



Bringing More Teens Home

**Raising the Age Without
Expanding Secure Confinement
in the Youth Justice System**



**THE
SENTENCING
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM



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The Sentencing Project promotes effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

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INTRODUCTION

Eleven states raised the age of criminal responsibility to age 18 since 2007, in a reform initiative referred to as “raise the age” (RTA). Today, only three states — Georgia, Texas and Wisconsin — consider every arrested 17 year old to be an adult and prosecute them in the adult justice system instead of the juvenile justice system. Nationally, more than 100,000 youth every year have been returned to juvenile court, with a very minimal, often temporary, increase in the use of secure facilities.

The youth justice system was designed to treat children like children: accounting for youthful indiscretions and providing rehabilitative services to get children and their families back on track. Early this century, building on advancements in neuroscience and adolescent development and a reckoning with racial injustice, states reexamined the jurisdictional boundaries between their juvenile and adult criminal legal systems. The effort began as youth arrests declined, falling by 67% between 2001 and 2018, a trend that continues today.¹

Each year, these initiatives have brought at least 100,000 teenagers, disproportionately Black and Latinx, back from the adult system.² The number of young people in the adult system has dropped by 60%.³ Despite claims to the contrary, bringing these youth back under juvenile jurisdiction did not significantly increase costs, confinement, or crime.

Following a period of harsh and extreme policies that stripped minors (disproportionately young people of color) of the protections and rehabilitative nature of the juvenile court, in the 21st century, states began to reassess the way they defined childhood under the juvenile justice system. States acknowledged that 16 and 17 year olds who were considered children by every other government standard — voting, buying cigarettes, joining the military, and signing a legal contract — were not treated as children when they came in contact with the law. At the same time, falling youth crime and drops in youth incarceration led states to consider reforms that would better align the principles of adolescent development with the juvenile justice system.

Raise the age (RTA) reforms brought the vast majority of children (under the age of 18) back to the jurisdiction of juvenile court. While every state’s reforms included both misdemeanor and some felony charges, RTA reforms did not address other pathways into adult court such as judicial transfer or automatic transfer, laws that allow youth to be charged as adults for more serious offenses regardless of their age; laws that disproportionately are applied to youth of color. Further reforms are necessary to ensure that every child falls under the jurisdiction of juvenile court.

Despite the incremental approach of RTA reforms, opponents suggested that the costs of the reforms would be prohibitive, largely due to the need to build more secure facilities to accommodate the 16 and 17 year olds returning to the juvenile justice system. Fiscal notes often cited exorbitant costs associated with expanding the number of secure beds (professional jargon for holding incarcerated children in locked-facilities) as a challenge to this common-sense reform.

States can and have raised the age while keeping communities safe and without building expensive new youth detentions centers.

Table 1: Raise the Age Reform States

State	Legislation Passed	Implementation
Connecticut	2007	2010 (16 year olds) 2012 (17 year olds)
Illinois	2009 (misd.) 2013 (felonies)	2010 (misd.) 2014 (felonies)
Mississippi	2010	2011
Massachusetts	2013	2013
New Hampshire	2014	2015
Louisiana	2016	2019
South Carolina	2016	2019
New York	2017	2018 (16 year olds) 2019 (17 year olds)
North Carolina	2017	2019 (16 and 17 year olds)
Missouri	2018	2021
Michigan	2019	2021

Even proponents of raising the age believed that adding significant numbers of youth would strain the capacity of secure facilities, such as detention centers, youth prisons, and other out-of-home placements. Despite arrests of 17 year olds making up a majority of low-level charges (similar to younger youth), and a significant decline in the use of secure placement in this century—the number of beds and how to pay for them constituted a significant hurdle in RTA policy reform negotiations.

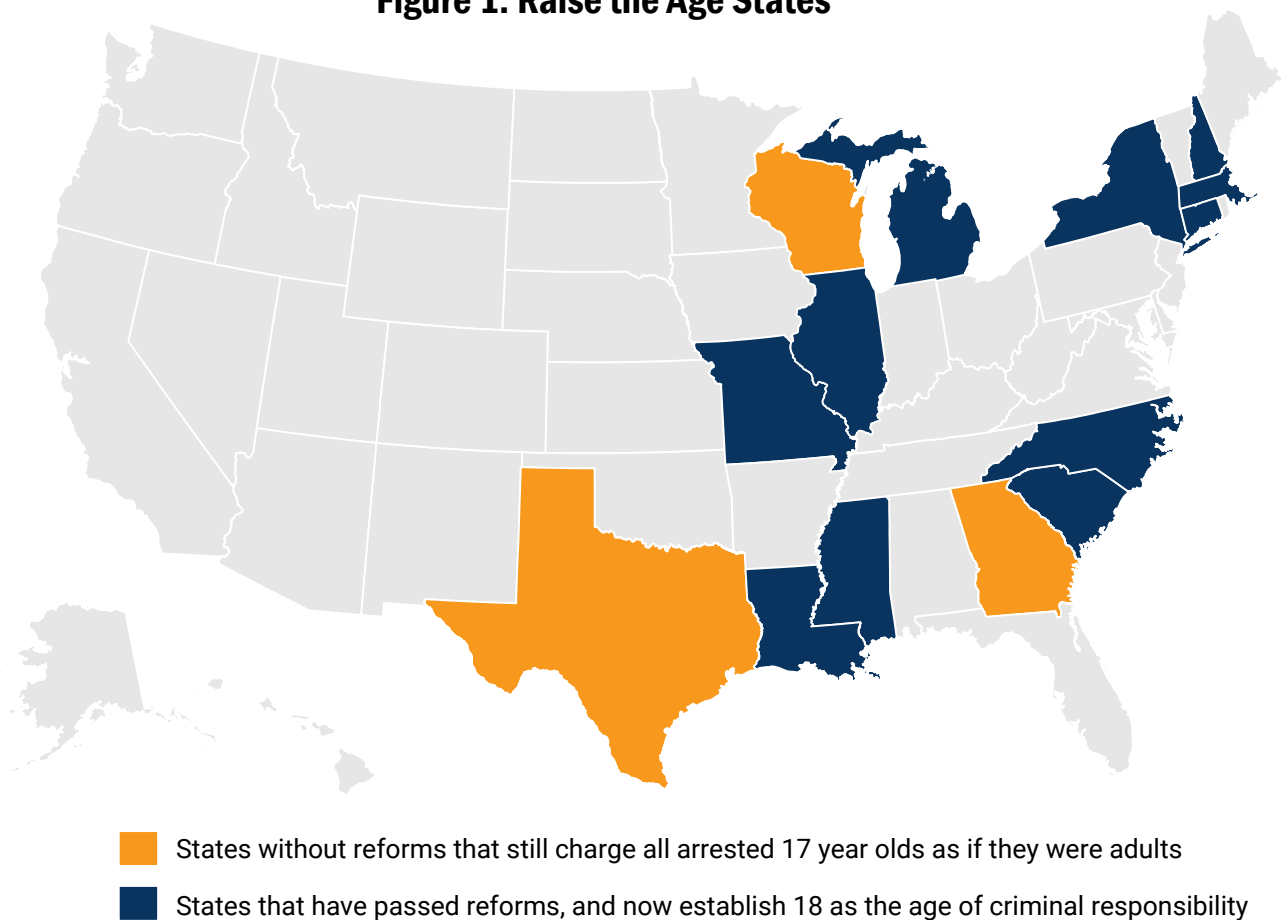
This report reviews each of the states that have raised the age of jurisdiction for its youth justice system and assesses the resulting housing needs for incarcerated youth. These states' experiences present a clear picture

that adding more youth under the jurisdiction of juvenile courts does not inevitably require additional secure facilities to house them, dispelling many of the assumptions of lawmakers and opponents of reform. The long-term declines in youth offending and arrests assume much of the credit for the decline in expected expenditures. Indeed, facilities continue to be closed or have excess capacity around the country, including in the states that recently raised the age.⁴

Together, these states present a hopeful picture for the states that have yet to raise the age as well as those states that may add older adolescents under the jurisdiction of their juvenile courts.

IMPLEMENTING RAISE THE AGE REFORMS

Figure 1: Raise the Age States



Between 2009 and 2020, eleven states Raised the Age of youth served in their juvenile justice system (See Figure 1).

In 2017, the Justice Policy Institute (JPI) published a comprehensive report on the impact the first wave of these reforms had on the youth justice system, “Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System.”⁵

The report found that Connecticut, Illinois, Massachusetts, and Mississippi implemented raise the age with overwhelming success. “Conservative and liberal lawmakers changed policy in light of emerging research showing that young people are different from adults,

and that serving them in the juvenile justice system, whose focus is rehabilitation, yields better public safety outcomes.”⁶ The report also outlined a roadmap for states to effectively raise the age, without over-burdening their youth justice systems.

The roadmap included evidence-based system reforms (Figure 2) that had been researched and tested by public and private partnerships, including both in the Annie E. Casey Foundation’s Juvenile Detention Alternative Initiative (JDAI) and the MacArthur Foundation’s Models for Change Initiative.⁷ All states who successfully raised the age adopted at least some of these reforms when raising the age.

Figure 2: Successful Strategies for Raise the Age Implementation

- 1. Expanding the Use of Diversion**
- 2. Making probation & Aftercare approaches more effective**
- 3. Addressing young people’s mental health needs outside of the deep end of the system**
- 4. Reducing the use of pretrial detention**
- 5. Reducing reliance on facilities, and focusing resources on community-based approaches**
- 6. Keeping young people safe by complying with the Prison Rape Elimination Act**
- 7. Improving Juvenile Justice Systems’ management of resources, and strengthening strategies to serve young people more effectively**

Inside Voices

“ I was told by other men I was housed with to avoid the guards because they were not there to help me and could actually cause more harm to me than any man I was housed with. This proved to be true, as I soon saw three guards assaulting a man in the hallway outside our pod. Rather than restrain him with care, they punched, kicked, and kneed him until they were ready to place him in handcuffs.

I pray that Texas will one day realize that we must treat kids like kids, provide them with more opportunities for rehabilitation, help them address the root causes of their behavior, and stop believing that incarcerating kids is the solution.”

– 17 year old, Texas

RAISE THE AGE REFORMS DID NOT REQUIRE EXPANSION OF FACILITIES

As stated above, a common prediction prior to states raising the age, concerned the long-term detention and confinement of young people. As shown below, this concern was universally overstated and drove up costs of fiscal notes (legislatively mandated cost estimates) significantly and thus increased opposition to reform. Given that 16 and 17 year old youth commit similarly low-level offenses as their younger peers, and the use of diversion opportunities, probation options, and community-based programs available to young people in the juvenile justice system, it is not surprising that states who raised the age did not see a big rise in demand for secure confinement.

The following is a summary of each state's use of secure facilities after raising the age.

Connecticut (16 and 17 year olds)

- **Passed in 2007**
- **Implemented 2010 (16 year olds) and 2012 (17 year olds)**

Between 2000 and 2011, youth in residential care fell 60% in Connecticut, from 680 to 216 young people.⁸ The average daily population in pretrial detention also fell from 132 in 2006, down to 94 in 2011, the year that 16-year-olds were first added back to the youth justice system.

Following a period of allegations of abuse and mistreatment of children in the state's only youth prison in the 1990s, the state spent \$57 million to build a new youth prison, the 240-bed Connecticut Juvenile Training School (CTJS), which opened in 2001.⁹ On an average day, it held 150 youths.

During discussions to raise the age, the Department of Children & Families anticipated needing an additional

\$81 million for new construction costs and \$84 million in new operations costs to accommodate roughly 8,000 16 year olds returning to juvenile court jurisdiction the first two years of implementation.¹⁰

These predictions did not pan out.

Instead, one of Connecticut's youth detention centers closed in 2012, and CTJS was shuttered in 2018, without building replacement facilities. Despite having the bed capacity for 172 young people, in 2018 there were 47 youth held in this facility, this includes 16 and 17 year olds.¹¹

Furthermore, more youth were not pushed into the adult correctional system through other transfer mechanisms. Between 2009-2017, the number of youth under age 18 incarcerated at the Mason Youth Correctional Institute (MYCI) dropped 85%. Typically, there are less than 50 youth housed at MYCI on a given day, which includes both pre-trial and post-sentenced youth.¹²

The research is clear that keeping older youth in the juvenile justice system promotes rehabilitation and raising the age creates long-term savings by avoiding serial incarceration. An Urban Institute study¹³ concluded that Connecticut would save \$3 for every \$1 it spent raising the age.

Mississippi (17 year olds)¹⁴

- **Passed in 2010**
- **Implemented 2011**

Mississippi's¹⁵ raise the age reforms were modest. The state already incorporated most 17 year olds with misdemeanors under juvenile court jurisdiction; SB 2969 expanded this to include felonies, except those that would carry a life sentence or involved the use of a shotgun, rifle or deadly weapon. As elsewhere, the overall

cases and youth in detention decreased between 2010 (when the law passed) and 2018 (the most recent data).

In 2010, Mississippi referred 16,584 cases to juvenile court; by 2019, this number dropped to 15,578.¹⁶ In 2010, there were 357 youth detained and committed in Mississippi;¹⁷ by 2017, this number had dropped to 273 youth.¹⁸ The state's annual reports also show a much more significant drop in 17 year olds who have contact with the system. In 2010, there were 3,425 17 year olds at intake in the Mississippi Division of Youth Services and by 2019 this had dropped to 1,848,¹⁹ a 46% drop in the number of 17 year olds disposed of in juvenile court since raising the age.

Mississippi did not add state-run youth prisons (Oakley Youth Development Center remains its only state-run facility); nor did it add any detention centers. In 2013, Mississippi did, however, remove youth under age 18 from being housed in adult prisons.²⁰ While this is a small number annually, it still indicates that the state was able to absorb youth sentenced as adults into its youth facilities without adding more beds.

Illinois (17 year olds)

- **Misdemeanors: Passed in 2009; Implemented 2010**
- **Felonies: Passed in 2013; Implemented 2014**

Illinois bifurcated its raise-the-age legislation, passing Public Act 95-1031 to return 17 year olds charged with misdemeanors to juvenile court. After the implementation of the first phase of the bill,²¹ the legislature passed Public Act 96-1199 to bring many 17 year olds with felonies back to juvenile court; that law was implemented in 2014. This second phase added an additional 4,000 17 year olds each year to juvenile court.

In 2005, when discussions began about raising the age, the National Center for Juvenile Justice (NCJJ) concluded that “[r]aising the upper age of juvenile court jurisdiction from 16 to 17 would probably increase the overall juvenile justice system workload by about a third.”(134) The NCJJ study estimated that adding 17 year olds to the juvenile justice system would make the juvenile arrest category about 35% larger and would increase the Illinois juvenile detention population between 25 to 35%.²² Instead, arrests fell 24% statewide, and detention fell 18%.²³

The Illinois Department of Juvenile Justice (IDJJ) was created in statute in 2006, separating it from the Illinois Department of Corrections. At the time, there were eight state-run facilities (Illinois Youth Centers, or IYCs) for youth adjudicated delinquent and sentenced to secure care. Due to litigation and reduced numbers of youth referrals, IDJJ closed its Murphysboro and Joliet facilities in 2013. IYC Kewanee closed in 2016.²⁴ Today, Illinois has five secure youth facilities in the state that can house up to 920 youth.²⁵ In 2020, these facilities were at 43% capacity. Sixteen county-run detention centers remain in operation.²⁶

Despite raising the age, three facilities have closed since implementation, and numbers of youth in secure custody continue to decline.

Massachusetts (17 year olds)

- **Passed and implemented 2013**

Massachusetts began including 17 year olds in its youth justice system to comply with the housing requirements of the Prison Rape Elimination Act (PREA).²⁷ This included children who had charges pending in adult court. The predictions made prior to the policy change claimed there would be an extra 1,302 detentions and 335 extra commitments annually for DYS.²⁸

Massachusetts did see an increase of youth in detention, though much smaller than anticipated: from 271 youth in 2015 to 301 in 2016.²⁹ During the same timeframe, 368 17 year olds,³⁰ were committed to one of Massachusetts state secure facilities, and the Commonwealth reported that this had number stabilized.³¹

The raise the age budget was set in 2016 at \$15.6 million, most of which went to constructing 10- to 20-bed facilities.³² The budget included two new secure detention centers for boys, one with 18 beds, one with 15; eight beds total for two independent living programs; and a 12-bed secure-assessment facility.³³ The Commonwealth also closed one 15-bed secure placement facility for girls in 2016. In total, the charges resulted in 30 secure beds added across the Commonwealth.³⁴

After 2016, the number of all detained youth in Massachusetts fell more than 60% from 2,033 youth per

year to 765.³⁵ Detention for 17 year olds fell from 301 in 2016 to 217 by 2019, a 28% decline.³⁶ In 2019, the number of available secure placements was 40,³⁷ compared to 61 in 2016, the year that 17 year olds' detentions and commitments stabilized.³⁸ This demonstrates that the increase in beds was a temporary, three year increase. After the three years, the number of secure placements dropped.

The budget in Massachusetts has increased slightly to adjust for cost of living increases from \$171 million³⁹ in 2016 to \$179 million in 2020.⁴⁰

New Hampshire (17 year olds)

- **Passed 2014**
- **Implemented 2015**

Unlike the other states that established their age of criminal responsibility when they created separate juvenile courts in the early 1900's, New Hampshire lowered its age to 17 during the mid 1990s during the era when youth crime had a temporary spike, and states rushed to treat more children as if they were adults. When passing the RTA bill in 2014,⁴¹ cost estimates were \$5.3 million, predictions that never came to fruition.⁴²

Delinquency cases in New Hampshire fell from 2,314 in 2016 to 1,758 in 2020. Delinquency petitions were cut in half. Out of home placements fell 38% from 630 to 392 during the same timeframe.⁴³ During the first year of implementation of raising the age, the number of youth in placement grew by 12 youth.⁴⁴

New Hampshire has one detention center for post-adjudicated youth, the 144-bed Sununu Youth Services Center. In 2018, due to low daily populations of approximately 30 youths (down from 60-65), the center converted 36 beds to residential drug treatment units for youth (non hardware secure).⁴⁵ By 2020, the average daily population was fewer than twenty youth when scandal erupted and more than 150 former staff were accused of physical and sexual assault of 230 youth between 1963-2018.⁴⁶ The legislature is in the process of closing the center and building out more appropriate and therapeutic settings for young people who pose public safety risks.⁴⁷

Louisiana (17 year olds)

- **Non-Violent offenses: Passed 2016; Implemented 2019**
- **Violent offenses: Passed 2016; Implemented 2020**

In June 2016, Louisiana's Act 501 raised the age.⁴⁸ The law brought 17 year olds back to the juvenile justice system in two phases—those with non-violent offenses first, and those charged with crimes of violence the following year. It was predicted that 67 youth and 59 beds across the state would need secure care after raising the age at a cost of \$3 million.⁴⁹

The Jurisdiction Planning & Implementation Council, a task force created by the state legislature, was tasked with planning for implementation. It recommended that cities and parishes universally support JDAI practices and the state's validated risk tools to reduce local detention populations, so as to not expand beyond the existing 13 detention facilities.⁵⁰

Louisiana had 297 commitment beds statewide prior to raising the age.⁵¹ The Task Force suggested that the 72-bed Acadiana Center, built in 2016 (but never opened for lack of need of youth and operation funds), could be utilized for youth adjudicated to a period of commitment after passage.⁵²

In 2018, the state granted Acadiana the \$4 million necessary to open and operate the facility; it opened a year later.⁵³ Since 2018, the population of youth in committed facilities has decreased,⁵⁴ nearly 20%, despite full implementation of RTA.⁵⁵

South Carolina (17 year olds)

- **Passed 2016**
- **Implemented 2019**

Passed in 2016, South Carolina's Act 268, raising the age to include 17 year olds, delayed implementation until its Department of Juvenile Justice deemed it had sufficient funding to do so. The state's Department of Revenue and Fiscal Affairs office estimated \$10 million in construction costs for a new evaluation center and \$5 million in annual expenses despite significant excess capacity in all of its facilities other than its Detention

Center, which largely held youth charged with low-level offenses for less than two weeks.

After the state passed a budget proviso (67.14),⁵⁶ the law was fully implemented in July 2019 without any additional funds. Implementation of the law was funded by DJJ's one-time carryover funding from 2018-2019 of approximately \$6.4 million.⁵⁷

During the first six months of implementation, 17 year olds made up 208 of the 1,349 youth in detention; and 131 of the 793 committed youth.⁵⁸ Only 15 youth were committed for A-D felonies, charges that were excluded from RTA reform. Despite this, DJJ increased its carry-over to \$11.4m in FY 19-20, the year raise the age went into effect, essentially spending \$5m LESS than the year prior to raising the age.⁵⁹

DJJ projected that the raise the age Act would result in population increases at all secure facilities.⁶⁰ In their anticipated FY 18-29 budget, DJJ anticipated needing 567 additional full-time equivalent (FTE) positions and an additional 348 staff in its FY 19-20 budget request. They also requested a new detention center, a new evaluation center and extra space at their committed facility, all of which were denied by the General Assembly.⁶¹

A 2021 review by the Legislative Audit Council found DJJ negligent in its preparation for implementation of raising the age, despite a near three-year implementation planning period.⁶² Despite requests to expand detention beds, DJJ instead has partnered with the Annie E Casey Foundation's Juvenile Detention Alternatives Initiative⁶³ to reduce the placement of low level youth in detention or at South Carolina locked assessment centers.

New York (16 and 17 year olds)

- **Passed 2017**
- **Implemented 2018 (16 year olds) and 2019 (17 year olds)**

New York passed raise the age in 2017⁶⁴ by creating a "youth part" in the criminal courts that would review felony cases of 16 year olds (2018) and 17 year olds (2019) who are referred to as "adolescent offenders." RTA called for all 16 and 17 year olds charged with misdemeanors originating in family court. The "youth

part" of the Courts is overseen by criminal court judges trained in adolescent development and family court process, who have the discretion to transfer youth charged with violent felonies back to family court, except for Class A felonies that meet specific conditions.⁶⁵ The law also required all youth under age 18 to be removed from adult jails and prisons.

New York had already undergone significant reforms in the youth justice system, and closed most state operated facilities (operated by Office of Children & Family Services (OCFS)), instead opting to keep children closer to home.⁶⁶ Under RTA, in 2018, the NY budget allowed four facilities to be renovated at a cost of \$50 million to add 663 beds for 16 and 17 year olds.⁶⁷ The State paid up front for all beds in the initial phase of implementation. In the first six months of implementation, there were a total of ten 16 and 17 year olds sent to these facilities.⁶⁸ Between 2018-2019, these facilities were co-operated by OCFS and the adult, Department of Corrections & Community Supervision (DOCCS). In 2020, OCFS took over full operations of the facilities. Starting in 2022, New York will no longer pay for all beds up front, but instead pay on a utilization basis.⁶⁹

The New York Task Force reported that in 2016, prior to raising the age, there were 577 youth sentenced to state prison and nearly 2,400 in adult jails; by 2020 there were zero.⁷⁰ Furthermore, even after the inclusion of 16 and 17 year olds, felony arrests of youth were down 53% between 2010 and 2019; Juvenile detention was down 64% and family court placements were down 52%.⁷¹

North Carolina (16 and 17 year olds)

- **Passed 2017**
- **Implemented 2019**

North Carolina passed the Juvenile Justice Reinvestment Act (S.L. 2017-57), which brought the majority of 16 and 17 year olds under juvenile court jurisdiction.⁷² After this law was implemented in 2019, no state in the nation regularly excluded 16 year olds from juvenile court based solely on their age.

To implement the law, the state legislature created the Juvenile Justice Advisory Committee (JJAC) that focused on the legislative, funding and administrative

recommendations of raising the age across the state. In response to the Administrative Office of the Courts data, the Department of Juvenile Justice (DJJ) expected a 64 percent increase in its youth population. As a result, the JJAC recommended gradually increasing the secure beds in the state by 133 beds, at a cost of \$13.4million.⁷³ It should also be noted that North Carolina only created one new facility, the other beds were additions to current facilities. Despite this expansion, all facilities in the state still hold fewer than 50 youths.

In 2019, the state also passed a law, SB 413⁷⁴, that would remove all youth under age 18 (including those 17 year olds charged as if they were adults) to youth facilities. The state predicted the average length of stay for youth pending adult transfer would be much longer, from 18-21 days for delinquent youth to 250 days for youth pending adult charges⁷⁵ (More serious offenses lead to longer detentions, emphasizing the unnecessary nature of detaining youth for low-level offenses). As a result, the state expanded beds again. In total, the state went from 190 to 300 beds to accommodate both the 16 and 17 year olds returning to juvenile court and those youth (ages 13 and older) who are pending adult transfer to adult court (referred to as A-G felons, signifying their charges).⁷⁶

After the first year of raising the age in North Carolina, the JJAC reported that there was only a 38 percent increase in the number of youth referred to the system, about half of what was predicted. More youth (about 6 percent less) had a complaint delivered and closed than was expected.⁷⁷ Because the first full year of Raising the Age in North Carolina happened during the COVID-19 pandemic, when many schools and public spaces were closed, school-based court referrals also dropped dramatically. Instead of comprising a typical 45 percent of complaints in juvenile court, in 2020, that number was only 16 percent. This reduced the predicted detention population in the state. However, the number of youth pending adult transfer was slightly higher than predicted, with nearly 250 youth charged as adults.⁷⁸

The costs in the state to implement these changes were estimated to be \$47.6m in year one, \$62.7m in year two, and \$57.4m in year 3.⁷⁹

Missouri (17 year olds)

- **Passed 2018**
- **Implemented 2018**

Missouri passed raise the age in 2018 for 17 year olds with the passage of S.793 and an implementation date of Jan 2021, “subject to appropriations.”⁸⁰ The state fiscal note estimated implementation costs to be \$6.71 million annually.⁸¹ To cover these costs, the state established a county court fine that accrued \$2.6 million by the implementation date in January, 2021. As a result of this shortfall, the Missouri Juvenile Justice Association (a membership organization of private corporations, juvenile justice system professionals and agencies, and other interested individuals) and the Missouri Association of Prosecuting Attorneys refused to implement the raise the age law citing a lack of funding.⁸² All but five counties delayed implementation; however, two of the five counties who did implement on time have the largest number of youth in the state. As a result, litigation was filed in the Missouri courts.

In 2021, the Governor proposed spending \$18 million to hire new staff in order to fully implement RTA.⁸³ No new beds were allocated. Furthermore, the legislature passed HB 1242 in 2021, clarifying that the “juvenile justice preservation funds” created in the original raise the age bill are explicitly to be used to expand juvenile court jurisdiction to include 17 year olds.⁸⁴ The governor is expected to sign the bill into law.

Michigan (17 year olds)

- **Passed 2019**
- **Implemented 2021**

In 2019, a package of 18 bills passed the Michigan legislature raising the age from 17 to 18 years of age and making other improvements to the juvenile justice system.⁸⁵

The bill also created a “Raise the Age Fund” within the State Treasury, requiring the State Court Administrative Office (SCAO) to create and administer a grant program to disburse money from the Fund for costs to adjudicate

and for services provided for juveniles who were 17 years old at the time of the offense. It also requires the SCAO to report relevant data to the courts on 17 year olds who received services for fiscal years 2022-23.

In Michigan, juvenile court services are funded through the Department of Health and Human Services Child Care Fund (CCF) that establishes a 50 percent cost-share between the counties and the state. The RTA Package will allow for 100 percent state reimbursement to counties for services provided to 17 year olds between 2021-2025.⁸⁶

In 2021, Michigan Governor Gretchen Whitmer allocated \$29.1 million to implement RTA in the state.⁸⁷ These dollars went to supporting the expansion of staff and services in the counties. No new beds have been provided in Michigan to date.



Inside Voices

“ My experience in adult prison is a very mentally stressing experience. Having to worry about not getting taken advantage of, set up, physically abused is a very scary thought. I do not have the mentality...to know how to survive in prison.”

— 17 year old, Missouri

RAISE THE AGE MUST CONFRONT RACIAL AND ETHNIC DISPARITIES

The youth justice system was designed to focus on rehabilitation, privacy, and a family-centered approach to help youth get back on the right path. Despite this more developmentally appropriate response to youth misbehavior, racial and ethnic disparities' persistence throughout the juvenile justice system is well-documented.⁸⁸ The point at which children are charged and sentenced as adults is particularly egregious, with 88% of children sentenced as adults being youth of color. RTA reforms were, in part, created to ensure fewer youth of color were impacted by an adult charge and sentence prior to reaching adulthood.

While the data do not exist to identify the race and ethnicity of the 16 and 17 year olds who have benefited from RTA reforms, trends in youth arrests and court referrals indicate that youth of color, particularly Black youth, will benefit from these efforts. This is particularly true for opportunities to access diversion and record

sealing or expungement, which are much more available in the juvenile system than the adult system.

The most egregious disparities in the juvenile justice system occur at the point of incarceration, where Black youth are five times more likely than their white peers to be detained (pre-trial) or committed (post-adjudication) for their behavior.⁸⁹ These patterns hold across a range of offenses, and haven't changed despite the large decline in youth arrests and incarceration.

Given these persistent disparities, it is critical for states to take affirmative measures to reduce their reliance on facilities, particularly for Black, Tribal and Latinx youth when raising the age. Fortunately, most states have leveraged non-carceral strategies such as pre-arrest diversion, validated risk-and-needs assessment tools; restriction of detention to children who pose higher risks to public safety; and investment in culturally-responsive

Inside Voices

“ I ended up getting 10 years' probation. I had to pay around \$125 a month for 10 years. It was very scary; the whole thing was intimidating. I always felt that they might arrest me if I was short on my fees. One time, right after I had just had my baby, my probation officer told me that if I did not have my fees I was going to be arrested. He told me that my probation fees were more important than my rent.”

– 17 year old, Texas

and trauma-informed community programs. Adoption of these strategies benefit Black, Latinx and Tribal youth because they reduce the system's reliance on secure facilities – the point at which racial and ethnic disparities are the worst.

Data limitations strain the ability of policymakers and the public to understand the impact of raising the age on reducing racial and ethnic disparities. Where data exist, it may not specify 17 year olds as a distinct population but instead count them among a larger age bracket, such as 17 to 24 year olds. As such, data on the arrest patterns of 17 year olds, particularly by race and ethnicity, may not be available. This is particularly important because RTA legislation rarely adjusts the other pathways into adult courts, such as automatic or discretionary waivers that are allowed (but not required) based on the offense and the decisions of judges and prosecutors. A better estimate of the impact of RTA laws on youth of color requires both the number of arrests, the level of offense, and the outcome of the case (diversion, probation, incarceration, etc). Estimating the impact requires demographic subdata. The 17 year olds left behind after RTA reforms are implemented (due to transfer statutes) are disproportionately youth of color.

On a more positive note – several states who have implemented RTA reforms, have subsequently amended their transfer statutes to bring more teenagers back under juvenile jurisdiction. Connecticut, Illinois, Massachusetts all passed subsequent laws that narrowed the number of youth eligible for transfer to adult court in their states. These reforms, combined with RTA can have a lasting impact on young people of color and help end the lasting impacts of both structural and individual racism in our justice systems.

LEARNING FROM RAISE THE AGE IMPLEMENTATION

Only three states have yet to raise the age of juvenile court jurisdiction to 18 years: Georgia, Texas and Wisconsin. Vermont⁹⁰ has already raised the age of youth court jurisdiction to 19 for those with misdemeanors, and Illinois, Massachusetts, and Colorado have explored doing the same. Based on over a decade of implementation of RTA laws and policies, The Sentencing Project recommends that states significantly expand a more humane, restorative, and rehabilitative justice approach for all youth and emerging adults, specifically:

1. Treat Children Like Children.

Raising the Age is common sense reform. Forty-seven states have already established 18 as the age of criminal responsibility, with positive results. Sixteen and 17 year olds are children and should be treated as such; they should be provided with the opportunity to learn from their mistakes, grow, and move forward with their lives.

Developmental psychologists and neuroscientists have established that adolescence is a distinct developmental stage, marked by unique characteristics that lasts from roughly 16-24 years of age. Therefore, raising the age to 18 is the minimum states should be striving for. States should also consider ending their transfer statutes, and raising the age beyond 18 to ensure that they are treating children like children, and not exacerbating racial and ethnic disparities.

2. Build out a full continuum of care, starting with community-based services.

Only six percent of arrests for youth under 18 are for serious or violent offenses that might pose a threat to public safety,⁹¹ yet 59% of youth

in out-of-home placements are there for property crimes, status offenses, drug crimes and technical violations of probation.⁹² As these numbers show, the United States continues to rely too heavily on incarceration in response to delinquent behaviors.

Instead of directing limited resources towards the costs of incarceration, states and local communities should be investing in a continuum of community care⁹³ that allows the vast majority of youth to remain in community with appropriate support. Evidence-based and culturally responsive programs that are delivered in the community are just as effective as when delivered in a secure setting, but at a fraction of the cost.

By adopting a robust continuum of care, half the states who raised the age were also able to close facilities after implementing the policy. Nationally, 78% of all youth in out-of-home-placements (including secure facilities) are operating under capacity. By closing these expensive, ineffective facilities, states are able to redirect the resources to other, less expensive and more successful aspects of the continuum of care.

By adopting a robust continuum of care, half the states who raised the age were also able to close facilities after implementing the policy.

3. Establish guardrails that reduce which children can be sent to detention and other secure facilities and specifically work to end racial and ethnic disparities throughout the youth justice system.

Incarceration has a deep and criminogenic impact on children that is well-documented. The average length of stay for youth in detention is 27 days and youth who spend time in secure facilities show poor outcomes in their health, education and are more likely to end up incarcerated as an adult.⁹⁴ For these reasons, researchers have concluded that detention should be restricted to only children who pose a substantial risk⁹⁵ to public safety. This can be accomplished by states and localities adopting many of the strategies advanced by the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI).⁹⁶ Detention reduction strategies include instituting a statewide validated risk-and-needs assessment tool,⁹⁷ prohibiting children with status offenses

and misdemeanors from being detained, case management processing, and raising the minimum age of detention.

It is important to remember that these strategies alone aren’t enough to address the persistent racial and ethnic disparities that exist in the youth justice system. They must be paired with an intentional and deliberate review of data, decision-making, and outcomes, that is coupled with intentional investment in community-based services and interventions that specifically address racial disparities and the impacts of structural racism on individuals and communities. If these strategies are embraced, improvements can be made for youth regardless of race and ethnicity.



Inside Voices

“While incarcerated, my little brother was born. I wanted to call home but they wouldn’t let me. I got upset and ended up getting gassed. They put me in solitary for 30 days. It was so depressing. When you’re young you want to interact with people, but I couldn’t see anybody. I felt like I was losing my mind at one time. I feel like those cells will play mind games on anyone after being in solitary for so long.”

– 17 year old, Texas

CONCLUSION

A decade ago, “raising the age” was considered a high-cost and risky investment. Today, research and outcomes demonstrated that not only did the sky not fall, but proponents underestimated the successes to come.

From the nine states who have fully implemented their laws, only New York, North Carolina and Louisiana have added facilities that didn’t later close. Both New York and North Carolina brought 16 year olds back into the juvenile system (all the states have added 17 year olds) and both of these states also removed all children under age 18 back to more appropriate youth-only facilities, including those charged as if they were adults – changes that Louisiana has not yet made. Furthermore, New York and North Carolina also have committed to small facilities with less than 50 beds, a commitment that other states have failed to make.

Four states closed, or are in the process of closing facilities after raising the age. They include Connecticut, Illinois and Massachusetts; New Hampshire is poised to close the Sununu Youth Services Center.

This underscores that states can and have raised the age by adopting developmentally appropriate practices, building a full continuum of care, and expanding community based services while keeping communities safe – all of this is being accomplished without building expensive new secure facilities for youth.



Inside Voices

“Everyone makes mistakes. Prison puts our lives on hold. I care about my education and helping my family shine. I have the talent to do anything that anyone else can do. I’m scared of losing my life over a crime.”

– 17 year old, Virginia

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Bringing More Teens Home: Raising the Age Without Expanding Secure Confinement in the Youth Justice System

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