



# HUMAN RIGHTS *for* KIDS

## Alabama State Ratings Report

Human Rights for Kids (HRFK) annual state ratings process tracks the presence or absence of 12 categories of state statutes that are critical to protecting the human rights of children in the criminal justice system. It is important to note that these 12 categories are not exhaustive of all the important legislation needed to safeguard children's human rights. Furthermore, the ratings do not assess the effectiveness or implementation of these laws in the state. The purpose of the annual state ratings process is to document policies enacted by state legislatures, motivate legislators and policy advocates, and bring attention to the need to prioritize children in criminal justice reform and human rights advocacy. For each category, we track whether a state has a statute consistent with the described policy.

<b>TOTAL POINTS:</b>	2 out of 12
<b>TIER RATING:</b>	4

### 1. Due Process Protections at Point of Entry for Kids

No Credit: 0/1

While there are rights of the child enumerated in § 12-15-202, there are no statutory protections in place requiring children to consult with their parents, legal guardians, or legal counsel prior to waiving their Miranda Rights or being subject to a custodial interrogation for proceedings in either juvenile or adult court.

## **2. Set a Minimum Age of at Least 10 for Juvenile Court**

No Credit: 0/1

Pursuant to § 12-15-102, there is no minimum age for when a child may be adjudicated delinquent in juvenile court. See Category 3 below for details.

## **3. Set a Maximum Age of at Least 17 for Juvenile Court**

Full Credit: 1/1

Pursuant to § 12-15-102, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

### **§ 12-15-102. Definitions.**

When used in this chapter, the following words and phrases have the following meanings:

(3) CHILD. An individual under the age of 18 years, or under 21 years of age and before the juvenile court for a delinquency matter arising before that individual's 18th birthday, or under 19 years of age and before the juvenile court for a child in need of supervision matter or commitment to the State Department of Mental Health or under 19 years of age and before the juvenile court for a proceeding initiated under Section 12-15-115(b)(2). Where a delinquency petition alleges that an individual, prior to the individual's 18th birthday, has committed an offense for which there is no statute of limitation pursuant to Section 15-3-5, the term child also shall include the individual subject to the petition, regardless of the age of the individual at the time of filing.

## **4. Ban Prosecuting Kids Under 14 as Adults AND Require a Child Status Hearings for All Kids 14+ Before Proceedings in Adult Court**

Partial Credit: .5/1 (a)

Pursuant to §12-15-203, a prosecutor may file a motion to transfer children 14 years of age or older into the adult criminal justice system, and pursuant to §12-15-204 children 16 years of age or older who commit certain felony level offenses must be tried as adults. Because child status is not always considered prior to proceeding in the adult criminal justice system, Alabama receives partial credit.

### **§12-15-203. Transfer of cases from juvenile court.**

(a) A prosecutor, before a hearing on a delinquency petition on its merits and after notifying, verbally or in writing, the juvenile probation officer, may file a motion requesting the juvenile court judge to transfer a child for criminal prosecution to the

circuit or district court, if the child was 14 or more years of age at the time of the conduct charged and is alleged to have committed an act which would constitute a criminal offense as defined by this code if committed by an adult.

(b) The juvenile court judge shall conduct a hearing on all motions for the purpose of determining whether it is in the best interests of the child or the public to grant the motion. Only if there are no reasonable grounds to believe the child is committable to an institution, department, or agency for individuals with an intellectual disability or mental illness, may the juvenile court judge order the case transferred for criminal prosecution.

**§12-15-204. Acts for which a person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.**

(a) Notwithstanding any other provision of law, any person who has attained the age of 16 years at the time of the conduct charged and who is charged with the commission of any act or conduct, which if committed by an adult would constitute any of the following, shall not be subject to the jurisdiction of juvenile court but shall be charged, arrested, and tried as an adult:

- (1) A capital offense.
- (2) A Class A felony.
- (3) A felony which has as an element thereof the use of a deadly weapon.
- (4) A felony which has as an element thereof the causing of death or serious physical injury.
- (5) A felony which has as an element thereof the use of a dangerous instrument against any person who is one of the following:
  - a. A law enforcement officer or official.
  - b. A correctional officer or official.
  - c. A parole or probation officer or official.
  - d. A juvenile court probation officer or official.
  - e. A district attorney or other prosecuting officer or official.
  - f. A judge or judicial official.
  - g. A court officer or official.
  - h. A person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness.
  - i. A teacher, principal, or employee of the public education system of Alabama.
- (6) Trafficking in drugs in violation of Section 13A-12-231, or as the same may be amended.
- (7) A violation of Article 12 of Chapter 6 of Title 13A.
- (8) Any lesser included offense of the above offenses charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed above. Provided, however, that the juvenile court shall maintain original jurisdiction over these lesser included offenses if the grand jury fails to indict for any of the offenses enumerated in subsections (a)(1) to

(a)(7), inclusive. The juvenile court shall also maintain original jurisdiction over these lesser included offenses, subject to double jeopardy limitations, if the court handling criminal offenses dismisses all charges for offenses enumerated in subsections (a)(1) to (a)(7), inclusive.

(b) Notwithstanding any other provision of law, any person who has been convicted or adjudicated a youthful offender in a court handling criminal offenses pursuant to this section shall not thereafter be subject to the jurisdiction of juvenile court for any pending or subsequent offense. Provided, however, pursuant to Section 12-15-117, the juvenile court shall retain jurisdiction over an individual of any age for the enforcement of any prior orders of the juvenile court requiring the payment of fines, court costs, restitution, or other money ordered by the juvenile court until paid in full.

## **5. Ban Mandatory Minimum Sentencing for Kids**

No Credit: 0/1

There is no statutory provision allowing judges to depart from any mandatory minimum sentence once a child has been convicted in adult criminal court.

## **6. Ban Felony-Murder Rule for Kids**

No Credit: 0/1

Pursuant to juvenile transfer laws and § 13A-6-2, children 14 years of age or older may be convicted under the felony murder rule.

### **§ 13A-6-2 Murder.**

(a) A person commits the crime of murder if he or she does any of the following:  
(3) He or she commits or attempts to commit arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree, aggravated child abuse under Section 26-15-3.1, or any other felony clearly dangerous to human life and, in the course of and in furtherance of the crime that he or she is committing or attempting to commit, or in immediate flight therefrom, he or she, or another participant if there be any, causes the death of any person.

## **7. Ban Life Without Parole Sentences for Kids**

No Credit: 0/1

Pursuant to § 13A-6-2, children can be sentenced to life without parole.

### **§ 13A-6-2 Murder.**

(c) Murder is a Class A felony; provided, that the punishment for murder or any offense committed under aggravated circumstances by a person 18 years of age or older, as provided by Article 2 of Chapter 5 of this title, is death or life imprisonment without parole, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto. The punishment for murder or any offense committed under aggravated circumstances by a person under the age of 18 years, as provided by Article 2 of Chapter 5, is either life imprisonment without parole, or life, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto and the applicable Alabama Rules of Criminal Procedure.

## **8. Release Safety Valve for Kids Serving Lengthy Prison Sentences**

No Credit: 0/1

There is no statutory provision allowing judges or the parole board to review the sentences of every child convicted in criminal court after a reasonable period of incarceration.

## **9. Ban Solitary Confinement for Kids**

Partial Credit: .5/1

Pursuant to §12-15-208.1, the use of solitary confinement or extended isolation to comply with sight and sound restrictions is prohibited; however, this prohibition is subject to the availability of funding and does not otherwise prohibit or regulate the use of extended isolation procedures for children. As a result, Alabama receives partial credit.

### **§ 12-15-208.1. Requirements for the detainment of juveniles.**

(a) No person under the age of 18 years, including one who has been transferred for criminal prosecution pursuant to Section 12-15-203 or charged pursuant to Section 12-15-204, shall be detained or confined in any facility under the control of the Department of Corrections unless the facility is fully compliant with the sight and sound separation requirements in subsection (d) of Section 12-15-208. The use of solitary confinement or other practice resulting in extended isolation as a method of complying with subsection (d) of Section 12-15-208 shall be prohibited.

(b) The implementation of this section shall be contingent on funds being appropriated to accomplish this provision.

## **10. Ban Incarcerating Kids with Adults**

No Credit: 0/1

Pursuant to § 12-15-208, children may be detained or confined in an adult jail or lockup. Additionally, there is no prohibition on incarcerating children in adult prisons.

**§ 12-15-208. Requirements for the detainment of juveniles.**

No person under 18 years of age shall be detained or confined in any jail or lockup for adults except as follows:

- (1) For up to six hours while processing the case of the child.
- (2) If the child is transferred for criminal prosecution pursuant to Section 12-15-203.
- (3) If the child is charged pursuant to Section 12-15-204.

**11. Ban Mandatory Post-Release Lifetime Supervision**

No Credit: 0/1

Pursuant to §15-22-33, children convicted in adult criminal court of a violent offense are ineligible for discharge from parole.

**§15-22-33. Discharge from parole; relief from reports; permission to leave state or county.**

No person released on parole shall be discharged from parole prior to the expiration of the full maximum term for which he or she was sentenced unless the Board of Pardons and Paroles chooses to discharge the parolee earlier based on review of the parolee under guidelines established pursuant to subdivision (6) of subsection (b) of Section 15-22-37 and the parolee was not convicted of a violent offense, as defined in Section 12-25-32, or a violation of Section 13A-8-2.1. The Board of Pardons and Paroles, however, may relieve a prisoner on parole from making further reports and may permit such prisoner to leave the state or county if satisfied that this is for the best interests of society.

**12. Voting Rights Restoration**

No Credit: 0/1

Pursuant to Ala. Const. Art. VIII, § 177, no person convicted of a felony involving moral turpitude, or who is mentally incompetent, shall be qualified to vote until restoration of civil and political rights or removal of disability. A comprehensive list of such felonies is described in HB 282 from 2017. In addition, pursuant to §15-22-36.1 children convicted of such crimes remain ineligible to vote unless approved for a pardon.

**§15-22-36.1. Certificate of Eligibility to Register to Vote.**

(g) A person who has lost his or her right to vote by reason of conviction in a state or federal court for any of the following will not be eligible to apply for a Certificate of

Eligibility to Register to Vote under this section: Impeachment, murder, rape in any degree, sodomy in any degree, sexual abuse in any degree, incest, sexual torture, enticing a child to enter a vehicle for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor, production of obscene matter, parents or guardians permitting children to engage in obscene matter, possession of obscene matter, possession with intent to distribute child pornography, or treason.