply, and leaving many counties simply unable to comply due to architectural constraints. For example, Dallas County spends nearly \$80,000 per week to separate 17-year-olds from adults.[\[8\]](#)

Relevant Bills:

- **Bill Number:** [HB 53](#) (McClendon)
Bill Caption: Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.
TCJE Materials (for HB 53, HB 330, HB 1205): [Fact Sheet](#) | [Testimony](#)
Hearing Notice: House Juvenile Justice & Family Issues Committee, [Notice of Public Hearing on April 1, 2015](#)
Archived Hearing Video: House Juvenile Justice & Family Issues Committee, [04/01/15 Video](#) [TCJE testimony begins at 03:17:20]
- **Bill Number:** [HB 69](#) (McClendon)
Bill Caption: Relating to the creation of the Juvenile Court Jurisdiction Task Force.
- **Bill Number:** [HB 330](#) (Wu)
Bill Caption: Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.
TCJE Materials (for HB 53, HB 330, HB 1205): [Fact Sheet](#) | [Testimony](#)
Hearing Notice: House Juvenile Justice & Family Issues Committee, [Notice of Public Hearing on April 1, 2015](#)
Archived Hearing Video: House Juvenile Justice & Family Issues Committee, [04/01/15 Video](#) [TCJE testimony begins at 03:17:20]
- **Bill Number:** [HB 1205](#) (Dutton, McClendon, Wu, Rose, Guillen)
Bill Caption: Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.
TCJE Materials (for HB 53, HB 330, HB 1205): [Fact Sheet](#) | [Testimony](#)
Hearing Notice: House Juvenile Justice & Family Issues Committee, [Notice of Public Hearing on April 1, 2015](#)
Archived Hearing Video: House Juvenile Justice & Family Issues Committee, [04/01/15 Video](#) [TCJE testimony begins at 03:17:20]
- **Bill Number:** [HB 1240](#) (Walle)
Bill Caption: Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.
- **Bill Number:** [HB 2626](#) (Rose)
Bill Caption: Relating to the creation of an advisory committee to examine and recommend a plan to increase the minimum age of juvenile jurisdiction.
- **Bill Number:** [HB 2931](#) (Wu)
Bill Caption: Relating to the secure confinement of certain children.
- **Bill Number:** [SB 104](#) (Hinojosa)
Bill Caption: Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.
TCJE Materials: [Fact Sheet](#)

- **Bill Number:** [SB 1333](#) (Rodríguez)
Bill Caption: Relating to the secure confinement of certain children.
- **Bill Number:** [SB 1401](#) (Rodríguez)
Bill Caption: Relating to the creation of an advisory committee to examine and recommend a plan to increase the minimum age of juvenile jurisdiction.

Other TCJE Publications:

- **Info-graphic:** [Raise the Age](#) [produced by TCJE, the ACLU of Texas, Texans Care for Children, and Texas Appleseed]

Outside Publications:

- **Flyer:** [Sheriffs Say YES to Raising the Age of Juvenile Jurisdiction](#)
- House Committee on Criminal Jurisprudence, *Interim Report to the 84th Legislature* [January 2015]

See *Charge 1*: Study the classification of 17-year-olds as adults in the criminal justice system of Texas. (pages 3-13)

- Texas Senate Committee on Criminal Justice, *Interim Report to the 84th Legislature* [December 2014]

See *Charge 5*: Study and make recommendations regarding sentencing of youth under 18 accused of committing serious crimes. (pages 51-58)

Relevant Media:

- **Texas Observer:** [“Too Young to Jail”](#) [May 12, 2015]
- **Texas Observer:** [“House Hears Broad Support for Bringing 17-Year-Olds into Juvenile System”](#) [April 2, 2015]
- **Fort Worth Star-Telegram [Op-Ed by Texas Association of Business President Chris Wallace]:** [“Texas juvenile justice system not centered on punishment”](#) [April 1, 2015]
- **Austin American-Statesman [Op-Ed]:** [“\[Texas PTA President\] Boggs: Why raising the age of criminal responsibility just makes sense”](#) [March 25, 2015; behind a paywall]
- **Austin American-Statesman [Editorial]:** [“Giving 17-year-olds second chance requires support of Whitmire”](#) [March 2, 2015; behind a paywall]

- **Houston Chronicle [Op-Ed]:** “[Judges] Parker and Schneider: Make 17-year-olds juveniles in justice system” [February 24, 2015]
- **The Dallas Morning News:** “Legislators poised to make changes in juvenile justice system” [February 23, 2015]
- **Victoria Advocate:** “Pro: 17-year-olds in justice system deserve second chance” [February 15, 2015]
- **Austin American-Statesman [Editorial]:** “Time to Be Smart on Crime, Not Just Tough” [January 19, 2015; behind a paywall]
- **San Antonio Express-News [Editorial]:** “Adults at 17? An arbitrary finding” [January 12, 2015]
- **Houston Chronicle [Editorial]:** “Age Inappropriate” [January 8, 2015]
- **San Antonio Express-News:** “Juvenile advocates want Texas’ age of adulthood raised” [January 2, 2015; behind a paywall]
- **Houston Chronicle:** “Juvenile justice advocates want age of adulthood raised to 18” [December 31, 2014; behind a paywall]
- **CorrectionsOne.com:** “Juvenile justice advocates want age of adulthood raised to 18” [December 31, 2014]
- **Houston Chronicle [Op-Ed by Sheriffs Adrian Garcia, Christopher C. Kirk, and Guadalupe Valdez]:** “Raise age of juvenile jurisdiction” [May 30, 2014]

[1] *Miller v. Alabama*, 132 S.Ct. 2455, 2464-65 (2012); See generally, S. Johnson, R. Blum, and J. Giedd, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Health Policy*, *Journal of Adolescent Health*, Vol. 45(3), September 2009.

[2] Other states include Georgia, Louisiana, Michigan, Missouri, New York, North Carolina, South Carolina, and Wisconsin.

[3] Michele Deitch, et.al, *Seventeen, Going on Eighteen: An Operational Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas*, *American Journal of Criminal Law*, Vol. 40:1, 2012.

[4] Texas Department of Public Safety, *Texas Arrest Data: 2013*, pp. 78, 80; <https://www.txdps.state.tx.us/crimereports/13/citCh9.pdf>

[5] *Miller v. Alabama*, 132 S.Ct. 2455 (2012); *J.D.B. v. North Carolina*, 131 S.Ct. 2394 (2011); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

[6] *Ibid.*

[7] Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§ 15601-15609 (2003).

[8] *The Dallas Morning News*, "Sending 17-year-olds to adult jails costly to teens and taxpayers," May 19, 2014;
<http://www.dallasnews.com/opinion/latest-columns/20140519-sending-17-year-olds-to-adult-jails-costly-to-teens-and-taxpayers.ece>