

Human Rights *for* Kids

Because every child deserves hope & love.

March 9, 2020

The Honorable Ralph Northam
Virginia Governor
P.O. Box 1475
Richmond, VA 23218

RE: Signature – HB 744 and HB 746

Dear Governor Northam,

On behalf of Human Rights for Kids I am writing to express our full support for HB 744 and HB 746 by Delegate Vivian Watts, and urge you to sign these important pieces of legislation into law.

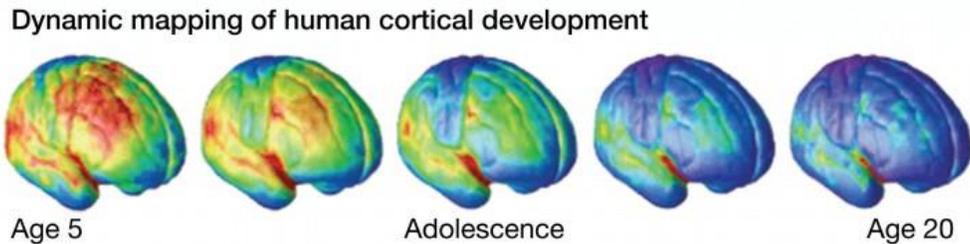
Too little attention has been paid to children in the criminal justice system. From the point of arrest to sentencing and incarceration, our treatment of children in the justice system is long overdue for re-examination and reform.

In the late 1980s and early 1990s, states began passing laws to make it easier to transfer children into the adult criminal justice system, which exposed children to harsh mandatory minimum sentences and mandatory sentencing enhancements, as well as extreme sentences like life without parole. By the year 2000, a child as young as 10 years old could be tried as an adult for certain offenses. An estimated 76,000 children are prosecuted in the adult criminal justice system every year in the United States.¹ These children can face severe punishment that is not age-appropriate and is disproportionate given their young age and lessened culpability relative to that of adults.

Studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. Children's underdeveloped brains and proclivity for impetuous decision-making is why we do not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that

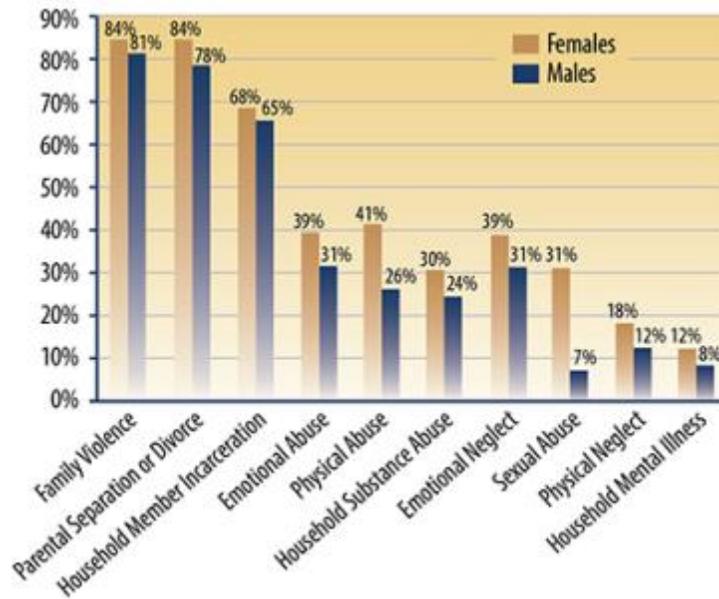
¹ Charles Puzzanchera, Melissa Sickmund, and Anthony Sladky, Nat'l Center for Juvenile Justice, Youth Younger than 18 Prosecuted in Criminal Court: National Estimate, 2015 Cases (2018).

children are impulsive, immature, and lack solid decision-making abilities until they have reached adulthood. The one area where we do not treat children differently than adults is in our criminal justice system, where we have been too quick to discard child-status and throw children to the mercy of a system that was never designed with them in mind. The graphic below illustrates how children’s brains continue to develop through adolescence and young adulthood.



Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

Critically, the vast majority of children involved in the criminal justice system are contending with early childhood trauma and unmitigated Adverse Childhood Experiences (ACEs), including psychological, physical, and/or sexual abuse; witnessing domestic violence; living with family members who are substance abusers, suffer from mental illness or suicidal ideation, or are incarcerated. Studies have shown that approximately 90 percent of children in the juvenile justice system have experienced at least two ACEs, and 27 percent of boys and 45 percent of girls have experienced at least five ACEs.²



For children sentenced to life in prison, nearly 80 percent of them reported witnessing violence in their homes, 50 percent were physically abused, and 20 percent were sexually abused during

² Human Rights for Kids (2018). <https://humanrightsforkids.org/wp-content/uploads/2018/12/HRFK-ACES-Infographic-final.pdf>

their life.³ However, the justice system rarely recognizes or understands the connection between children who have committed a criminal act and their previous exposure to trauma.

The lack of regard for child status and the failure to account for the impact of early childhood trauma in children transferred into the adult criminal justice system should be seen through a human rights lens – especially for youth of color and youth from low socio-economic backgrounds who make up the vast majority of children harmed by the justice system. Black children comprise 58 percent of all children confined in adult prisons.⁴ Roughly 83 percent of children prosecuted in the adult criminal justice system are racial minorities,⁵ where black children represent 87 percent of drug cases, 48 percent of property cases, and 63 percent of public order offense cases.⁶

HB 744 and **HB 746** are common-sense reforms that recognize the need to treat children differently from adults in the criminal justice system. These reforms provide appropriate discretion to judges when sentencing children and add greater due process protections for children at the point of arrest to help safeguard their constitutional rights.

These bills better align with Virginia’s values and the belief that there is no such thing as a ‘throw-away’ child. The great Nelson Mandela once said, “there is no keener revelation of a society’s soul than the way in which it treats its children.” What does it say about our soul then when we do not account for child-status or the trauma children have experienced prior to sentencing them as if they were an adult? Or when we allow children to waive rights they don’t fully understand without them having contact with their parents or legal guardians?

Current criminal justice policies in Virginia do not adequately reflect the fact that kids are different from adults and need to be treated as such. It is for these reasons that we urge you to sign HB 744 and HB 746 by Delegate Watts into law. Doing so will help make Virginia a national leader on protecting the human rights of children in the justice system.

Should you have any questions about these measures or our support for them, please feel free to contact me at jdold@humanrightsforkids.org or by phone at (202) 907-4826. Thank you for your time and consideration.

Sincerely,



James Dold
Chief Executive Officer
Human Rights for Kids

³ Ashley Nellis, *The Lives of Juvenile Lifers*, The Sentencing Project (2012).
sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf

⁴ U.S. Department of Justice, OJJDP, Disproportionate Minority Contact (DMC).

⁵ Campaign for Youth Justice, “To Punish A Few: Too Many Youth Caught in the Net of Adult Prosecution”, 2007.

⁶ *Id.*