



HUMAN RIGHTS *for* KIDS

Wyoming 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:	2 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 §14-6-201, 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 §14-6-201, the jurisdiction of the juvenile court for delinquent acts extends to anyone under the age of 18.

§14-1-101. Age of majority; rights on emancipation.

(a) Upon becoming eighteen (18) years of age, an individual reaches the age of majority and as an adult acquires all rights and responsibilities granted or imposed by statute or common law, except as otherwise provided by law.

§14-6-201. Definitions; short title; statement of purpose and interpretation.

(iii) "Child" means an individual who is under the age of majority;

(ix) "Delinquent act" means an act punishable as a criminal offense by the laws of this state or any political subdivision thereof, or contempt of court under W.S. 14-6-242, or an act violating the terms and conditions of any court order which resulted from the criminal conviction of any child but does not include a status offense;

(x) "Delinquent child" means a child who has committed a delinquent act;

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 §14-6-237, the court may transfer a child less than 14 years of age to adult criminal court, and pursuant to §14-6-203 prosecutors may directly file a criminal complaint in adult court against a child 14 years of age or older who is accused of a violent felony.

§14-6-237. Transfer hearing; transfer of proceedings commenced in district court or in municipal or circuit court.

- (a) After a petition alleging a child has committed a delinquent act is filed, the court may, on its own motion or that of any party any time prior to the adjudicatory hearing, order a transfer hearing to determine if the matter should be transferred to another court having jurisdiction of the offense charged for criminal prosecution as provided by law. Notice in writing of the time, place and purpose of the transfer hearing shall be given to the child and his parents, guardian or custodian at least three (3) days before the hearing. The transfer hearing shall be conducted in conformity with W.S. 14-6-222 through 14-6-224 except there shall be no jury.
- (b) The court shall order the matter transferred to the appropriate court for prosecution if after the transfer hearing it finds that proper reason therefor exists. The determinative factors to be considered by the judge in deciding whether the juvenile court's jurisdiction over such offenses will be waived are the following:
- (i) The seriousness of the alleged offense to the community and whether the protection of the community required waiver;
 - (ii) Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
 - (iii) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted;
 - (iv) The desirability of trial and disposition of the entire offense in one (1) court when the juvenile's associates in the alleged offense are adults who will be charged with a crime;
 - (v) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;
 - (vi) The record and previous history of the juvenile, including previous contacts with the law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation to this court, or prior commitments to juvenile institutions;
 - (vii) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the juvenile court.
- (c) If the court orders the matter transferred under subsection (b) of this section, the court shall state on the record its basis for the decision.
- (d) The court may make any necessary orders for the detention of the child until the court to which the matter is transferred has acquired jurisdiction, at which time jurisdiction of the juvenile court with respect to the alleged delinquent act terminates.
- (e) Statements made by the child at a transfer hearing are not admissible against him over objection in a criminal proceeding following the transfer.
- (f) If the case is not transferred, the judge who conducted the hearing shall not, over objection of an interested party, preside at the adjudicatory hearing on the petition. If the case is transferred to a court of which the judge who conducted the transfer hearing is also a judge, he may be disqualified from presiding at the criminal proceeding.

(g) If any proceeding commenced in the district court is within the concurrent jurisdiction of the juvenile court, the district court may on motion of any party or on its own motion order any proceeding transferred to the juvenile court. The district court judge may, after notice and hearing, find the matter more properly suited to disposition under the provisions of this act. The order of transfer confers upon the juvenile court full jurisdiction in the matter as if originally commenced in the juvenile court.

(h) No court other than the district court shall order the transfer of a case to juvenile court. At any time after a proceeding over which the juvenile court has concurrent jurisdiction is commenced in municipal or circuit court, the judge of the court in which the proceeding is commenced may on the court's own motion, or on the motion of any party, suspend further proceedings and refer the case to the office of the district attorney to determine whether a petition should be filed in the juvenile court to commence a proceeding under this act. If a petition is filed under this act, the original proceeding commenced in the municipal or circuit court shall be dismissed. If the district attorney determines not to file a petition under this act, the district attorney shall immediately notify the municipal or circuit court and the proceeding commenced in that court may continue.

§14-6-203. Jurisdiction; confidentiality of records.

(a) Repealed By Laws 1997, ch. 199, § 3.

(b) Coincident with proceedings concerning a minor alleged to be delinquent, the court has jurisdiction to:

(i) Determine questions concerning the right to legal custody of the minor;

(ii) Order any party to the proceedings to perform any acts, duties and responsibilities the court deems necessary; or

(iii) Order any party to the proceedings to refrain from any act or conduct the court deems detrimental to the best interest and welfare of the minor or essential to the enforcement of any lawful order of disposition of the minor made by the court.

(c) Except as provided in subsection (d) of this section, the juvenile court has concurrent jurisdiction in all cases, other than status offenses, in which a minor is alleged to have committed a criminal offense or to have violated a municipal ordinance.

(d) The juvenile court has exclusive jurisdiction in all cases, other than status offenses, in which a minor who has not attained the age of thirteen (13) years is alleged to have committed a felony or a misdemeanor punishable by imprisonment for more than six (6) months.

(e) Except as provided in subsection (f) of this section, all cases over which the juvenile court has concurrent jurisdiction shall be originally commenced in the juvenile court but may thereafter be transferred to another court having jurisdiction pursuant to W.S. 14-6-237.

(f) The district attorney shall establish objective criteria, screening and assessment procedures for determining the court for appropriate disposition in cooperation and coordination with each municipality in the jurisdiction of the district court. The

district attorney shall serve as the single point of entry for all minors alleged to have committed a crime. Except as otherwise provided in this section, copies of all charging documents, reports or citations for cases provided in this subsection shall be forwarded to the district attorney prior to the filing of the charge, report or citation in municipal or city court. The following cases, excluding status offenses, may be originally commenced either in the juvenile court or in the district court or inferior court having jurisdiction:

- (i) Violations of municipal ordinances, except that if a juvenile is sentenced in a municipal court to a sentence exceeding ten (10) days of jail or detention, the municipal court shall provide to the district attorney in the juvenile's county of residency and the department of education a copy of the judgment and sentence;
- (ii) All misdemeanors except:
 - (A) Those cases within the exclusive jurisdiction of the juvenile court; and
 - (B) If a juvenile is sentenced in a municipal or circuit court to a sentence exceeding ten (10) days of jail or detention, the municipal or circuit court shall provide to the district attorney in the juvenile's county of residency and the department of education a copy of the judgment and sentence.
- (iii) Felony cases in which the minor has attained the age of seventeen (17) years. The prosecuting attorney shall consider those determinative factors set forth in W.S. 14-6-237(b)(i) through (vii) prior to commencing an action in the district court under this paragraph;
- (iv) Cases in which the minor has attained the age of fourteen (14) years and is charged with a violent felony as defined by W.S. 6-1-104(a)(xii);
- (v) Cases in which a minor who has attained the age of fourteen (14) years is charged with a felony and has previously been adjudicated as a delinquent under two (2) separately filed juvenile petitions for acts which if committed by an adult constitute felonies.
- (g) Except as provided by subsection (j) of this section, all information, reports or records made, received or kept by any municipal, county or state officer or employee evidencing any legal or administrative process or disposition resulting from a minor's misconduct are confidential and subject to the provisions of this act. The existence of the information, reports or records or contents thereof shall not be disclosed by any person unless:
 - (i) Disclosure results from an action brought or authorized by the district attorney in a court of public record;
 - (ii) The person the records concern is under eighteen (18) years of age and, in conjunction with one (1) of his parents or with the ratification of the court, authorizes the disclosure;
 - (iii) The person the records concern is eighteen (18) years of age or older and authorizes the disclosure;
 - (iv) The disclosure results from the information being shared with or between designated employees of any court, any law enforcement agency, any prosecutor's office, any employee of the victim services division within the office of the attorney general, any probation office or any employee of the department of family services

or the minor's past or present school district who has been designated to share the information by the department of family services or by the school district or anyone else designated by the district attorney in determining the appropriate court pursuant to a single point of entry assessment under this section;

(v) The disclosure is made to a victim of a delinquent act constituting a felony, in accordance with W.S. 14-6-501 through 14-6-509;

(vi) The disclosure is authorized by W.S. 7-19-504; or

(vii) The disclosure is made to an administrative employee or member of the board of trustees of the minor's school district, authorized by the court to receive the information, for purposes of the suspension or expulsion of the minor pursuant to W.S. 21-4-305(c)(ii), provided:

(A) The court finds that the court action involves matters which are relevant to the suspension or expulsion of the minor pursuant to W.S. 21-4-305(e). Only materials and evidence relevant to the minor's potential suspension or expulsion shall be disclosed to an administrative employee or member of the board of trustees of the minor's school district; and

(B) The school district administrative employees or board of trustee members authorized to receive the minor's confidential information shall only disclose the information:

(I) To other members of the board of trustees or the superintendent for purposes of W.S. 21-4-305(c)(ii); and

(II) To the minor and his parents, legal guardians, attorneys or guardian ad litem.

(h) Nothing contained in this act is construed to deprive the district court of jurisdiction to determine questions of custody, parental rights, guardianship or any other questions involving minors, when the questions are the subject of or incidental to suits or actions commenced in or transferred to the district court as provided by law.

(j) Nothing contained in this act shall be construed to require confidentiality of any matter, legal record, identity or disposition pertaining to a minor charged or processed through any municipal or circuit court.

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 §6-2-101, a child may be convicted under the felony murder rule.

§6-2-101. Murder in the first degree; penalty.

- (a) Whoever purposely and with premeditated malice, or in the perpetration of, or attempt to perpetrate, any sexual assault, sexual abuse of a minor, arson, robbery, burglary, escape, resisting arrest, kidnapping or abuse of a child under the age of sixteen (16) years, kills any human being is guilty of murder in the first degree.
- (c) A person convicted of murder in the first degree in a case in which the state seeks the death penalty shall be sentenced in accordance with the provisions of W.S. 6-2-102. In all other cases, including any case in which the state has determined not to seek the death penalty at any stage of the proceeding, the judge shall determine the sentence of life imprisonment without parole or life imprisonment taking into consideration any negotiated plea agreement and any evidence relevant to a determination of sentence which the court deems to have probative value.

7. Ban Life Without Parole Sentences for Kids

Full Credit: 1/1

Pursuant to §6-2-101 and §6-10-301, a child may not be sentenced to life without parole.

§6-2-101. Murder in the first degree; penalty.

- (b) A person convicted of murder in the first degree shall be punished by death, life imprisonment without parole or life imprisonment according to law, except that a person convicted of murder in the first degree who was under the age of eighteen (18) years at the time of the offense shall be punished by life imprisonment.

§6-10-301. Life imprisonment without parole; life imprisonment.

- (a) Pursuant to article 3, section 53 of the Wyoming constitution, a sentence of life imprisonment without parole is created for specified crimes designated in the Wyoming Criminal Code.
- (b) A person sentenced to life imprisonment without parole shall not be eligible for parole and shall remain imprisoned under the jurisdiction of the department of corrections during the remainder of his life unless pardoned by the governor.
- (c) Any sentence other than a sentence specifically designated as a sentence of life imprisonment without parole is subject to commutation by the governor. A person sentenced to life imprisonment for an offense committed after the person reached the age of eighteen (18) years is not eligible for parole unless the governor has

commuted the person's sentence to a term of years. A person sentenced to life imprisonment for an offense committed before the person reached the age of eighteen (18) years shall be eligible for parole after commutation of his sentence to a term of years or after having served twenty-five (25) years of incarceration, except that if the person committed any of the acts specified in W.S. 7-13-402(b) after having reached the age of eighteen (18) years the person shall not be eligible for parole.

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

No Credit: 0/1

There are no statutory provisions banning the use of solitary confinement for children in both juvenile and adult correctional facilities.

10. Ban Incarcerating Kids with Adults

No Credit: 0/1

Pursuant to §18-6-310 and §14-6-201, children may be held in adult jails or prisons.

§18-6-310. Juvenile prisoners.

(a) Repealed By Laws 2012, Ch. 98, 2.

(b) Juvenile prisoners shall be kept separate from adult prisoners.

§14-6-201. Definitions; short title; statement of purpose and interpretation.

(xxiv) "Juvenile detention facility" means any facility which may legally and physically restrict and house a child, other than the Wyoming boys' school, the Wyoming girls' school, the Wyoming state hospital or other private or public psychiatric facility within the state of Wyoming. "Juvenile detention facility" does not include any residential treatment facility which is operated for the primary purpose of providing treatment to a child. A juvenile detention facility may be

housed within an adult jail or correction facility if the facility otherwise meets the requirements of state law;

11. Ban Mandatory Post-Release Lifetime Supervision

No Credit: 0/1

Pursuant to §7-13-420, good time allowances for parolees to earn early discharge from parole are subject to the discretion of the Governor. Because good deductions are not clearly established by statute which could deprive formerly incarcerated children of early discharge, Wyoming receives no credit.

§7-13-420. Good time allowances.

(a) The governor, after consultation with the board and the department, shall adopt rules and regulations to establish a system of good time and special good time allowances for inmates of and parolees from any state penal institution, any institution which houses Wyoming inmates pursuant to W.S. 7-3-401 or any correctional facility operated pursuant to a contract with the state under W.S. 7-22-102 or inmates or parolees transferred to a community correctional facility pursuant to W.S. 7-18-109 or 7-18-115. The rules may provide either for good time to be deducted from the maximum sentence or for good time to be deducted from the minimum sentence imposed by the sentencing court, or both, and may provide for the removal of previously earned good time allowances and the withholding of future good time allowances.

(b) The rules and regulations adopted by the governor as provided by this section shall be filed in the office of the secretary of state but shall at all times be considered rules relating to the internal management of state penal institutions and not affecting private rights of inmates. The granting, refusal to grant, withholding or restoration of good time or special good time allowances to inmates shall be a matter of grace and not that of right of inmates.

(c) The court may adjust the period of a probationer's supervised probation on the recommendation of the probation and parole agent, which shall be based on the probationer's positive progression towards the goals of the case plan as well as the overall compliance with the conditions imposed by the court.

12. Voting Rights Restoration

No Credit: 0/1

Pursuant to §7-13-105, only formerly incarcerated children convicted of non-violent felonies can have their voting rights restored by the Department of Corrections

after the expiration of their sentence. Formerly incarcerated children convicted of violent felonies may only have their rights restored by the Governor and after he or she has completed their sentence, which may or may not be possible pursuant to §7-13-420 above. Therefore, Wyoming receives no credit.

§7-13-105. Certificate of restoration of rights; procedure for restoration in general; procedure for restoration of voting rights for nonviolent felonies; filing requirements.

(a) Upon receipt of a written application, the governor may issue to a person convicted of a felony under the laws of a state or the United States a certificate which restores the rights lost pursuant to W.S. 6-10-106 when:

- (i) His term of sentence expires; or
- (ii) He satisfactorily completes a probation period.

(b) The department of corrections shall issue a certificate of restoration of voting rights as provided in this subsection and subsection (c) of this section. Upon issuance of a certificate, voting rights lost pursuant to W.S. 6-10-106 shall be deemed restored. The department of corrections shall automatically issue a person convicted of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events a certificate of restoration of voting rights if:

- (i) The person has not been convicted of any other felony other than convictions arising out of the same occurrence or related course of events for which restoration of rights is certified; and
- (ii) The person has completed all of his sentence, including probation or parole.
- (iii) Repealed by Laws 2017, ch. 189, § 2.

(c) The department of corrections shall issue a certificate of restoration of voting rights to eligible persons as follows:

- (i) For persons convicted within Wyoming of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events who completed their sentence before January 1, 2010, the department shall require receipt of a written request on a form prescribed by the department and issue each eligible person a certificate of restoration of voting rights following a determination that the person has completed his sentence, including probation and parole. The department shall not require an application for restoration before issuing a certificate to eligible persons who complete their sentence on and after January 1, 2010;
- (ii) For persons convicted outside of Wyoming or under federal law of a nonviolent felony or nonviolent felonies arising out of the same occurrence or related course of events, the department shall issue each eligible person a certificate of restoration of voting rights upon receipt of a written request on a form prescribed by the department and following a determination that the person has completed his sentence, including probation and parole.

(d) The department of correction's determination that a person is ineligible for a certificate of restoration of voting rights is a final action of the agency subject to judicial review. The clerk of the district court and the division of criminal

investigation shall cooperate with the department of corrections in providing information necessary for determining a person's eligibility to receive a certificate of restoration of voting rights. The department of corrections shall notify the secretary of state when any person's voting rights have been restored. If the person was convicted in Wyoming, the department of corrections shall submit the certificate of restoration of voting rights to the clerk of the district court in which the person was convicted and the clerk shall file the certificate in the criminal case in which the conviction was entered.

(e) As used in this section:

(i) "Same occurrence or related course of events" means the same transaction or occurrence or a series of events closely related in time or location;

(ii) "Violent felony" means as defined by W.S. 6-1-104(a)(xii), including offenses committed in another jurisdiction which if committed in this state would constitute a violent felony under W.S. 6-1-104(a)(xii). "Nonviolent felony" includes all felony offenses not otherwise defined as violent felonies.