



HUMAN RIGHTS *for* KIDS

Missouri 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.

TOTAL POINTS:	3 out of 12
TIER RATING:	4

1. Due Process Protections at Point of Entry for Kids

No Credit: 0/1

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 §211.021, there is no minimum age for adjudicating children delinquent in juvenile court.

Section 211.021 - Definitions

(2)"Child" means any person under eighteen years of age;

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

Credit: 1/1

Pursuant to §211.021, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

§211.021. Definitions. —

As used in this chapter, unless the context clearly requires otherwise:

(2) "Child" means any person under eighteen years of age;

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

No Credit: 0/1

Pursuant to §211.071, the state may file a motion to transfer a child less than 14 years of age to adult criminal court. Additionally, in certain circumstances, the court must hold a transfer hearing even if the state does not file a motion to transfer.

§211.071. Certification of juvenile for trial as adult — procedure — mandatory hearing, certain offenses — misrepresentation of age, effect.

1. If a petition alleges that a child between the ages of fourteen and eighteen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that a child between the ages of twelve and eighteen has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery

under section 569.020 as it existed prior to January 1, 2017, or robbery in the first degree* under section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or the manufacturing of a controlled substance under section 579.055, a dangerous felony as defined in section 566.061, any felony involving the use, assistance, or aid of a deadly weapon, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

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 §565.021, a child may be convicted under the felony murder rule.

§565.021. Second degree murder, penalty. — 1. A person commits the offense of murder in the second degree if he or she:

(1) Knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; or
(2) Commits or attempts to commit any felony, and, in the perpetration or the attempted perpetration of such felony or in the flight from the perpetration or attempted perpetration of such felony, another person is killed as a result of the perpetration or attempted perpetration of such felony or immediate flight from the perpetration of such felony or attempted perpetration of such felony.

2. The offense of murder in the second degree is a class A felony, and the punishment for second degree murder shall be in addition to the punishment for

commission of a related felony or attempted felony, other than murder or manslaughter.

3. Notwithstanding section 556.046 and section 565.029, in any charge of murder in the second degree, the jury shall be instructed on, or, in a jury-waived trial, the judge shall consider, any and all of the subdivisions in subsection 1 of this section which are supported by the evidence and requested by one of the parties or the court.

7. Ban Life Without Parole Sentences for Kids

No Credit: 0/1

Pursuant to §565.020 and §565.033, a child can be sentenced to life without parole.

§565.020. First degree murder, penalty — person under eighteen years of age, penalty. — 1. A person commits the offense of murder in the first degree if he or she knowingly causes the death of another person after deliberation upon the matter.

2. The offense of murder in the first degree is a class A felony, and, if a person is eighteen years of age or older at the time of the offense, the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor. If a person has not reached his or her eighteenth birthday at the time of the commission of the offense, the punishment shall be as provided under section 565.033.

§565.033. Person under eighteen, sentencing — factors to be considered, jury instructions. —

1. A person found guilty of murder in the first degree who was under the age of eighteen at the time of the commission of the offense shall be sentenced to a term of life without eligibility for probation or parole as provided in section 565.034, life imprisonment with eligibility for parole, or not less than thirty years and not to exceed forty years imprisonment.

2. When assessing punishment in all first degree murder cases in which the defendant was under the age of eighteen at the time of the commission of the offense or offenses, the judge in a jury-waived trial shall consider, or the judge shall include in instructions to the jury for it to consider, the following factors:

- (1) The nature and circumstances of the offense committed by the defendant;
- (2) The degree of the defendant's culpability in light of his or her age and role in the offense;
- (3) The defendant's age, maturity, intellectual capacity, and mental and emotional health and development at the time of the offense;
- (4) The defendant's background, including his or her family, home, and community environment;
- (5) The likelihood for rehabilitation of the defendant;

- (6) The extent of the defendant's participation in the offense;
- (7) The effect of familial pressure or peer pressure on the defendant's actions;
- (8) The nature and extent of the defendant's prior criminal history, including whether the offense was committed by a person with a prior record of conviction for murder in the first degree, or one or more serious assaultive criminal convictions;
- (9) The effect of characteristics attributable to the defendant's youth on the defendant's judgment; and
- (10) A statement by the victim or the victim's family member as provided by section 557.041 until December 31, 2016, and beginning January 1, 2017, section 595.229.

§565.034. Person under eighteen, written notice filed to seek life without parole, procedure — withdrawal — trial procedure — required findings.

- 1. If the state intends to seek a sentence of life without eligibility for probation or parole for a person charged with murder in the first degree who was under the age of eighteen at the time of the commission of the offense, the state must file with the court and serve upon the person a written notice of intent to seek life without eligibility for probation or parole. This notice shall be provided within one hundred twenty days of the person's arraignment upon an indictment or information charging the person with murder in the first degree. For good cause shown, the court may extend the period for service and filing of the notice. Any notice of intent to seek life without eligibility for probation or parole shall include a listing of the statutory aggravating circumstances, as provided by subsection 6 of this section, upon which the state will rely in seeking that sentence.
2. Notwithstanding any other provisions of law, where the state files a notice of intent to seek life without eligibility for probation or parole pursuant to this section, the defendant shall be entitled to an additional sixty days for the purpose of filing new motions or supplementing pending motions.
3. A notice of intent to seek life without eligibility for probation or parole pursuant to this section may be withdrawn at any time by a written notice of withdrawal filed with the court and served upon the defendant. Once withdrawn, the notice of intent to seek life without eligibility for probation or parole shall not be refiled.
4. After the state has filed a proper notice of intent to seek life without eligibility for probation or parole pursuant to this section, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the person is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage.
5. If the trier at the first stage of the trial finds the person guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared.
6. A person found guilty of murder in the first degree who was under the age of eighteen at the time of the commission of the offense is eligible for a sentence of life without eligibility for probation or parole only if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that:

- (1) The victim received physical injuries personally inflicted by the defendant and the physical injuries inflicted by the defendant caused the death of the victim; and
- (2) The defendant was found guilty of first degree murder and one of the following aggravating factors was present:
 - (a) The defendant has a previous conviction for first degree murder, assault in the first degree, rape in the first degree, or sodomy in the first degree;
 - (b) The murder was committed during the perpetration of any other first degree murder, assault in the first degree, rape in the first degree, or sodomy in the first degree;
 - (c) The murder was committed as part of an agreement with a third party that the defendant was to receive money or any other thing of monetary value in exchange for the commission of the offense;
 - (d) The defendant inflicted severe pain on the victim for the pleasure of the defendant or for the purpose of inflicting torture;
 - (e) The defendant killed the victim after he or she was bound or otherwise rendered helpless by the defendant or another person;
 - (f) The defendant, while killing the victim or immediately thereafter, purposely mutilated or grossly disfigured the body of the victim by an act or acts beyond that necessary to cause his or her death;
 - (g) The defendant, while killing the victim or immediately thereafter, had sexual intercourse with the victim or sexually violated him or her;
 - (h) The defendant killed the victim for the purposes of causing suffering to a third person; or
 - (i) The first degree murder was committed against a current or former: judicial officer, prosecuting attorney or assistant prosecuting attorney, law enforcement officer, firefighter, state or local corrections officer; or against a witness or potential witness to a past or pending investigation or prosecution, during or because of the exercise of their official duty or status as a witness.

8. Safety Release Valve for Kids Serving Lengthy Prison Sentences

No Credit: 0/1

Pursuant to §217.690, some children are eligible for sentence review after fifteen years, but there are several exceptions. Because 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, Missouri receives no credit.

§217.690 – Board may order release or parole — assessment, personal hearing — fee — rules — eligibility for parole, how calculated — murder, eligibility for hearing — hearing procedure — notice — special conditions — education requirements, exceptions — rulemaking authority.

6. Any offender sentenced to a term of imprisonment amounting to fifteen years or more or multiple terms of imprisonment that, taken together, amount to fifteen or more years who was under eighteen years of age at the time of the commission of the offense or offenses may be eligible for parole after serving fifteen years of incarceration, regardless of whether the case is final for the purposes of appeal, and may be eligible for reconsideration hearings in accordance with regulations promulgated by the parole board.

7. The provisions of subsection 6 of this section shall not apply to an offender found guilty of capital murder, murder in the first degree or murder in the second degree, when murder in the second degree is committed pursuant to subdivision (1) of subsection 1 of section 565.021, who was under eighteen years of age when the offender committed the offense or offenses who may be found ineligible for parole or whose parole eligibility may be controlled by section 558.047 or 565.033.

9. Ban Solitary Confinement for Kids

No Credit: 0/1

There are no statutory provisions banning the use of solitary confinement.

10. Ban Incarcerating Kids with Adults

No Credit: 0/1

Pursuant to §221.044, children may be incarcerated in adult correctional facilities.

§221.044. Persons under seventeen may not be confined in adult jails, exceptions — commitment to juvenile detention facilities, when.

— No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071, shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a detention facility.

11. Ban Mandatory Post-Release Lifetime Supervision

Full Credit: 1/1

Pursuant to §217.730, formerly incarcerated children may be discharged from parole at the discretion of the Parole Board.

§217.730. Parole time as time of imprisonment, exception — final discharge — procedure to register to vote.

- 1. The period served on parole, except for judicial parole granted or revoked pursuant to section 559.100, shall be deemed service of the term of imprisonment and, subject to the provisions of section 217.720 relating to an offender who is or has been a fugitive from justice, the total time served may not exceed the maximum term or sentence.
- 2. When an offender on parole or conditional release, before the expiration of the term for which the offender was sentenced, has performed the obligation of his parole for such time as satisfies the board that his final release is not incompatible with the best interest of society and the welfare of the individual, the board may make a final order of discharge and issue a certificate of discharge to the offender. No such order of discharge shall be made in any case less than three years after the date on which the offender was paroled or conditionally released except where the sentence expires earlier.
- 3. Upon final discharge, persons shall be informed in writing on the process and procedure to register to vote.

12. Voting Rights Restoration

Full Credit: 1/1

Pursuant to §115.133, formerly incarcerated children who have reached voting age can vote after they have been discharged from parole.

- §115.133. Qualifications of voters.** — 1. Except as provided in subsection 2 of this section, any citizen of the United States who is a resident of the state of Missouri and seventeen years and six months of age or older shall be entitled to register and to vote in any election which is held on or after his eighteenth birthday.
- 2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:
 - (1) While confined under a sentence of imprisonment;
 - (2) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or
 - (3) After conviction of a felony or misdemeanor connected with the right of suffrage.
 - 3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.