



The CAMPAIGN for the  
FAIR SENTENCING  
of YOUTH



HUMAN RIGHTS  
for KIDS



COALITION  
FOR JUVENILE  
JUSTICE

NATIONAL  
JUVENILE JUSTICE  
NETWORK



FIRST FOCUS  
CAMPAIGN FOR CHILDREN



rights4girls

June 1, 2021

Dear Representative:

On behalf of the undersigned organizations, we write to express our full support of a bipartisan package of legislation, which includes H.R. 2858 by Congressman Bruce Westerman (R- AR), H.R. 2908 by Congresswoman Karen Bass (D- CA), and H.R. 2834 by Congressman Tony Cárdenas (D- CA). This legislative package is intended to create more fair and age-appropriate accountability measures for children who come into the federal criminal justice system. We urge you to sign on as a co-sponsor to these critical bipartisan bills.

Too often the criminal justice system fails to respond in a trauma-informed and age-appropriate way to children who engage in delinquent or criminal conduct. 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.<sup>1</sup> 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 their life.<sup>2</sup> However, the justice system rarely recognizes or understands the connection between children who have committed a criminal act and their previous exposure to trauma. This failure also applies to children with disabilities who are disproportionately harmed by the justice system.

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 violates children's human

<sup>1</sup> Human Rights for Kids (2018). <https://humanrightsforkids.org/wp-content/uploads/HRFK-ACES-Infographic-final.pdf>

<sup>2</sup> Nellis, A. (2012). *The Lives of Juvenile Lifers*. The Sentencing Project. [sentencingproject.org/doc/publications/jj\\_The\\_Lives\\_of\\_Juvenile\\_Lifers.pdf](https://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf)

rights and perpetuates systemic inequities – especially for Black, Hispanic, and Native American youth 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.<sup>3</sup> Roughly 83 percent of children prosecuted in the adult criminal justice system are racial minorities,<sup>4</sup> where black children represent 87 percent of drug cases, 48 percent of property cases, and 63 percent of public order offense cases.<sup>5</sup> These bills will take a step towards creating a criminal justice system that is more fair and equitable for all children and are described in detail below:

### **PROTECTING KIDS AT THE POINT OF ARREST/ENTRANCE INTO THE SYSTEM**

**Congressman Tony Cardenas' (D-CA) bill (H.R. 2834)** requires parents to be notified when a child is arrested and requires that the child consult with legal counsel before they can waive their Constitutional Rights and be subject to a custodial interrogation.

### **ESTABLISHING A MINIMUM JUVENILE AND ADULT COURT AGE; REMOVING KIDS FROM ADULT JAILS & PRISONS; DATA COLLECTION; TREATMENT & SERVICES FOR VULNERABLE YOUTH**

**Congresswoman Karen Bass' (D-CA) bill (H.R. 2908)** establishes a minimum age of 12 for criminal culpability for children; increases the minimum age for a child to be tried as an adult from 13 to 16; eliminates the felony murder rule for children; prohibits the placement of children in adult jails or prisons; requires data collection on youth who come into the federal criminal justice system; and establishes a grant block program for treatment and services for children under 12 and child victims of commercial sexual exploitation.

### **SENTENCING REFORM & ENDING LIFE WITHOUT PAROLE SENTENCES FOR CHILDREN**

**Congressman Bruce Westerman's (R-AR) bill (H.R. 2858)** would retroactively end life and de facto life without parole by giving individuals convicted of crimes as children the ability to petition a judge for sentencing review and modification after serving 20 years; give judges the ability to depart from mandatory minimums when sentencing children (up to 35% away from the minimum); and protect child sex crime victims from harsh sentencing when they commit acts of violence against their abusers.

These bills offer mercy and redemption for America's children and represent common-sense reforms that properly balance protecting public safety with the need to treat children differently from adults in the federal criminal justice system. This package of legislation provides appropriate discretion to judges when sentencing children and refocuses sentencing considerations to better account for a child's background and exposure to early childhood trauma. It also guarantees children the opportunity for sentencing review after they have been incarcerated for a reasonable amount of time.

Arkansas and California have been national leaders when it comes to reforming the way the criminal justice system treats children. This bipartisan legislation is modeled after the policies in both states. These policies reflect the brain science and research which show that youth are

<sup>3</sup> U.S. Department of Justice, OJJDP, Disproportionate Minority Contact (DMC).

<sup>4</sup> Juskiewicz, J.. (2007). *To Punish A Few: Too Many Youth Caught in the Net of Adult Prosecution*. Campaign for Youth Justice. [http://www.campaignforyouthjustice.org/images/nationalreports/to\\_punish\\_a\\_few\\_final.pdf](http://www.campaignforyouthjustice.org/images/nationalreports/to_punish_a_few_final.pdf)

<sup>5</sup> *Id.*

sensitive to peer pressure and prone to act quickly without considering the long-term consequences, but are also inclined to grow and develop more complex decision-making skills over time. By following the bipartisan lead of Arkansas and California, federal policy will better align with research and universally accepted human rights standards.

It is time to align the justice system's treatment of children with the values we hold and the knowledge we have gained. As a country, whether Republican or Democrat, we esteem second chances and we believe that there is no such thing as a 'throw-away' child. We treat children differently than adults in every aspect of our society, except 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. A child as young as 13 years old can be tried as an adult for certain offenses in the federal criminal justice system and there is no minimum age for arresting and prosecuting a child under the juvenile code. Children prosecuted as adults face severe punishment that is not age-appropriate and is disproportionate given their young age and lessened culpability relative to that of adults.

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 allow children to be sentenced to die in prison? Or 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 put vulnerable children in adult jails and prisons where they are at an increased risk for physical and sexual violence and have to be placed in solitary confinement for their own protection? We urge you to support these bipartisan policies that will protect the human rights of children in the federal criminal justice system and create more fair and age-appropriate accountability measures for children who come into conflict with the law.

Sincerely,

Human Rights for Kids

Campaign for the Fair Sentencing of Youth

Anti-Recidivism Coalition

Human Rights Watch

National Juvenile Justice Network

Coalition for Juvenile Justice

First Focus Campaign for Children

Rights4Girls

The Law Enforcement Action Partnership

R Street

Paris Hilton & Breaking Code Silence

Children's Law Center

National Juvenile Defender Center

Girls Inc.

National Juvenile Justice & Delinquency  
Prevention Coalition

National Association of Counsel for  
Children

Juvenile Law Center

Center for Children's Law and Policy

Children's Defense Fund

National Foster Youth Institute

National Association of Social Workers

American Association of People with Disabilities

Rise for Youth

National Network for Youth

Strategies for Youth

National Crittenton

Forum for Youth Investment

Autistic Self Advocacy Network

Justice for Families

National Council of Churches of Christ in the USA (NCC)

National Disability Rights Network

Child Welfare League of America

Futures Without Violence

Citizens for Juvenile Justice

Operation Restoration

Virginia Coalition for the Fair Sentencing of Youth

Families and Friends of Louisiana's Incarcerated Children

Louisiana Center for Children's Rights

W. Haywood Burns Institute

National Association of Criminal Defense Lawyers

YouthBuild USA

Drug Policy Alliance

BRIDGE Maryland, Inc.

Advocates for Children and Youth

College and Community Fellowship

Disability Rights Advocates

Equal Justice Society

Civitas ChildLaw Center at Loyola University Chicago School of Law

Boys Town

Pacific Juvenile Defender Center

Michigan Center Youth Justice

Prison Policy Initiative

Juvenile Justice Initiative of Illinois

Association of Children's Residential Centers

Friends Committee on National Legislation