



House Law & Justice Committee
September 25, 2018

RE: HB 4607, 4653, 4659, 4662, 4675- 4678, 4685, 4696, 4741, 4744, 4753, 4789, 4793, 4850, 4969,
4998, and 5637

Position: Support

For years the ACLU of Michigan and our partners have urged officials to end the detrimental policy of automatically charging and prosecuting Michigan's 17 year olds as adults. This outdated policy brands our state's young people with lifelong criminal records and makes it harder for them to turn their life around. Michigan continues to ignore standards set by our nation's highest court and nationally regarded studies by continuing to automatically prosecute all of our 17 year-olds as adults, for any offense.

We support this legislative reform for the following reasons:

Children are Constitutionally and Fundamentally Different From Adults.

Over the last decade, several U.S. Supreme Court decisions affirm the belief that children are constitutionally different than adults.¹ The Court's rulings also support the use of age as a relevant factor in determining a young person's level of criminal responsibility, and whether or not a child should be punished as severely as an adult who commits a similar crime.²

The rulings are supported by national studies that show convicting young people in the adult criminal justice system and placing them in correctional facilities with older inmates is dangerous, and actually reduces public safety. The Centers for Disease Control and Prevention's Task Force on Community Preventive Services found that youth exiting the adult system are 34% more likely to re-offend, re-offend sooner, and escalate to more violent offenses than their counterparts in the juvenile justice system.³

Youth are Cognitively More Capable of Being Rehabilitated Than Adults

Our current law, like many of the other states that continue this outdated practice, established 17 as its upper age of juvenile court jurisdiction long before the prevalence of adolescent brain development research.

Since the law was first implemented, research has consistently shown that a young person's brain continues to develop until about age 26. This means that adolescents are more impulsive, more susceptible to negative influence from peers and older adults, prone to risk-taking. These factors contribute to the poor decision making that can, unfortunately, lead to crime. However, scientific research also shows that the adolescent brain is more malleable and that young offenders have a greater opportunity for rehabilitation as a result—if provided with the appropriate opportunities and services. Youth who receive services provided by the juvenile courts that are designed to address their

¹ See *Miller v. Alabama*, 567 U.S. 460 (2012), *Montgomery v. Louisiana*, 577 U.S. ___, 136 S.Ct. 718 (2016).

² *United States v. TFF*, 55 F.3d 1118, 1120 (6th Cir., 1995) (citing 18 U.S.C. § 5032).

³ Centers for Disease Control. *Effects on Violence of 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*. Center for Disease Control and Prevention.



particular needs, have an increased chance at becoming productive adults without any further contact with the criminal justice system.

There are Long Term Detrimental Human Costs and Collateral Consequences for Juveniles in Adult Facilities.

Sending youth into the adult system has severe consequences for their mental health and physical well-being. 17-year-olds face physical and psychological risks when placed in adult prisons that lead to higher rates of suicide, depression, and physical and sexual victimization. Youth in adult prisons and jails are twice as likely to be beaten by staff, 5 times as likely to be sexually assaulted, and 36 times more likely to commit suicide than youth in the juvenile justice system.⁴ Youth incarcerated with adults are at the highest risk for sexual abuse of any group of incarcerated people.⁵ Attacks with weapons were almost 50 percent more common in adult facilities.⁶ According to a Department of Justice survey, 1.8% of 16- and 17-year-olds imprisoned with adults report being sexually abused by other people who are incarcerated. Of these, 75% also report being sexually abused by staff.⁷

Juveniles Have a Greater Chance at Rehabilitation If Provided Age-Appropriate Services.

Moreover, having an adult criminal record creates future barriers to education, employment, housing, and military service. Allowing cases involving 17-year olds to begin in the juvenile courts would greatly reduce the number of children being incarcerated in adult facilities and would reduce the population of young people who end up with an adult criminal conviction, which is lifelong burden. The juvenile justice system is more adequately equipped for addressing the needs of justice involved youth. Juvenile courts offer effective diversion and community-based programs that not accessible in adult court. These programs are designed to keep kids in school, address underlying treatment needs, and engage the families while continuing to hold youth accountable.

If our state desires to protect and invest in its youth while improving public safety, we urge this legislature to pass these bills and join the majority of the country in treating children in the justice system as children.

Respectfully submitted,

Kimberly S. Buddin
Policy Counsel
American Civil Liberties Union of Michigan
Kbuddin@aclumich.org
(734) 945-2636

⁴ Weemhoff M, Staley K. *Youth Behind Bars*. Michigan Council on Crime and Delinquency; 2014.

https://docs.wixstatic.com/ugd/03cb01_a9d053d7f65141fbbe982057dbd920d1.pdf.

⁵ *National Prison Rape Elimination Commission Report*. National Prison Rape Elimination Commission; 2009.

<https://www.ncjrs.gov/pdffiles1/226680.pdf>.

⁶ *Juveniles in Adult Prisons and Jails: A National Assessment*. Bureau of Justice Assistance. 2000.

<https://www.ncjrs.gov/pdffiles1/bja/182503.pdf>.

⁷ Lahey J. The Steep Costs of Keeping Juveniles in Adult Prisons. *The Atlantic*. January 2016.