



How to Keep Kids Out of Adult Jails and Prisons

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The Case of Rodney Hulin

[No Escape: Prison Rape in America - The Rodney Hulin Story](#)

Adult Facilities are No Place For Kids

DANGERS OF HOUSING YOUTH IN ADULT FACILITIES

Risk of Suicide

Physical & Sexual Violence



Youth held in adult facilities face higher risks of physical & sexual assault than they would in juvenile facilities. In fact, two-thirds of 16 & 17 year olds held in adult facilities across the U.S. were sexually victimized on more than one occasion by other inmates.



Youth confined in adult facilities are 36 times more likely to commit suicide.

Solitary Confinement



In adult facilities, 17 year olds can spend up to 23 hours a day in solitary confinement. Adolescents are still in the midst of development, and placement in solitary confinement can lead to physical and psychological harm.

Prison Rape Elimination Act

Abbott reverses Perry on prison rape law

Governor vows to follow federal rules to end rapes

By Lauren McGaughy | October 6, 2015 | Updated: October 6, 2015 6:58pm



Photo © Just Detention International

Photo: Paul Morse, (Just Detention International)



IMAGE 1 OF 10

SEPT. 4, 2003 - President George W. Bush signs the Prison Rape Elimination Act into law. The act is aimed at preventing, detecting and responding to sexual abuse in confinement settings.

Prison Rape Elimination Act Youthful Inmates Standard

"The largest challenge is separating juveniles by sight and sound," confirmed Harris County Sheriff's Office Public Information Officer Ryan Sullivan. Calling it more of a "logistical" problem, Sullivan said the county is confident its other two jails will be certified compliant by next year.

Section 115.14 requires:

- ❖ No youth under 18 years of age can be placed in a housing unit where contact will occur with adult inmates in a common space, shower area, or sleeping quarters.
- ❖ Outside of housing units, agencies must either maintain **"sight and sound separation"**—i.e., preventing adult inmates from seeing or communicating with youth—or provide direct staff supervision when the two are together.
- ❖ Agencies must avoid placing youth in isolation and, absent exigent circumstances, must afford them daily large-muscle exercise and any legally required special education services, and must provide them access to other programs and work opportunities to the extent possible.

Separating Youth From Adults is Costly

The *Youthful Inmate Standard* has greatly impacted adult county jails, forcing them to expend extra costs to comply, and leaving many counties unable to comply due to architectural constraints. For example, **Dallas County spends approximately \$79,850 per week to separate 17-year-olds from adults.**

Harris County has had to evacuate entire floors to move one or two 17-year-olds to the shower. Smaller counties are logistically unable to provide “sight and sound” separation and/or avoid placing youth in isolation without retrofitting facilities at tremendous expense. Simply put, **Texas county jails cannot continue housing 17-year-olds with adult inmates or in isolation cells without financial cost and/or liability risk.**

Private Liability Still Exists

- ❖ ***Farmer v. Brennan***: the United State Supreme Court set forth the standard for determining if prison conditions violated the Eighth Amendment. It requires the plaintiff to prove:
 - (1) that the conditions were cruel, and
 - (2) that the government was **deliberately indifferent** to the conditions facing the inmate. 511 U.S. 825 (1994)
- ❖ PREA provides **national standards**—supported by extensive evidence-based research, correctional administrator input, public commentary, and other documentation—that suggest what governments must do to provide safe environments for inmates.

What is the Liability Risk?


Although there is no reliable data available specifically setting forth the costs of litigating these cases in Texas, the National Center for State Courts has developed a model to estimate the costs of civil litigation that resolve at different stages of litigation.

Litigation Stage	Amount expended on attorney's fees alone for lowest 25%	Amount expended on attorney's fees alone for highest 75%
Case Initiation	\$1,000	\$7,350
Between Discovery through Formal Negotiations or ADR	\$5,000	\$36,000
Trial	\$18,000	\$109,000

Lawsuits Beginning

Private Prison Operator Sued by Texas Inmate for Allowing Sexual Abuse

BY ELI MAGAÑA | SEPTEMBER 16, 2014

Last week, a  [civil rights lawsuit](#) was filed in a Texas federal court by a former prisoner against Corrections Corporation of America, one of the nation's largest private, for-profit prison operators, and two of its employees for allegedly allowing the defendant to be sexually assaulted by other inmates at a facility in Bartlett, Texas.

The incident occurred during a sexual hazing ritual in which inmates are routinely forcibly stripped of their clothing by other prisoners and slammed against a protective glass window, exposing the victims' naked bodies to prison staff on the other side.

According to court documents, CCA and the facility's warden were aware of the hazing practice, but did nothing to stop it. After the defendant reported the incident, CCA subsequently put him in solitary confinement, which according to the lawsuit, is a common practice by CCA officials in responding to rape survivors' outcries.

"It's well known now that these private facilities lack the oversight capacity, training programs and staffing to protect inmates and correctional employees," stated Lance Lowry, president of AFSCME Local 3807. "With the ever-growing list of scandals and lawsuits, states are now starting to rethink the whole idea of contracting out prison operations to private enterprises."

Houston Chronicle



HOUSTON

Transgender inmate's lawsuit accuses state of not protecting her from attacks

By Allan Turner | October 23, 2014 | Updated: October 23, 2014 9:19pm

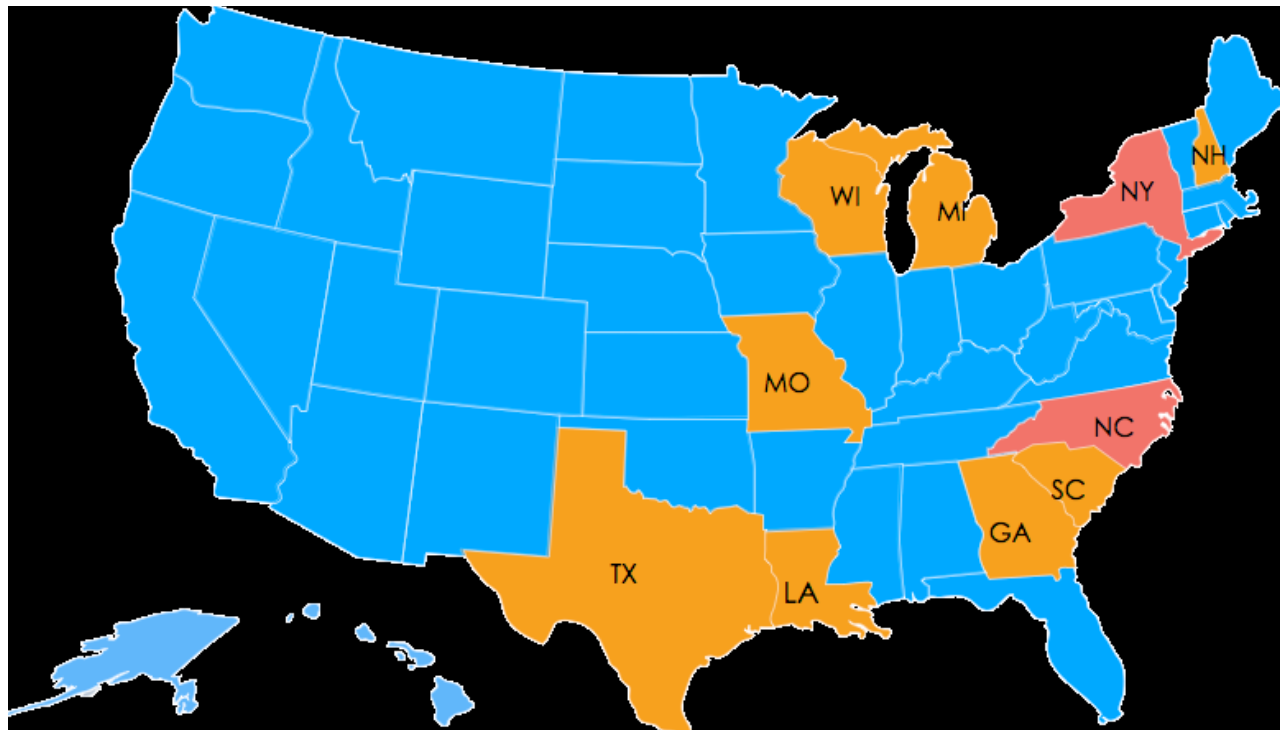


Lawyers for a transgender woman who says she repeatedly has been threatened, forced into sexual encounters and physically assaulted filed a lawsuit Thursday against the Texas Department of Criminal Justice, alleging prison officials failed to safeguard the inmate despite numerous requests for protection.



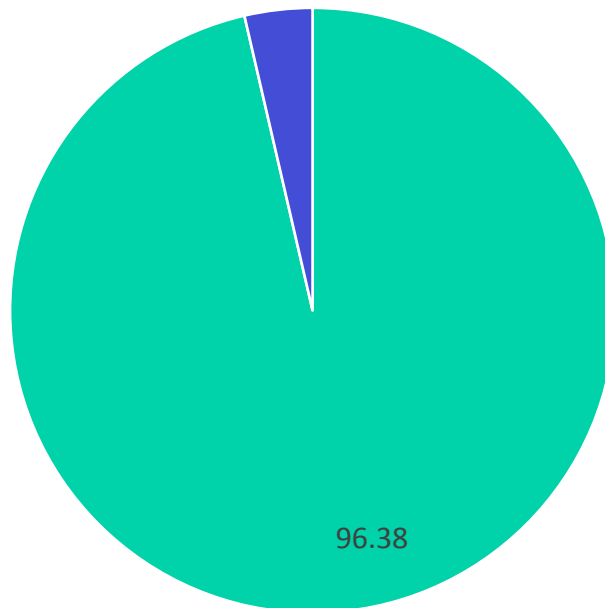


Texas is 1 of only 9 States



The majority of 17 year-olds are arrested for nonviolent and misdemeanor offenses

2013 Arrests of 17-Year-Olds



■ Percentage of Non-Violent Offenses

■ Percentage of Violent Offenses

Comparing 16 and 17 Year Olds Highest Occurring Offenses

16-Year-Olds

- Larceny-Theft (EMV) (4,443)
- Drug Abuse Violations (3,035)
- Misdemeanor Assaults (2,642)
- Disorderly Conduct (1,284)
- Burglary-Breaking Or Entering (815)

17-Year-Olds

- Larceny-Theft (EMV) (5,350)
- Drug Abuse Violations (5,147)
- Misdemeanor Assaults (2,614)
- Liquor Laws (1,296)
- Disorderly Conduct (1,206)

Note 1: Violent v. non-violent offenses are defined by DPS in their crime analysis reports found at:
<https://www.txdps.state.tx.us/crimereports/13/citCh2.pdf>

Fiscal Cost to the State

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1205 by Dutton (Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1205, Committee Report 1st House, Substituted: a negative impact of (\$6,725,951) through the biennium ending August 31, 2017. The negative fiscal

Additional costs potentially associated with increased demand on juvenile probation programming are not included in this analysis and could be significant.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$0
2017	(\$6,725,951)
2018	(\$47,004,851)
2019	(\$61,745,809)
2020	(\$53,938,678)

Other Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1
2016	\$0
2017	(\$6,725,951)
2018	(\$47,004,851)
2019	(\$61,745,809)
2020	(\$53,938,678)

But What about the Cost to Counties?

The cost to each individual county juvenile department would vary depending on a number of factors including:

- ❖ the size of the county and the areas served
- ❖ the number of offenders served
- ❖ the severity of offenses committed and prosecuted
- ❖ the range of services provided

Any Cost Savings?

The savings to individual counties are likely to be significant, dependent upon:

- ❖ Current costs to keep 17-year-olds sight and sound separated;
- ❖ Projected costs to retrofit facilities to become PREA-compliant, including any costs associated with becoming fully code compliant once construction begins;
- ❖ Changes to referral and arrest rates when 17-year-olds are classified as juveniles; and
- ❖ Long-term economic benefits from better outcomes in the juvenile justice system.

Long-Term Economic Benefits



Citing the long-term benefits of reducing recidivism by keeping kids out of the adult system, a 2012 Texas study found that “raising the age of juvenile jurisdiction would have a **net benefit of \$88.9 million for every cohort of 17-year-olds moved into the juvenile system in Texas**”

Long-Term Economic Benefits: Rhode Island Case Study

Projected Savings

\$98,000 (cost to pay for a juvenile treatment program)

-\$40,000 (cost to house a juvenile in an adult facility)

Projected Savings = \$58,000

Actual Costs

\$98,000 (cost to pay for a juvenile treatment program)

-\$104,000 (cost to house a juvenile in an adult facility)

Actual Loss = \$6,000

Connecticut: Sound Fiscal Policy

Connecticut raised the age of juvenile court jurisdiction from 15 to 17 in 2007, to be implemented in 2010; implementation for 17-year-olds was delayed until 2012.

- ❖ The 2007 law's fiscal note predicted accelerating extra costs for implementing "Raise the Age": \$36 million in 2010, \$78.5 million in 2011, and \$100 million in 2012.
- ❖ **In fact, Connecticut's spending on juvenile justice was lower in 2011-2012 than it had been 10 years earlier.**

Connecticut: Increased Public Safety

Connecticut's "Raise the Age" law had **no noticeable negative effect on crime**; from 2010-2013, successful completions of probation without re-arrest improved significantly.

And from 2008-2014, **arrests of 15-19 dropped by over 50%**, by far the largest drop of any age group in the state.

Statewide arrests in Connecticut by age cohort, 2008-2014:

15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+
-54%	-29%	-11%	5%	-28%	-35%	-24%	10%	32%	34%	30%

Illinois

Illinois raised the age of juvenile court jurisdiction from 16 to 17 for misdemeanants in 2010, and for all 17-year-olds in 2014, as police and prosecutors preferred “a uniform age of majority.”

- ❖ The proposal to move 17-year-old misdemeanants to juvenile jurisdiction was met with predictions that it would “crowd court dockets, probation caseloads, and detention centers.”
- ❖ But even though 18,000 17-year-old misdemeanor cases went to juvenile court in 2010, “the total number of youth in the juvenile system actually dropped due to decreases in overall crime and juvenile arrests, as well as increased use of diversion options.”
- ❖ **The number of juveniles in post-trial prisons in Illinois has continued to drop each year since 2010.**

Massachusetts

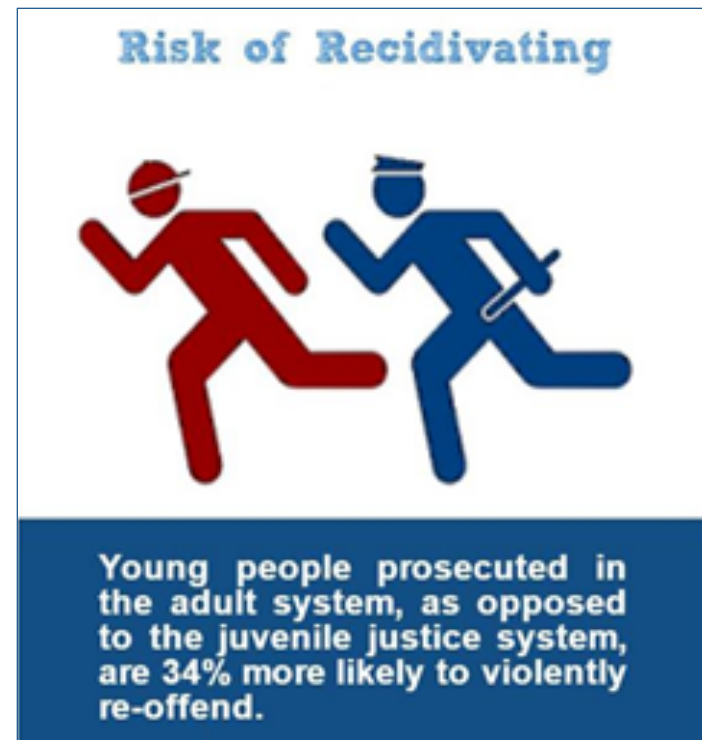
Massachusetts raised the age of juvenile court jurisdiction to 17 in September 2013.

- ❖ In 2013, prior to the passage of “Raise the Age,” the Department of Youth Services (DYS) estimated that there would be 3,338 arraignments of 17-year-olds that year, resulting, if the new law were passed, in 1,302 extra detentions and 335 extra commitments for DYS.
- ❖ At the end of 2014, DYS reported that during that year there had been just 691 detentions and 165 commitments of 17-year-olds.

Better Public Safety Outcomes

As leaders in your community, you care about **public safety**.

A 2007 study by the Centers for Disease Control concluded that transfers of youth to the adult criminal justice system “do more harm than good” and found a **“34% relative increase in subsequent violent or general crime for transferred juveniles compared with retained juveniles.”**



Reduced Barriers to Re-Entry

17-year-olds with a criminal record face barriers to education, housing, and employment because of their criminal record.



Will they rely more heavily on social welfare programs? Will they turn to crime to survive?

84th Legislature (2015)

- ❖ During the preceding interim: House Criminal Jurisprudence Committee unanimously recommended to raise the age of criminal responsibility.
- ❖ During session: In total, five bills were filed: SB 104 (Hinojosa), HB 53 (McClendon), HB 330 (Wu), HB 1205 (Dutton), and HB 1240 (Walle).



HB 1205 unanimously passed out of the House Juvenile Justice & Family Issues Committee but never reached the House for a floor vote.



Representatives Wu and Larson amended SB 1630 to include a provision to raise the age, depending upon funding being allocated in the 85th Legislative Session. The amendment passed the House but was removed in conference.



85th Legislature (2017)

Interim charge in the House Juvenile Justice & Family Issues Committee:

Review juvenile justice penalties and sanctions determined by or disallowed by age of the juvenile. Identify best practices in other states relating to juvenile age. Determine if alternatives or changes, based on age or other factors, are required to address penalties and sanctions in the juvenile age population.

Bipartisan Support

The Texas Smart-On-Crime Coalition

Executive Committee



Austin Expressive Arts Therapies
Austin/Travis County Reentry Roundtable
Todd Jermstad – Bell County CSCD
Center for Public Policy Priorities
Unlocking DOORS Texas Reentry Network –
Christina Melton Crain, President/CEO
Jaime Josefson – Greenstream International
Stacy Hock – Hock LLC
Just Mind
Meadows Mental Health Policy Institute
Mental Health America of Texas
OnShore Resources
R Street Institute
Restorative Justice Ministry Network
Texas Appleseed
Texas Association of Goodwills
Texas Fair Defense Project
Texas Jail Project
Texas NAACP
Texas PTA



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