

# State Ratings Report

*Addressing the Childhood Trauma To Prison Pipeline*



**HUMAN RIGHTS**  
for KIDS



## **Acknowledgments**

We would like to thank our partners and generous funders without whom this report would not have been possible.

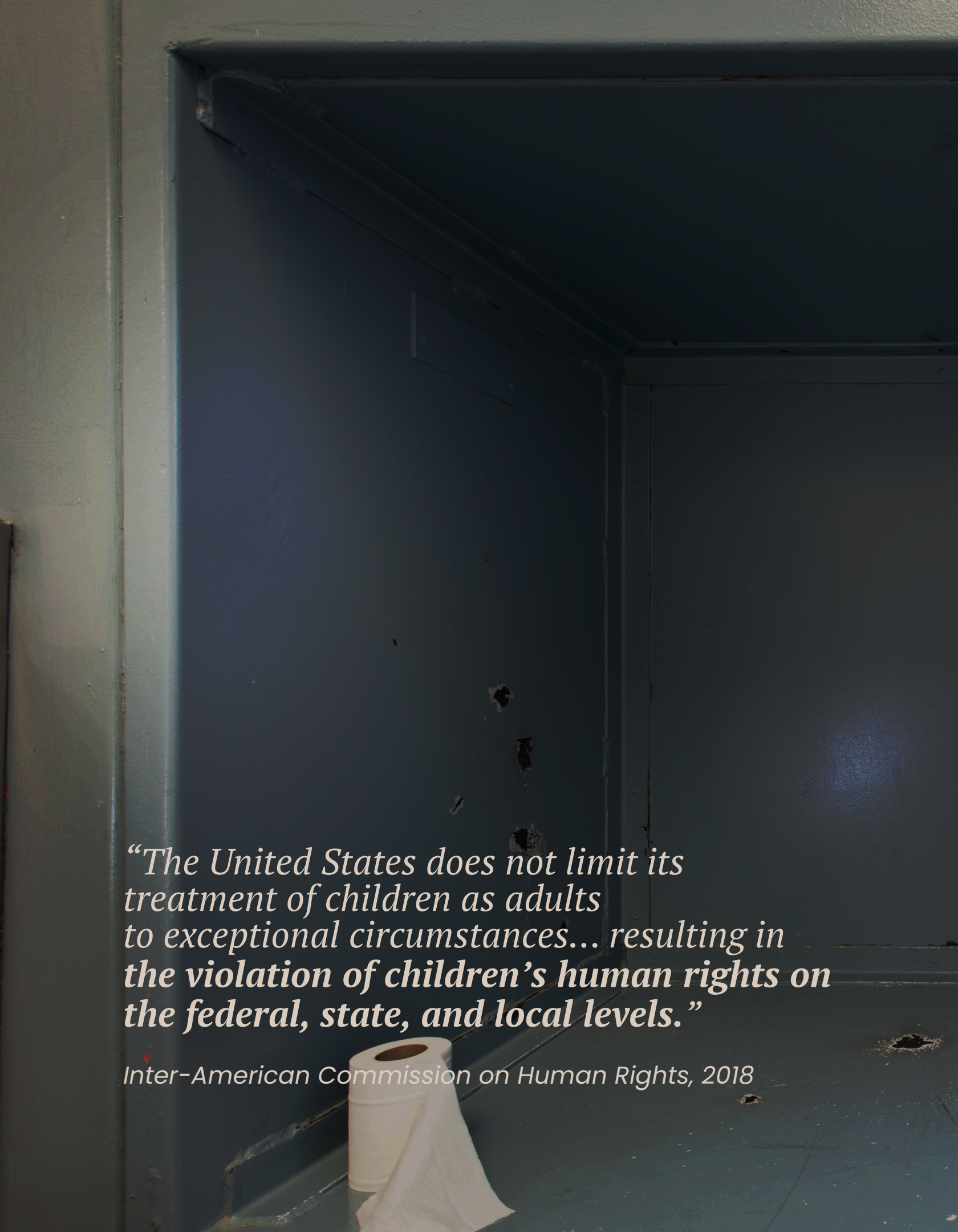
The Just Trust  
Stoneleigh Foundation  
Grantmakers for Girls of Color  
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The Herb Block Foundation  
Justice Action Network Foundation

We also thank the advocates and policymakers who work alongside us – in a bipartisan fashion – to end human rights violations against children in the juvenile and criminal justice systems. We want to especially thank Richard Ross and his team at Juvenile In-Justice who provided the images and stories profiled in this report.

Photography by Richard Ross from [juvenile-in-justice.com](http://juvenile-in-justice.com)

Designed by Sandra Yeh

Icons made by Pixel perfect, Freepik, Kiranshastry, and Those Icons from [www.flaticon.com](http://www.flaticon.com)

A photograph of a blue metal wall, likely inside a prison cell. The wall has several bullet holes of varying sizes. In the foreground, a roll of white toilet paper is partially unrolled and sits on a surface. The lighting is dim, and the overall atmosphere is somber and institutional.

*“The United States does not limit its treatment of children as adults to exceptional circumstances... resulting in the violation of children’s human rights on the federal, state, and local levels.”*

*Inter-American Commission on Human Rights, 2018*

In 2023, Human Rights for Kids released a first-of-its-kind report detailing the population of people currently incarcerated for crimes they committed as children. The report, "Crimes Against Humanity: The Mass Incarceration of Children in the United States" found that there are over 32,000 people who were imprisoned as children and are still incarcerated today.<sup>1</sup>

This report is dedicated to them.



# Introduction

## Addressing The Childhood Trauma to Prison Pipeline



The connection between childhood trauma and incarceration has been well-established through incredible research over the last decade.<sup>2</sup> What we know from this research is that the higher a child's exposure to trauma, or Adverse Childhood Experiences (ACEs), the more likely they are to interact with the juvenile or adult criminal justice systems.<sup>3</sup> That's why at Human Rights for Kids, we have chosen to approach the work of protecting and promoting the rights of children in the justice system through a trauma-informed lens.

System-involved youth, especially those who commit more serious crimes, often have high exposure to ACEs, which can include psychological, physical, or sexual abuse; emotional or physical neglect; witnessing domestic violence; living with family members who are substance abusers, suffer from mental illness or are suicidal; and parental separation or incarceration.

One of the primary ways we make the system more trauma-informed is by mandating the consideration of ACEs and childhood trauma in our model laws relating to the transfer and sentencing of children in adult criminal court. Additionally, the consideration of childhood trauma is intentionally present in each of our State Ratings Report categories. For example, when a child is interrogated by law enforcement, their trauma background may cause them to make statements they believe law enforcement want to hear, whether or not those statements are true. That's why we ask states to give children access to an attorney or parent before they speak with law enforcement.

In the past year, Human Rights for Kids has sharpened our focus on the impacts of childhood trauma through our legislative advocacy and research efforts. With the support of our partners at the Stoneleigh Foundation and The Just Trust, HRFK Fellow Sara Kruzan has conducted outreach to hundreds of women across the country who are currently incarcerated for crimes they committed as children. In her outreach, Sara asks the women about their ACE scores. Unsurprisingly, Sara's research has concluded that this population has astoundingly high rates of trauma with an average ACE score of 8 out of 10. More than 80% of the women who responded to our survey had been physically, sexually, and emotionally abused prior to their incarceration. Approximately 70% witnessed substance abuse and domestic violence in their homes and 60% had at least one parent who was incarcerated.

Next year we'll be releasing a special report on this population of women, which will include an in-depth analysis of Sara's findings, as well as the personal stories of the women surveyed.

The findings of Sara's outreach and the research behind our recent report, *Crimes Against Humanity: The Mass Incarceration of Children in the United States*, have helped lead to some very promising changes at the state level. In 2023 alone, the Child Sex Crimes Victims Protection Act (CSCVPA) was enacted in three states: Oklahoma, Illinois, and California. A federal version was recently introduced in Congress by Rep. Bruce Westerman (R-AR). This legislation protects the most vulnerable of children – those who have been trafficked or sexually victimized and commit crimes against their abusers. We are incredibly grateful for the astounding bipartisan support that each piece of legislation received, and this support gives us hope for the future.

While the CSCVPA focuses on a specific group of children, our hope is that this marks the beginning of lawmakers becoming more acutely aware of the effects of trauma for *all* children in the justice system. Lawmakers in California, through the CSCVPA, also required judges to consider a child's trauma history and involvement in the child welfare and foster care systems, when determining whether to transfer them to the adult criminal court. Lawmakers across the country should follow their lead.



*HB 2210 Bill Signing Ceremony at the Oklahoma State Capitol, August 25, 2023. From L-R, Emily Virgin, Rep. Marilyn Stark, Gov. Kevin Stitt, Summer Kruzan, Sara Kruzan.*

Despite disturbing rhetoric across the country relating to children and their involvement in the justice system, much of which harkens back to the Superpredator Era, we have also seen remarkable progress in several states. In this year's Report, Minnesota is recognized as the most improved state. Through a comprehensive juvenile justice reform package, Minnesota retroactively abolished life without parole for juveniles, created a safety valve for children who serve at least 15 years of incarceration, reformed their felony murder statute for all defendants, and provided important protections against the use of solitary confinement for children. This incredible progress moves Minnesota from a Tier 3 state, receiving only 4.5 points in 2022, to a Tier 2 state with 3 additional points.

Illinois, New Mexico, and Hawaii also made significant progress in the protection of the rights of children. Lawmakers in both Illinois and New Mexico ended life without parole sentences for kids, and legislative champions in Hawaii enacted protections for children facing custodial interrogations after several years of hard work.

The progress in each of these states would not have been possible without the efforts of grassroots organizers, people with lived experience, and advocacy organizations, many of whom HRFK is proud to call our partners in this work.

As Martin Luther King, Jr., said, "the arc of the moral universe is long, but it bends towards justice." The work that remains is daunting, but through steady progress, children are becoming more protected in the United States from the human rights abuses that have long plagued this country. We call on decision makers around the country to consider not only the behavior of a child, but the reasons behind that behavior. With an epidemic of childhood trauma in this country, lawmakers must move away from asking "how should we punish this child?" to "what happened to this child, and how can we help them?" We know that our children are worth not only asking, but also answering, the more difficult question.

With hope for the future,

Emily Virgin

*Director of Advocacy & Government Relations, Human Rights for Kids*

*"Children are fundamentally and constitutionally different from adults, and our criminal justice system must reflect this."*

*- Former U.S. Attorney J. Douglas Overby and Los Angeles County District Attorney George Gascon, Newsweek, 2021*





# A Human Rights Framework

The U.N. Convention on the Rights of the Child (CRC) and the International Covenant on Civil and Political Rights (ICCPR) require the following human rights protections for children who come into conflict with the law. These protections are the foundation for our State Ratings Report and underpin each of the categories upon which states are graded.

## CRC ARTICLE 37

- Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age.
- Every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family.
- Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance.

## CRC ARTICLE 39

- States shall take measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.

## CRC Article 40

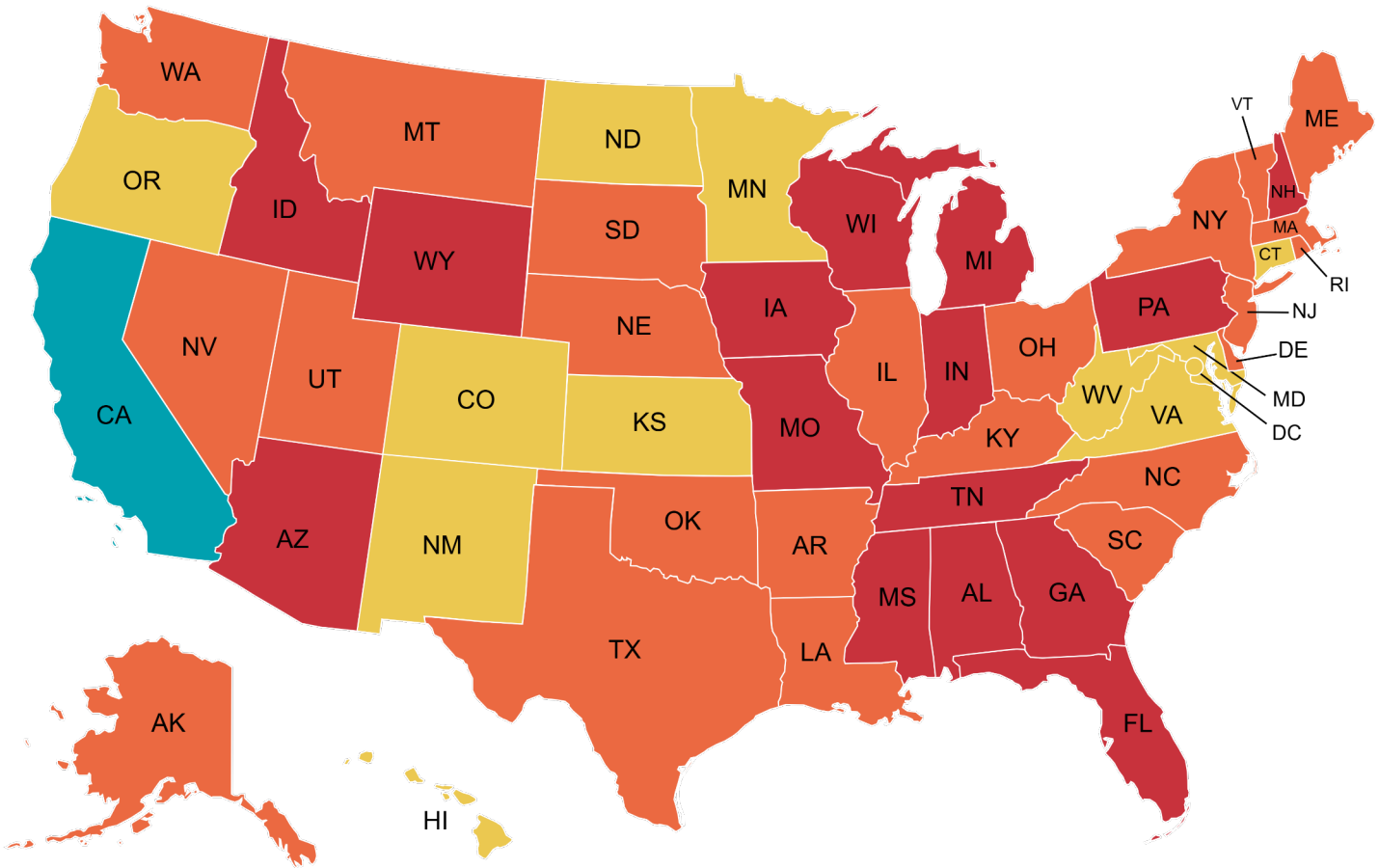
- Every child having infringed the penal law shall have the right to be treated in a manner which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
- Every child accused of having infringed the penal law has at least the following guarantees: (1) Not to be compelled to give testimony or to confess guilt; and (2) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense.
- States shall seek to promote the establishment of laws that establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

## ICCPR ARTICLE 10

- Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
- Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

## ICCPR ARTICLE 14

- In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.



**1 Tier One (10+ points)**

State has created an impressive legal framework to protect the human rights of children in its justice system and has taken its obligation to defend human rights seriously.

**12 Tier Two (7 - 9 points)**

State has passed several laws to protect the human rights of children in the justice system and should take additional steps to improve and implement its burgeoning legal framework.

**23 Tier Three (4 - 6 points)**

State has made minimal efforts to protect the human rights of children in the justice system and should take immediate action to improve and implement its laws.

**15 Tier Four (1 - 3 points)**

State has made little to no effort to protect the human rights of children in the justice system and is likely in violation of international human rights standards.

**Most Improved State**

Minnesota (7.5)

**Worst Human Rights Offenders**

Alabama (2)

Georgia (2)

Mississippi (2)

Tennessee (2)

Wyoming (2)



DISCIPLINARY  
CONFINEMENT

*“We are currently incarcerating approximately 32,359 individuals in our prisons for crimes they committed as children. Some were so young they were still subject to truancy laws, and an astonishing number weren’t even teenagers. They comprise a full 3.1% of the United States’ overall state prison population – the equivalent of an entire prison full of children in every state in the country.”*

*–Crimes Against Humanity: The Mass Incarceration of Children in the United States, Human Rights for Kids, 2023*

# Categories



## DUE PROCESS

States receive credit for this category if they have a statutory provision requiring children to consult with their parents or legal counsel before waiving their Miranda Rights or being subject to a custodial police interrogation. States will not receive credit if such protections are limited to children subject to delinquency proceedings. States may receive partial credit if they apply these protections to some children under a certain age (i.e. under 16), but not all children under 18.



## MINIMUM COURT AGE

States receive credit for this category if they statutorily prohibit *all* children less than 10 years of age from being adjudicated delinquent in the juvenile court system, regardless of the charged offense. Children this young who come into conflict with the law should be provided treatment and services in the child welfare system in compliance with human rights standards. No exceptions can be permitted to receive credit for this category.



## MAXIMUM COURT AGE

States receive credit for this category if they statutorily permit children less than 18 years of age to be adjudicated in the juvenile justice system and have not excluded teenagers under the age of majority. No exceptions can be permitted to receive credit for this category.



## LIFE WITHOUT PAROLE

States receive credit for this category if they statutorily ban life without parole sentences from being imposed on all children under 18 years of age. No exceptions can be permitted to receive credit for this category. States that permit judges to review and modify a child's sentence, including life without parole, after a term of years will receive full credit for this category.



## ADULT COURTS

(A) States receive credit under this subsection if they statutorily prohibit the transfer of children under 14 years of age into the adult criminal justice system. No exceptions can be permitted to receive credit for this subsection, which includes exclusions based on the type of crime committed. For example, if a child under 14 may be transferred to the adult system on a charge of homicide, the state does not receive credit for this category.

(B) States receive credit under this subsection if they require a mandatory child status hearing in all cases involving children less than 18 years of age before allowing transfer to adult criminal court. States that allow children to be subject to direct file in adult court or statutorily exclude certain children from the jurisdiction of the juvenile court, may receive full credit only if they require an immediate child status or reverse waiver hearing in adult criminal court. No exceptions can be permitted to receive credit for this subsection.

States may receive partial credit for this category if they meet the requirements of either subsections (A) or (B).



## MANDATORY MINIMUM SENTENCES

States receive credit for this category if judges, masters, magistrates, or others with sentencing authority are authorized to depart from *all* mandatory minimum sentences when sentencing children in adult criminal court. States will only be awarded credit if they allow discretion at the time that a sentence is being imposed and not if they "theoretically" allow a judge to later suspend the sentence. Nor will states receive credit for allowing greater judicial discretion under 'youthful offender' laws. States may receive partial credit if they authorize sentencing authorities to depart, up to a certain percentage, from any mandatory minimum sentence for any offense in adult criminal court.



## FELONY-MURDER RULE

States receive credit for this category if they statutorily eliminate the application of the felony murder rule to children less than 18 years of age. In cases where a child does not kill or intend to kill another person during the commission of a felony, they should receive a sentence based on their overall culpability, which takes into account the child’s trauma history and potential for rehabilitation. States will receive credit for this category if they do not have the felony murder rule, have banned the felony murder rule for children, or have created an affirmative defense for persons who do not kill or intend to kill during the commission of the felony. States may receive partial credit if they place strict limits on the applicability of the affirmative defense or allow children who did not kill or intend to kill to still be prosecuted pursuant to the rule under other circumstances.



## INCARCERATION

States receive credit for this category if they statutorily prohibit the housing of children under 18 years of age in adult correctional facilities, including local jails and state prisons. A child who has committed serious crimes or who may be subject to prosecution in the adult criminal justice system must continue to be housed in juvenile correctional facilities until they reach 18 years of age.



## SOLITARY CONFINEMENT

States receive credit for this category if they statutorily prohibit the use of solitary confinement or administrative segregation on children for punitive and safety-related reasons. States are allowed to have individual confinement for children as a “cooling off” period, but such removal should be used only in extreme cases, and only for as long as reasonably necessary for the child to be reintegrated with the rest of the children in the facility. States may receive partial credit for this category if they ban the use of solitary/room confinement, isolation, or administrative segregation for children in juvenile detention facilities. However, in order to receive full credit, states must have protections in place for kids in both juvenile and adult correctional facilities.



## POST-RELEASE SUPERVISION

States receive credit for this category if they statutorily authorize formerly incarcerated children serving lengthy terms of post-release supervision to be discharged from supervision at the discretion of the paroling authority or judge. States will receive credit if they have statutory provisions that apply to all formerly incarcerated individuals, including children. States may receive partial credit if they allow most formerly incarcerated children to be eligible for early discharge from supervision.



## RELEASE SAFETY VALVE

States receive credit for this category if they allow either the parole board or judges to review all sentences previously imposed on child offenders after no more than 30 calendar years (end de facto life without parole). States may receive partial credit for this category if they have statutes permitting sentencing review for nearly all offenses committed by children. However, to receive full credit states must allow children serving multiple sentences of any duration and for any offenses to be eligible for review.



## VOTING RIGHTS

States that have eliminated voting rights for persons convicted of serious offenses will receive credit for this category if they statutorily require or permit the restoration of voting rights for formerly incarcerated children who have been released from prison. States will not receive credit if they require Gubernatorial action before voting rights can be restored. If a state allows for the reinstatement of voting rights upon completion of the person’s sentence, which includes parole or supervision, the state must allow formerly incarcerated children to seek discharge from parole or supervision at a reasonable point after they have been released in order to receive credit for this category. A state may receive partial credit if the vast majority of formerly incarcerated children can have their voting rights restored without executive action. However, a state will not receive any credit if it permanently disenfranchises formerly incarcerated children convicted of certain offenses.

# State Ratings Chart

- Due Process
- Mandatory Minimum Sentences
- Solitary Confinement
- Minimum Court Age
- Felony–Murder Rule
- Incarceration
- Maximum Court Age
- Life Without Parole
- Post-Release Supervision
- Adult Courts
- Release Safety Valve
- Voting Rights

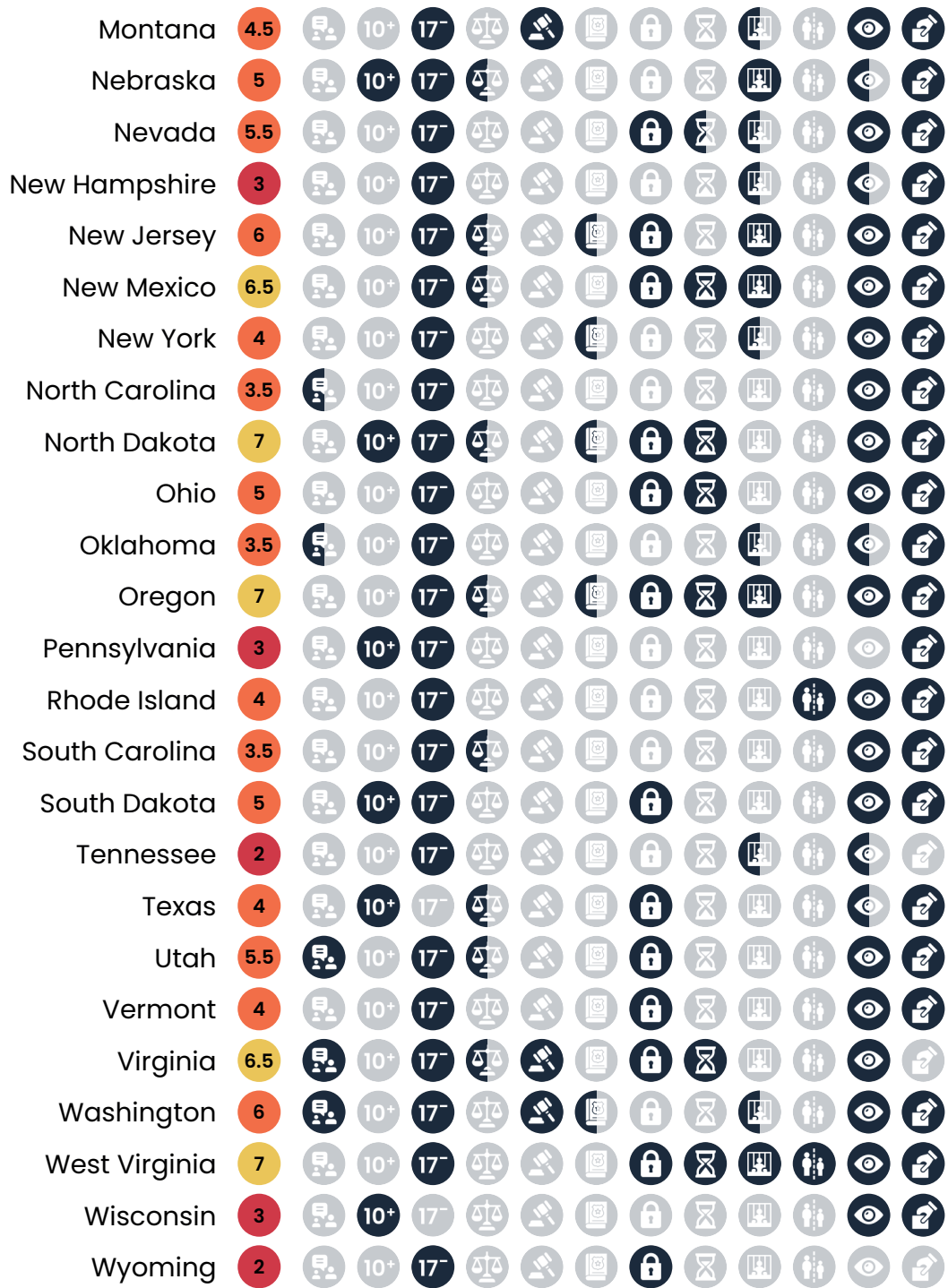
State	Score	Due Process	10+	17-	Adult Courts	Mandatory Minimum Sentences	Felony–Murder Rule	Life Without Parole	Release Safety Valve	Solitary Confinement	Incarceration	Post-Release Supervision	Voting Rights
Alabama	2	Partial	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Alaska	4	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Arizona	2.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Arkansas	6	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
California	9.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Colorado	6.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Connecticut	8	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Delaware	3.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
District of Columbia	7	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Florida	3	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Georgia	2	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Hawaii	7.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Idaho	3	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Illinois	5.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Indiana	3	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Iowa	2.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Kansas	6.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Kentucky	3.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Louisiana	4	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Maine	4	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Maryland	7.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Massachusetts	6	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Michigan	3	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Minnesota	7.5	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Mississippi	2	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full
Missouri	3	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full	Full

## Total Score

- Tier 1 (10+ points)
- Tier 2 (7-9 points)
- Tier 3 (4-6 points)
- Tier 4 (1-3 points)

## Credit

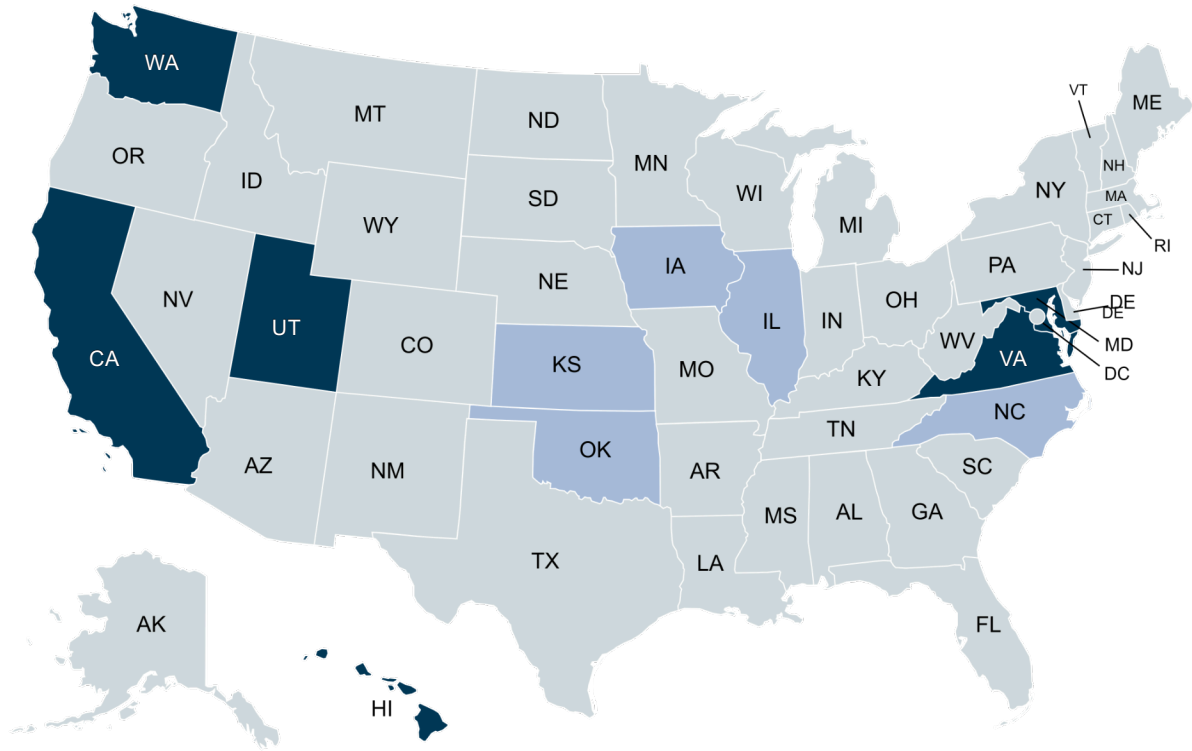
- Full Credit
- ◐ Partial Credit
- No Credit





# Due Process

● Full Credit   ● Partial Credit   ● No Credit



In the first edition of our report in 2020 only 3 states received full credit for this category. In 2022, that number doubled with the addition of Utah, Maryland, and Washington State. This year, Hawaii joins the states that have passed laws to protect children’s constitutional and human rights post-arrest. Another 10 states introduced bills on this topic but did not advance through the legislative process. States without such protections, including those that received only partial credit, should look to Maryland as a model for how best to protect children at the point of entry into the justice system.

While protections against deceptive interrogation tactics do not garner additional credit, such protections were a strong trend around the country, with 17 states introducing legislation to prohibit deceptive interrogation tactics, and 5 states enacting such protections.



## File Legislation To Fix This

### *Consultation with Legal Counsel for Children Under 18*

- (a) Prior to a custodial interrogation, and before the waiver of any Miranda rights, a child under 18 years of age shall:
- (1) consult with legal counsel in person, by telephone, or by video conference; and
  - (2) have contact with a parent or legal guardian in person, by telephone, or by video conference.
- (b) After the consultation with legal counsel and contact with a parent or legal guardian, the child may waive his or her rights and be subject to a custodial interrogation.
- (c) The court shall treat, except as allowed under subsection (d), any statements of a child 17 years of age or younger made during or after a custodial interrogation that does not comply with subsection (a) as inadmissible.
- (d) This section does not apply to the admissibility of statements of a child 17 years of age or younger if both of the following criteria are met:
- (1) The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat; and
  - (2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.



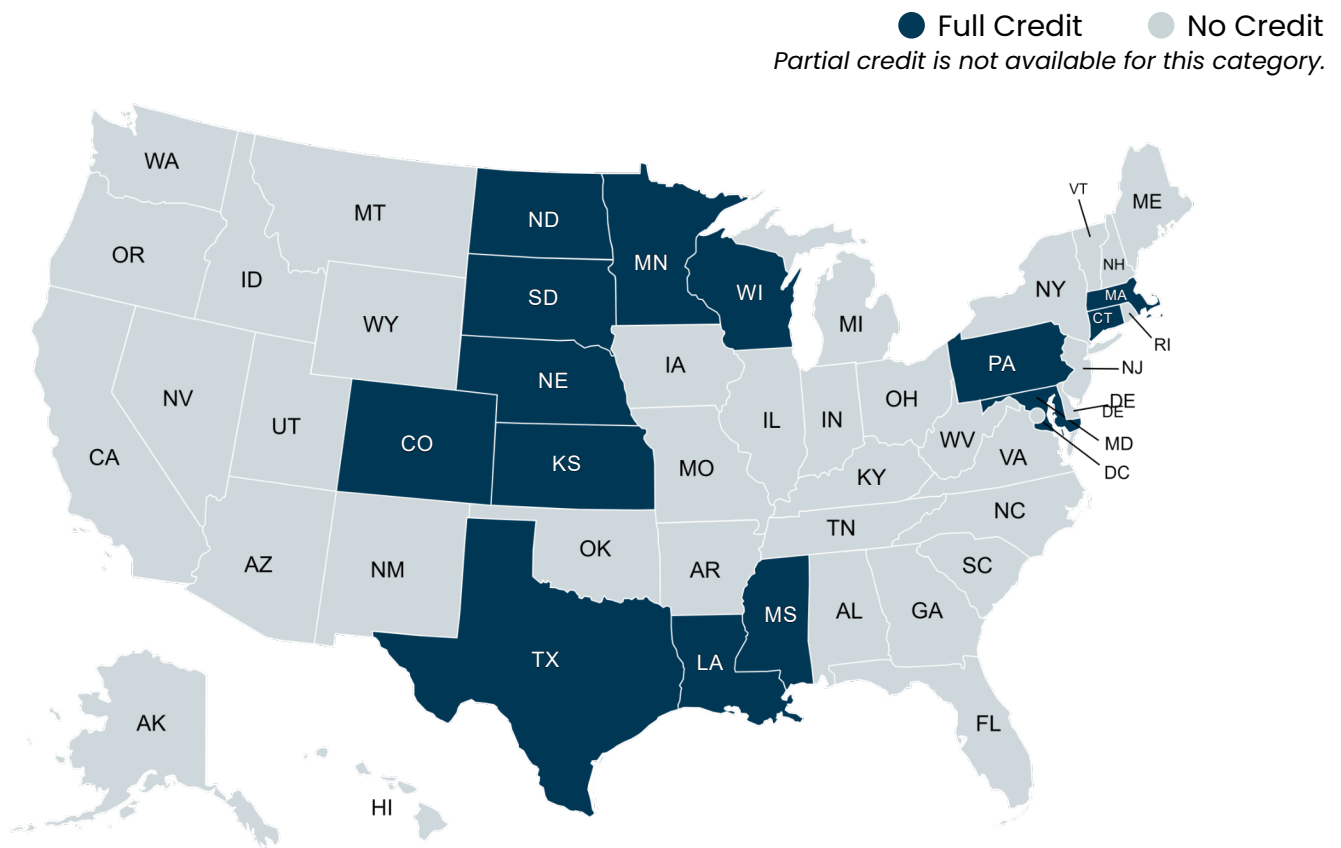
**PARENTS**  
**(202) 576-8386**  
**YOU HAVE A RIGHT TO**  
**KNOW WHAT HAPPENS TO YOUR**  
**CHILD BEHIND THESE DOORS.**  
**WE WELCOME YOU.**  
**PARENT WATCH**

**CAUTION**



10+

# Minimum Court Age



One of the central pillars of human rights for children in the justice system is the establishment of a minimum age of criminal culpability. While the CRC has encouraged states to set the age at 14, our review of state laws around the United States continues to reveal that only a minority of states set a minimum age of at least 10, with Massachusetts being the only state to set a minimum age of 12 with no exceptions. In our 2022 report, Connecticut and Maryland both received new credit for minimum age legislation. In 2023, minimum age legislation was introduced in at least 10 states, but no new states receive credit for this category.

While states are encouraged to follow the example of Massachusetts in this category, they can also look to policies adopted in Louisiana and Texas which set the minimum age of responsibility at 10. Maryland also offers a workable alternative with a minimum age set between 10 and 13 depending on the offense. Minimum age laws are a basic human rights protection and are essential to ending the school to prison pipeline. Unfortunately, 36 states and the District of Columbia fail to meet this standard.

## File Legislation To Fix This

### *Juvenile Court Jurisdiction; Minimum Age*

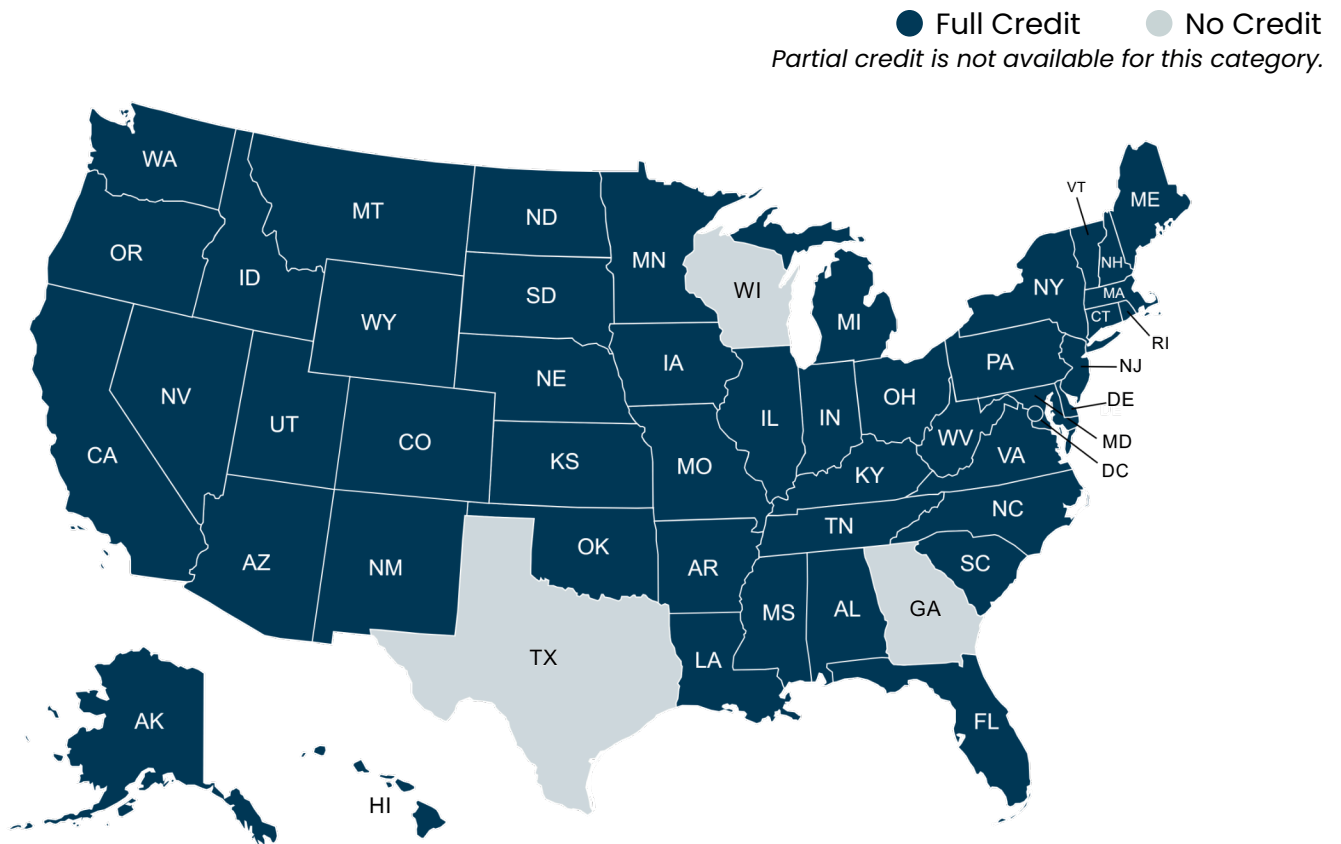
The juvenile court shall have jurisdiction of any child who has committed an act which would constitute a misdemeanor or felony offense or other violation of law in this state and who was at least [twelve] years of age or older at the time the act was committed. All cases involving children less than [twelve] years of age shall be referred to family court or the proper child welfare agency for treatment and services in accordance with [cite state's child in need of supervision statute].



*“I am an only child to my mother who is from [redacted] and my father who is from [redacted]. I witnessed my parents abuse each other at a young age until they split up when I was six years old. I endured abuse from my uncle from the ages of six until nine. He constantly told me I was useless and that I needed to learn how to be useful. I grew up believing I was worthless. I struggled with fears of abandonment, rejection, and inadequacy which caused me to have codependent behaviors, always seeking acceptance and belonging.”*

*- Anonymous woman incarcerated since childhood*

# Maximum Court Age



In accordance with human rights law, the CRC has affirmed that “every person under the age of 18 years at the time of the alleged commission of an offense has the right to be treated in accordance with the rules of juvenile justice, in a specific and specialized system, different from the criminal one applicable to adults.” This category is best viewed as the second pillar of human rights protections for children, complementing the second category which requires the establishment of a minimum age of criminal culpability.

Since our last report, Georgia, Wisconsin, and Texas each saw legislation introduced to include 17-year-olds within the jurisdiction of juvenile court. Unfortunately, none of those bills were signed into law to bring the remaining three states in line with the rest of the United States.

## File Legislation To Fix This

### *Juvenile Court Jurisdiction; Maximum Age*

(a) The juvenile court shall have jurisdiction of any child who has committed an act which would constitute a misdemeanor or felony offense or other violation of law in this state until he or she reaches [eighteen or twenty-one] years of age.



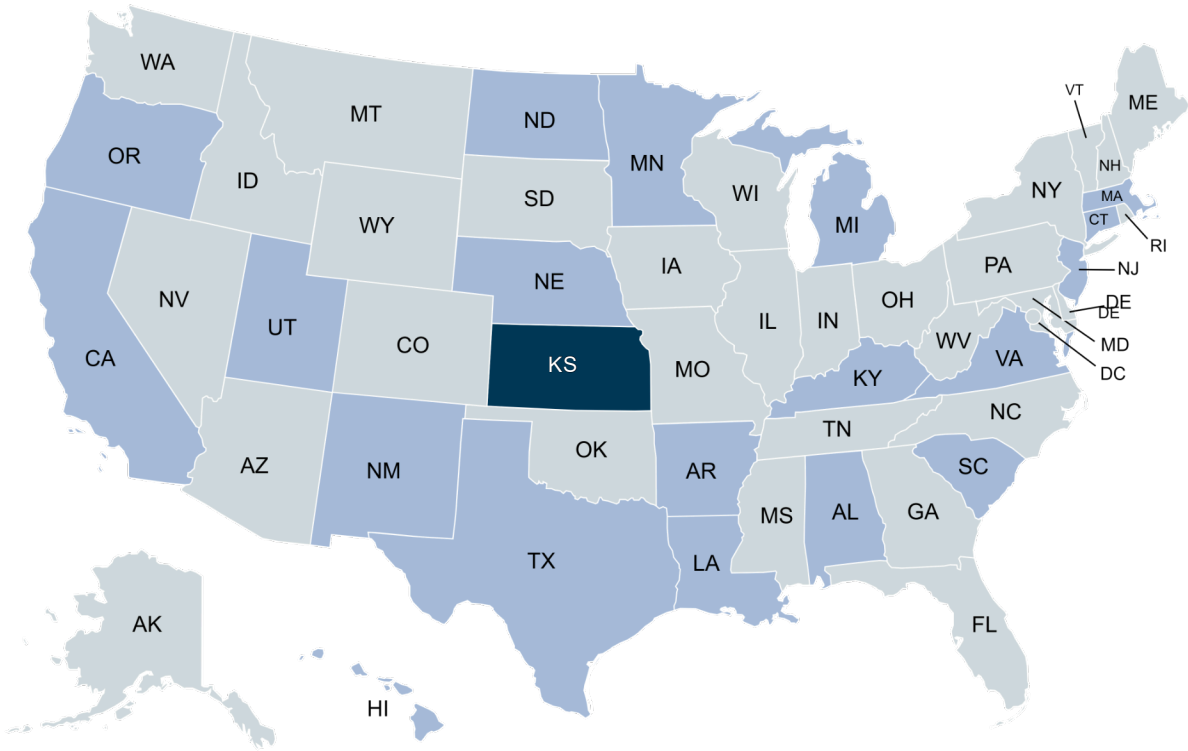
*“My first experience with abuse was when I was three years old. I was sexually abused from three to five years old. Then physical abuse started when I was six and seven, when my foster dad started becoming ill. My mother was in and out of jail my entire life. Actually, she had me in CIW [California Institution for Women] in 1990. I didn’t see her again until I was nine years old.”*

*- Anonymous woman incarcerated since childhood*



# Adult Courts

● Full Credit   ● Partial Credit   ● No Credit



Every state and the District of Columbia has created exceptions in their juvenile justice statutes that permit children to be prosecuted in the adult criminal justice system under certain circumstances. These exceptions are in violation of the CRC and the United States' treaty obligations under the ICCPR. It is also the primary reason for why over 32,000 people are currently incarcerated in U.S. prisons for crimes they committed as children. To begin to respond to this human rights crisis, it is critical for the U.S. to establish a minimum age below which children cannot be prosecuted as adults.

To accomplish this aim and to be as consistent with human rights norms as possible, we set a minimum age for allowing children to be tried as adults at 14 – the same age the CRC has recommended for criminal responsibility in the juvenile justice system. To earn full credit, however, states must also require a child status hearing for all children before proceeding in adult court. Only one state received full credit – Kansas – which requires a transfer hearing in juvenile court for all children between 14 and 17 years of age. Nineteen other states received partial credit for prohibiting children under 14 from being prosecuted as adults. We also tracked a concerning trend over the past year: several states introduced legislation to allow prosecutors to more easily charge children as if they are adults. At least two states, North Carolina and Vermont, passed such legislation into law.

# **File Legislation To Fix This**

## *Prohibition on Adult Transfer for Children Under Fourteen; Required Transfer Hearing*

(a) The state shall not file a motion in juvenile court to transfer a case to adult criminal court or file charges in adult criminal court where the case involves a child who was less than [fourteen] years of age at the time of the offense. The juvenile court shall have exclusive jurisdiction over cases involving children less than [fourteen] years of age.

(b) Before a juvenile court waives jurisdiction of a child or an adult criminal court permits adult criminal proceedings of a child who was [fourteen] years of age or older at the time of the offense, the court shall hold a full investigation and child status hearing where the court finds that:

- (1) There is no evidence the child is committable to an institution for individuals with intellectual disabilities or the mentally ill;
- (2) The child is not treatable in any available institution or facility within the State designed for the care and treatment of children; or
- (3) The safety of the community requires that the child be subject to state custody for a period extending beyond the child's eighteenth birthday.

(c) The court may waive jurisdiction or permit proceedings in adult criminal court involving a child described in subsection (b) to move forward if, after a full investigation and hearing, the court finds that:

- (1) The child is alleged to have committed an act that would constitute a felony if committed by an adult and either:
  - (A) The act resulted in serious bodily injury or death to a victim; or
  - (B) The act would constitute a [class A felony] if committed by an adult; and
- (2) The child cannot be successfully treated and rehabilitated before his or her eighteenth birthday and the safety of the community requires proceedings to continue against the child in adult criminal court.

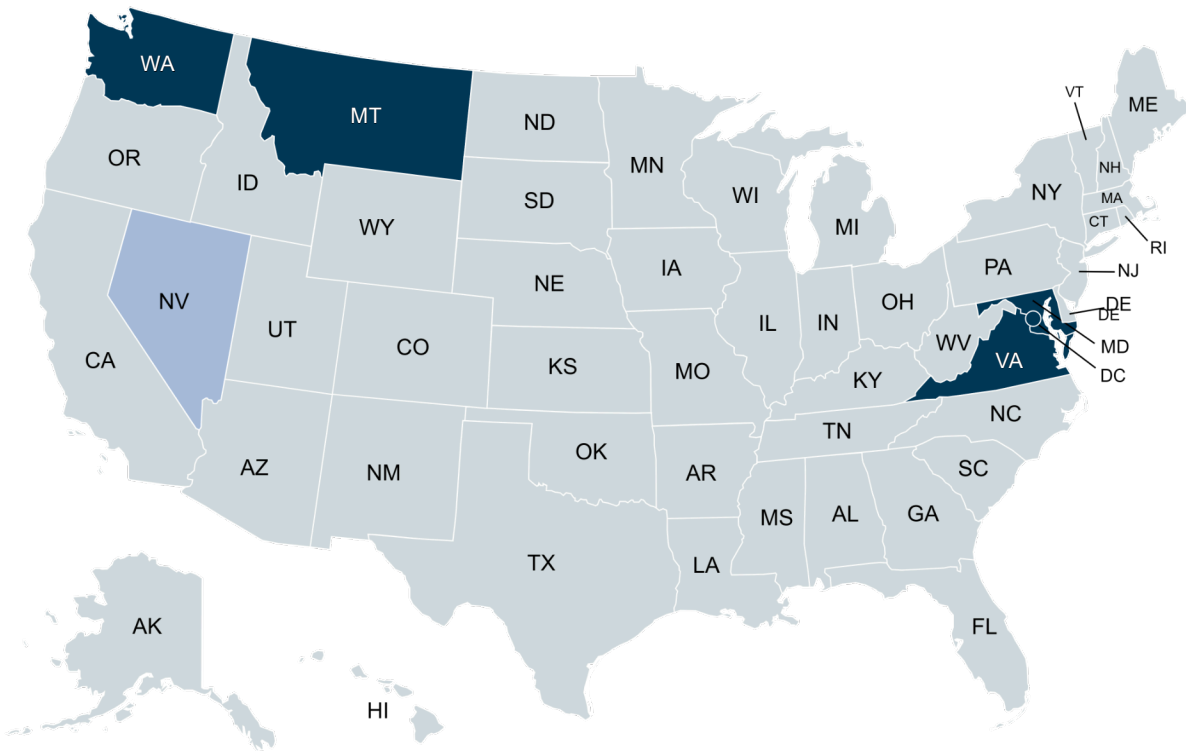
(d) The factors to be considered in deciding whether criminal proceedings against a child should proceed under subsection (b) or (c) include:

- (1) The seriousness of the alleged offense;
- (2) Whether and to what extent an adult was involved in the offense;
- (3) The age and maturity of the child as determined by consideration of the child's home, environmental situation, history of trauma and adverse childhood experiences, emotional attitude, and pattern of living;
- (4) The record and previous history of the minor, including previous contacts with the family court, law enforcement agencies, courts in other jurisdictions, or prior commitments to juvenile institutions;
- (5) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services, and facilities in the juvenile court system;
- (6) Whether the best interests of the child are better served in the juvenile court system relative to the adult system; and
- (7) All other relevant factors.



# Mandatory Minimum Sentences

● Full Credit   ● Partial Credit   ● No Credit



Since children may be prosecuted under the laws of every state in the adult criminal justice system it is vital for states to adopt policies that allow judges or juries to sentence children differently than they would adult offenders. Considering children’s diminished culpability relative to adults and increased prospects for treatment and rehabilitation, states must allow sentencers to depart from any otherwise applicable mandatory minimum sentence after a child has been convicted in adult court.

In our 2022 report, Maryland joined Virginia, Montana, Washington, and the District of Columbia in receiving full credit for this category. While at least 8 states introduced legislation to give judges flexibility when sentencing children in 2023, no states enacted new legislation. The case remains that most of the country has not enacted such policies, even though mandatory minimum sentences for children violate human rights standards. States should continue to look to the Commonwealth of Virginia for model provisions on how children should be sentenced if they are convicted in adult court.



# File Legislation To Fix This

## *Sentencing Children Convicted in Adult Criminal Court*

(a) If a child is convicted as an adult for an offense that the child committed when he or she was less than 18 years of age, in addition to any other factors that the court is required to consider before imposing a sentence, the court shall consider:

- (1) the child's exposure to adverse childhood experiences, early childhood trauma, and involvement in the child welfare system; and
- (2) the differences between child and adult offenders, including, without limitation, the diminished culpability of children as compared to that of adults and the typical characteristics of youth.

(b) Notwithstanding any other provision of law, after considering the factors set forth in subsection (a), the court may, in its discretion, reduce any mandatory minimum or maximum period of incarceration, or both, that the child is required to serve if the court determines that such a reduction is warranted given the child's age, mitigating circumstances, and the child's prospects for rehabilitation.

(c) Prior to the imposition of any sentence on a child who was less than 18 years of age at the time of the offense, the court may, after consideration of the factors in subsection (a), depart from any mandatory sentencing enhancement that the court would otherwise be required to impose.

(d) This section shall be construed as prioritizing the successful treatment, rehabilitation, and eventual reintegration of children who commit serious offenses and are prosecuted in the adult criminal justice system over incapacitation or retribution.



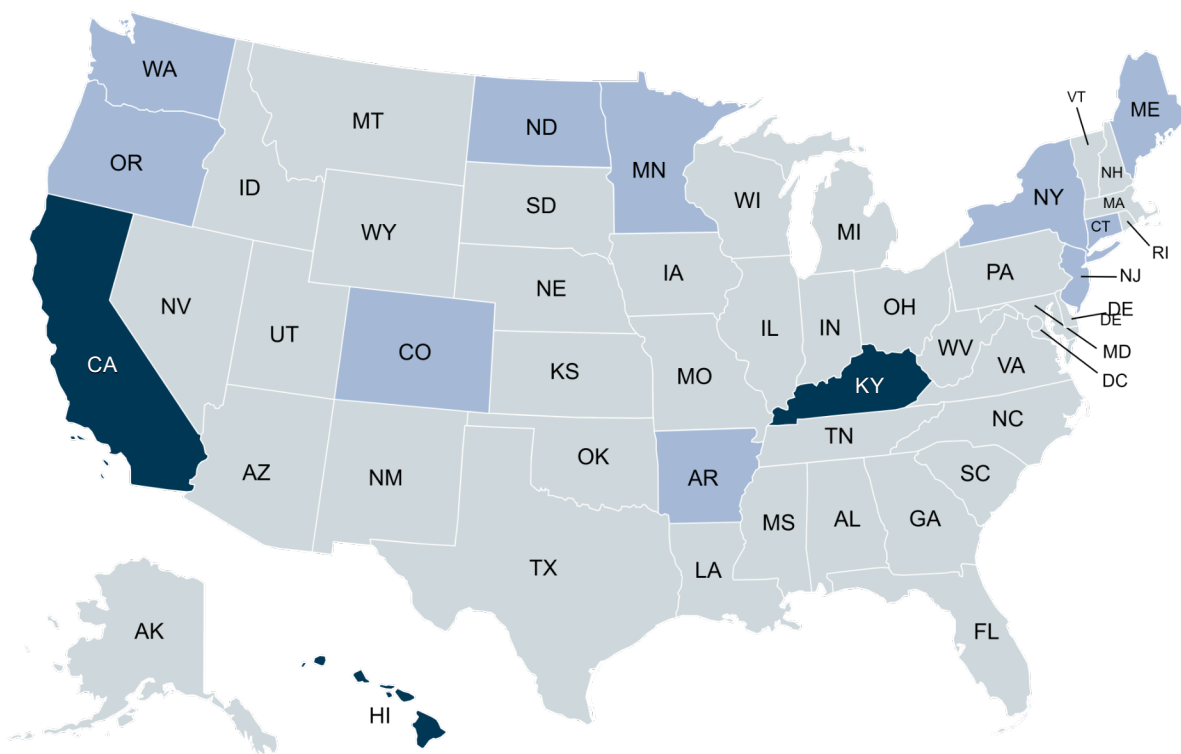
*“Hello...my name is [redacted] and I am the disposable girl. A person doesn't have to be starving to be malnourished. I grew up poverty stricken; starved of the resources I needed to thrive. The structure I called home wasn't totally devoid of love. Before the crack epidemic my father was a good father and provider. I recall life in two segments: Before Crack (BC) and After Crack (AC). From the sexual abuse I endured and the over exposure to sexual material, I saw myself as something to be used rather than someone to be loved. At 12 years old I met a 17-year-old boy that I thought could fill that void.”*

*- Anonymous woman incarcerated since childhood*



# Felony-Murder Rule

● Full Credit   ● Partial Credit   ● No Credit



Children often fail to appreciate the unintended consequences of their actions. Nowhere is this more apparent than in felony murder cases where children can be criminally convicted of murder even though they did not kill or intend to kill anyone during the commission of a felony offense. To be consistent with human rights standards in treating children differently than adults and promoting their rehabilitation, states must ban the application of the felony murder doctrine to children who do not have the actual intent to kill another person. California, Hawaii, and Kentucky are the only states that received full credit for banning the application of the felony murder doctrine to children.

While some states received partial credit for creating an affirmative defense to felony murder, they did not receive full credit because their statutes had exceptions that could still lead to criminal liability for a child who did not kill or intend to kill during the course of a felony offense. Only one additional state, Minnesota, receives credit in this year's report for a new law which limits the use of the felony murder doctrine for all defendants. Because significant exceptions exist in the statute, the state only receives partial credit. At least 2 states have considered removing the felony murder rule for youth since our last report.

## File Legislation To Fix This

### *Eliminating the Felony-Murder Rule for Children*

(a) A participant who was under the age of 18 at the time of the perpetration or attempted perpetration of a crime listed in [cite state felony murder statute] in which a death occurs is liable for murder only if one of the following is proven:

- (1) The minor child was the actual killer; or
- (2) The minor child was not the actual killer, but, with the intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of the unlawful killing of another human being.

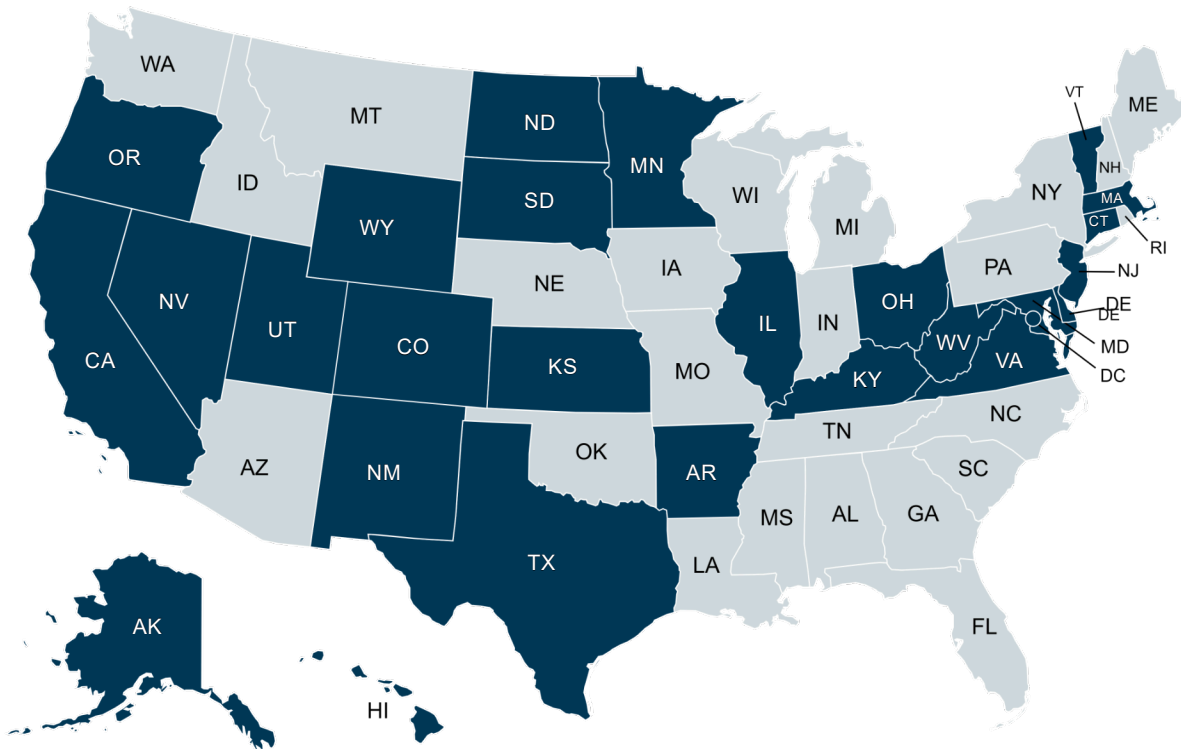
(b) A minor who is not liable for murder under subsection (a) shall be sentenced in accordance with the crime he or she committed or attempted to commit.



# Life Without Parole

● Full Credit ● No Credit

*Partial credit is not available for this category.*



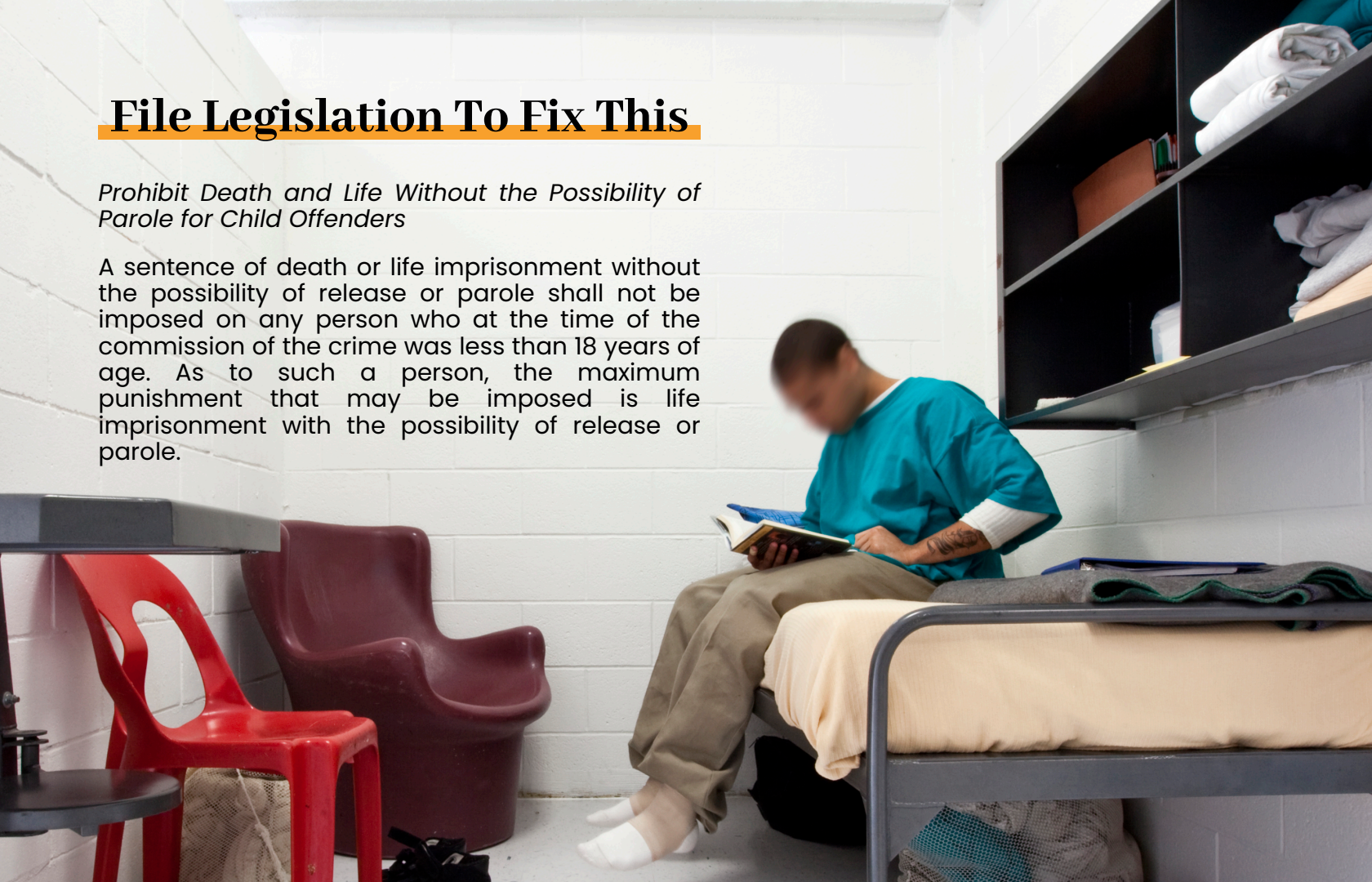
The use of life without parole sentences on children is perhaps the worst human rights violation profiled in our report, having been deemed cruel, degrading, and inhumane punishment the world over. Such sentences cast an irrevocable judgment on a child that deem him or her unworthy of living in free society ever again – no matter how much he or she changes over time. Such punishment is categorically prohibited by the Convention on the Rights of the Child; however, the United States remains the only nation that hasn't ratified this treaty. States must ban life without parole altogether – with no exceptions – in order to receive full credit.

Today, 26 states and the District of Columbia have enacted statutes banning the practice of sentencing children to die in prison. States that have active parole systems should look to Utah or Nevada for model language on banning juvenile life without parole. States without parole systems can look to North Dakota or the District of Columbia for model language. In 2023, three new states joined the growing national trend away from death-in-prison sentences for youth: Illinois, Minnesota, and New Mexico. At least 8 additional states considered similar legislation.

## File Legislation To Fix This

### *Prohibit Death and Life Without the Possibility of Parole for Child Offenders*

A sentence of death or life imprisonment without the possibility of release or parole shall not be imposed on any person who at the time of the commission of the crime was less than 18 years of age. As to such a person, the maximum punishment that may be imposed is life imprisonment with the possibility of release or parole.



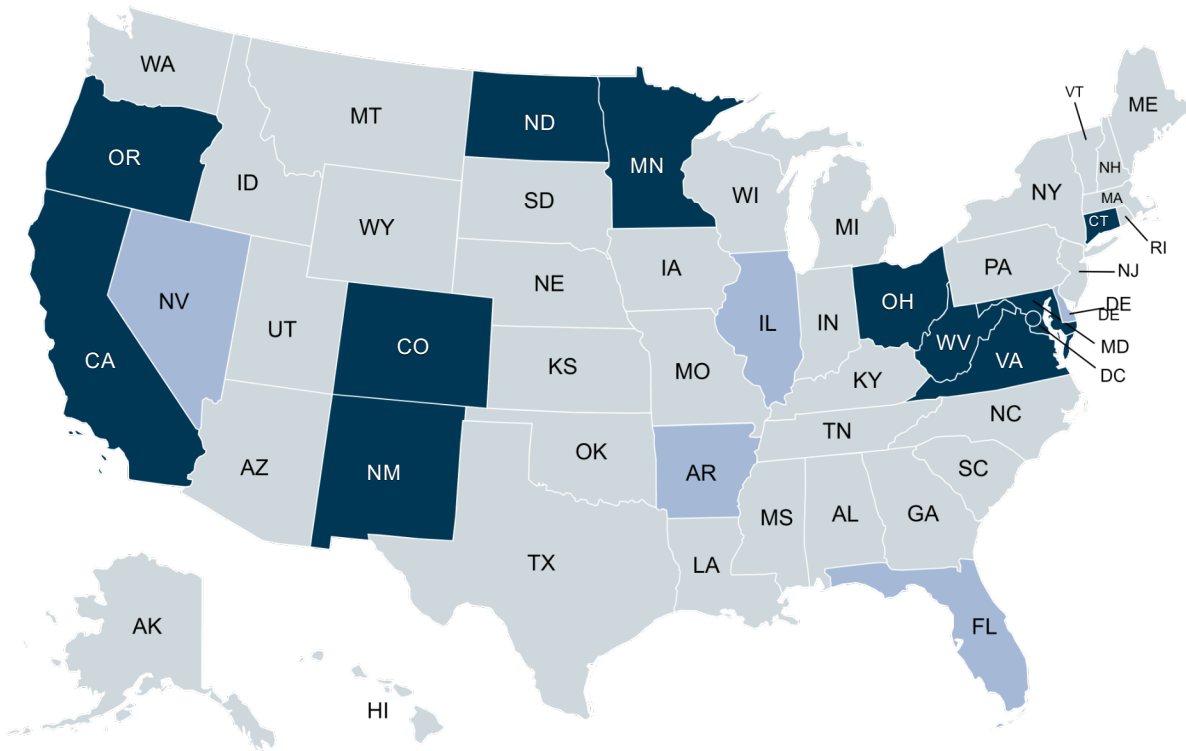
*“I ... started with four LWOP [life without parole] sentences, ran consecutively with a 15 to life sentence on top of that which has been converted to 100 to life. I was younger than 3 years old when I first experienced abuse.”*

*- Anonymous woman incarcerated since childhood*



# Release Safety Valve

● Full Credit   ● Partial Credit   ● No Credit



Banning the use of life without parole sentences on children can be an empty promise if states can circumvent such statutes through the use of stacked or consecutive sentences and/or sentencing enhancements. To come into full compliance with Articles 25 and 37 of the Convention on the Rights of the Child, therefore, states must enact policies that end de facto life without parole by requiring periodic sentencing review for all child offenders given lengthy prison sentences. Referred to as a “release safety valve,” 15 states and the District of Columbia receive full or partial credit for this category.

Minnesota and New Mexico receive new full credit for this category, while Illinois receives partial credit for legislation enacted in 2023. West Virginia and the District of Columbia continue to have what we consider to be “model” laws utilizing parole and judicial review, respectively, which other states should look to when considering reforms under this category.

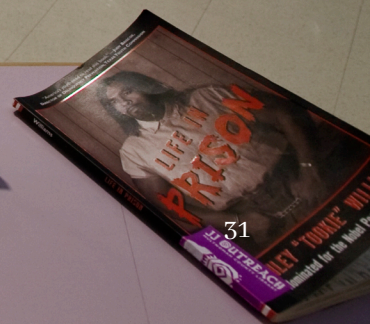
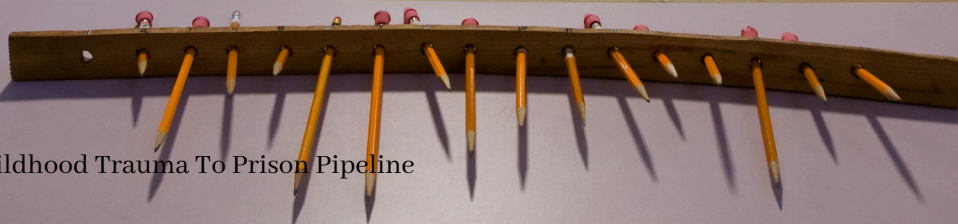
# File Legislation To Fix This

## *Child Sentencing Review*

(a) Unless subject to earlier parole eligibility, a prisoner who was a child at the time of the offense or multiple offenses and was tried and sentenced as an adult, is eligible for parole no later than his or her [fifteenth year] of incarceration. The Parole Board shall ensure that the hearing to consider parole under this subsection provides a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.

(b) During a parole hearing involving a prisoner who was convicted and sentenced as a child, the Parole Board shall take into consideration the diminished culpability of children as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner during incarceration. The board shall also consider the following:

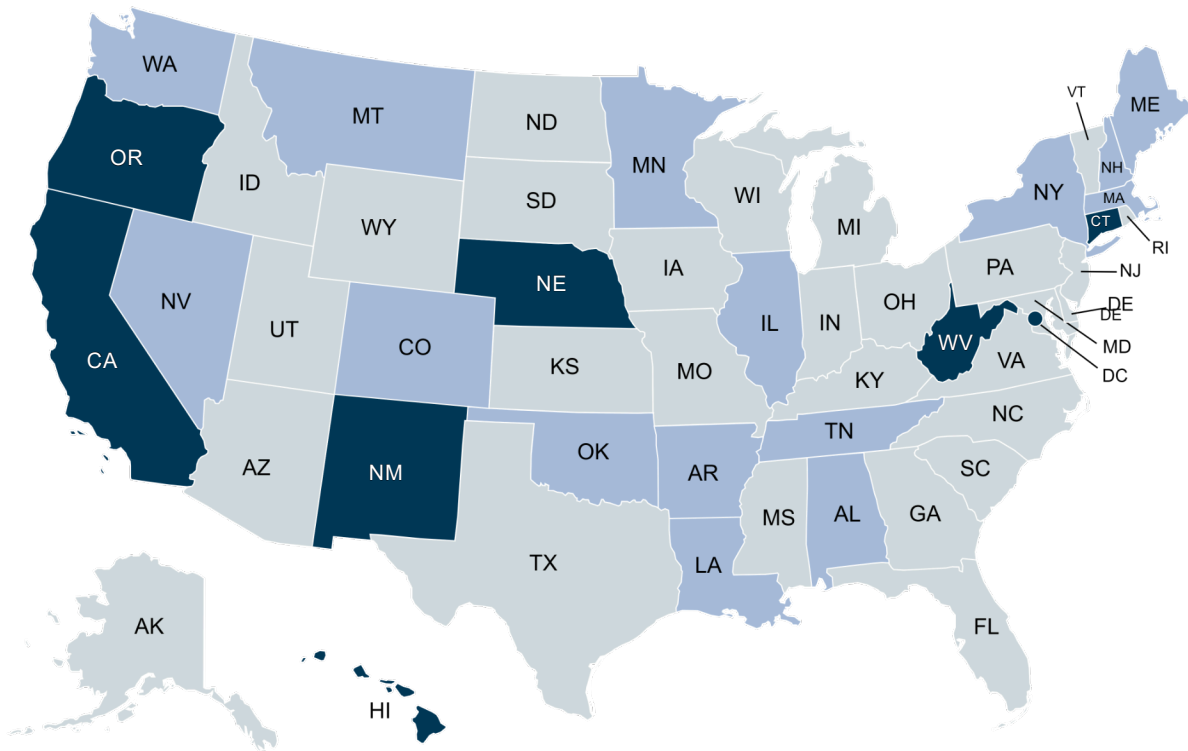
- (1) A review of educational and court documents;
- (2) Participation in available rehabilitative and educational programs while in prison;
- (3) Age at the time of the offense;
- (4) Immaturity at the time of the offense;
- (5) Home and community environment at the time of the offense;
- (6) Efforts made toward rehabilitation;
- (7) Evidence of remorse; and
- (8) Any other factors or circumstances the board considers relevant.





# Solitary Confinement

● Full Credit   ● Partial Credit   ● No Credit



The use of solitary confinement on children is strictly prohibited as a form of cruel and inhumane treatment under international human rights standards. Sadly, only 8 states and the District of Columbia received full credit for banning solitary confinement for children. While some states receive partial credit for their statutes protecting children in the juvenile justice system, children in adult prisons remain vulnerable to this human rights abuse. Indeed, children held in adult prisons are often at greater risk for being subject to solitary confinement as they tend to fall through the cracks of administrative regulations aimed at protecting children in the juvenile justice system. States that only received partial credit should enact legislation expanding such protections to children held in adult prisons, or, better yet, ban children from being incarcerated in adult prisons altogether. California and West Virginia have the best laws in the country as they ban solitary confinement for children in juvenile facilities and prohibit kids from being incarcerated in adult prisons.

In this year's report, Illinois, Minnesota, and New York receive new credit; however, these states did not receive full credit because the protections did not extend to all juvenile and adult correctional facilities. Illinois's new law protects children in juvenile facilities and adult jails, but those protections do not extend to adult prisons. Under the new law in Minnesota, children in juvenile facilities are protected, but children in adult facilities can still be placed in solitary confinement. Finally, New York's law defines people under the age of 21 as a "special population" that cannot be placed in solitary confinement in adult facilities, but no such protections exist in statute for children in juvenile facilities. At least 7 states considered legislation in 2023 that would have limited the use of solitary confinement for children.



# **File Legislation To Fix This**

## *Prohibition on Solitary Confinement for Children*

(a) The use of solitary or room confinement on children for discipline, punishment, retaliation, or any reason other than as a temporary response to a child's behavior that poses a serious and immediate risk of physical harm to any individual, including the child, is prohibited.

(b) Before a staff member of a facility places a child in solitary or room confinement, the staff member shall attempt to use less restrictive techniques, including:

- (1) talking with the child in an attempt to de-escalate the situation; and
- (2) permitting a qualified mental health professional to talk to the child.

(c) If, after attempting to use less restrictive techniques as required under subsection (b), a staff member of a facility decides to place a child in temporary room confinement, the staff member shall:

- (1) explain to the child the reasons for the room confinement; and
- (2) inform the child that release from room confinement will occur immediately when the child regains self-control or not later than after the expiration of the time period described in subsection (d).

(d) If a child is placed in temporary room confinement because the child poses a serious and immediate risk of physical harm to himself or herself, or to others, the child shall be released:

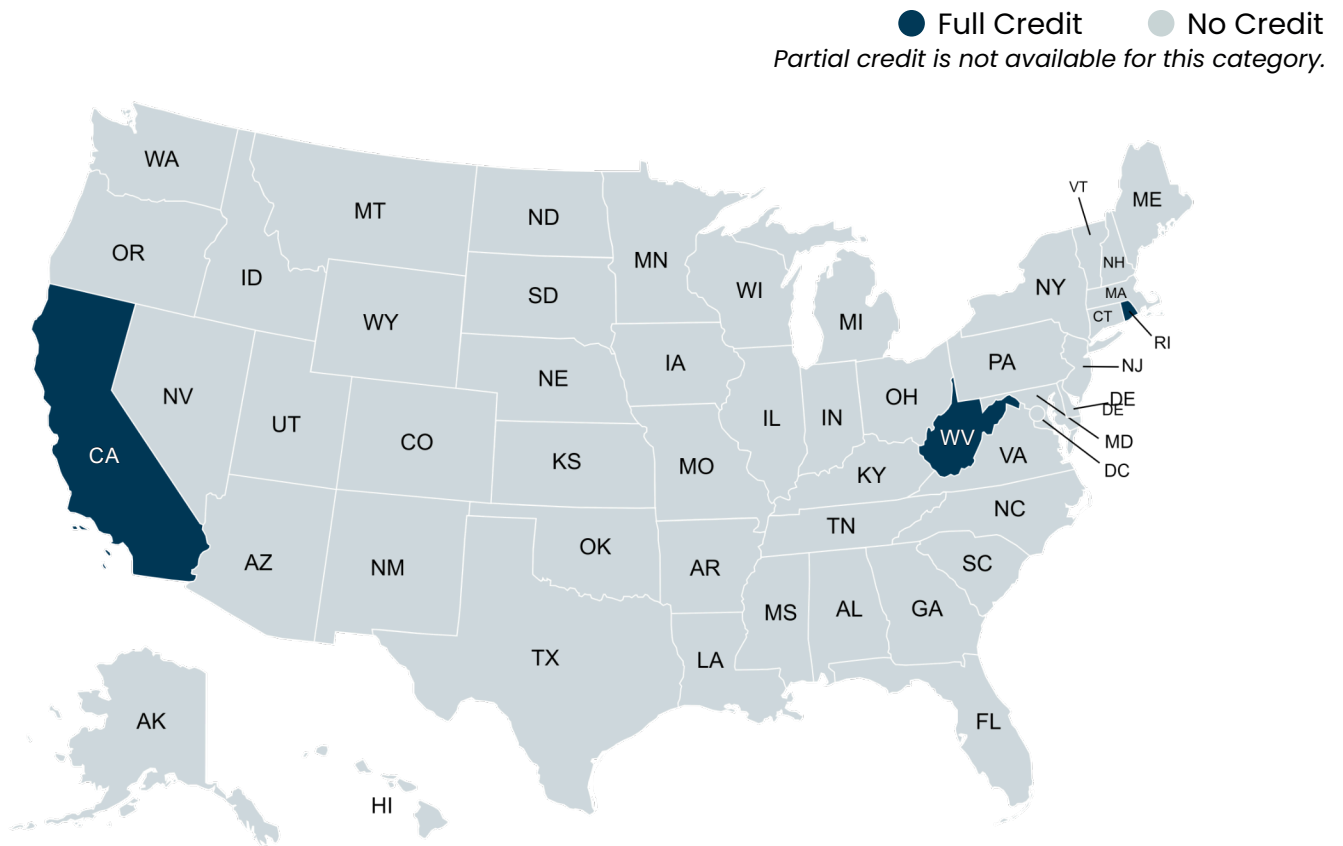
- (1) immediately when the child has sufficiently gained control so as to no longer engage in behavior that threatens serious and immediate risk of physical harm to himself or herself, or to others; or
- (2) if a child does not sufficiently gain control as described in subsection (d) (1), not later than 3 hours after being placed in room confinement, in the case of a child who poses a serious and immediate risk of physical harm to others; or 30 minutes after being placed in room confinement, in the case of a child who poses a serious and immediate risk of physical harm only to himself or herself.

(e) If, after the applicable maximum period of confinement has expired, a child continues to pose a serious and immediate risk of physical harm the child shall be transferred to another juvenile facility or internal location where services can be provided to the child without relying on room confinement.

(f) During a period of room confinement staff shall periodically check on the child at least once every 15 minutes.



# Incarceration



Detaining or incarcerating children in adult jails, lock-ups, or prisons is a very clear violation of human rights standards under both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. Such treatment of children increases their risk of physical and sexual violence and limits the education and rehabilitative programming that would otherwise be available to them. Additionally, children held in adult facilities are often subject to conditions of solitary confinement or room seclusion which is also a violation of human rights standards.

This category is the greatest national human rights failure of any we track. While many states strictly regulate sight and sound restrictions between children and adults in detention facilities, only 3 states prohibit detaining or incarcerating children under any circumstances in adult facilities. California, Rhode Island, and West Virginia remain the only states in compliance with this category, as no new states receive credit for this category in 2023.

# File Legislation To Fix This

## *Prohibition on Children Being Incarcerated in Adult Correctional Facilities*

No child under eighteen (18) years of age shall be detained, placed, or incarcerated in any jail, prison, or other place of detention where adults are detained, placed, or incarcerated. This section applies to all children in the custody of the Department of Corrections, including children who are subject to the jurisdiction of adult criminal court.



“IT IS EASIER TO BUILD CHILDREN  
THAN TO REPAIR ~  
BROKEN MEN.”

HAPPY BIRTHDAY  
03/16/19 2020 SIXTEEN

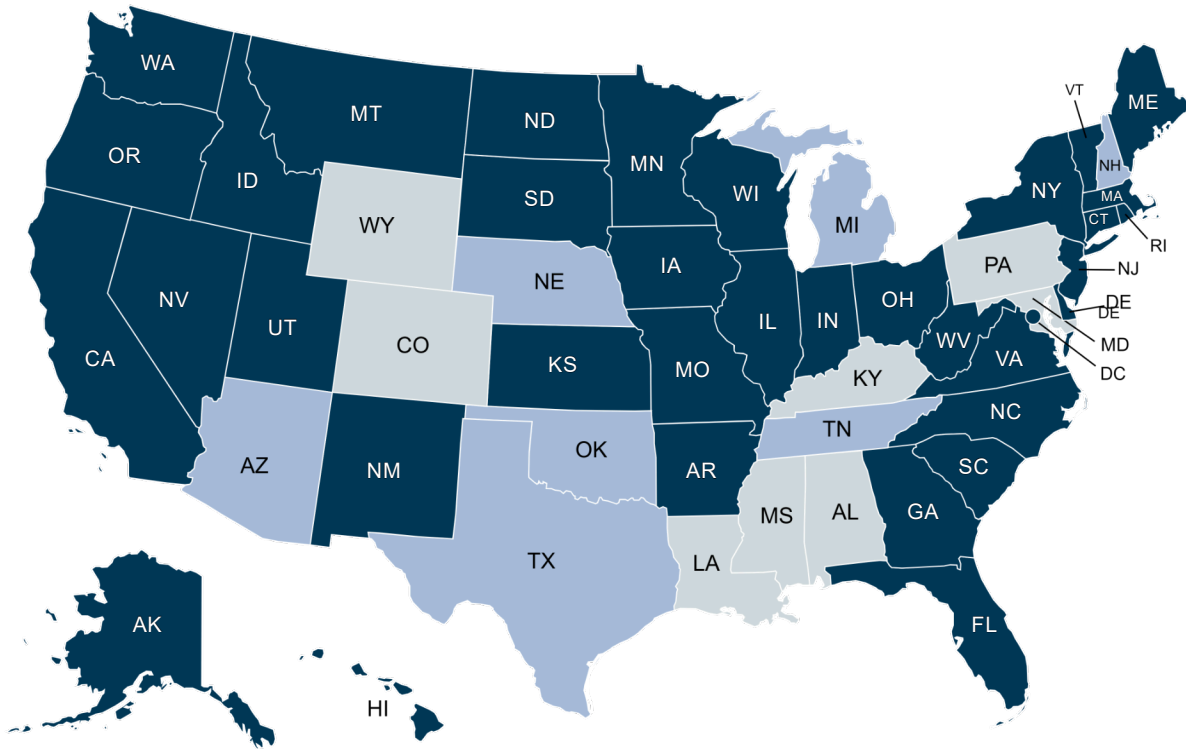
Darrell Gilliam	04 Dolores Isakke	13 Olivette Williams	16 Edward Forewell	27
Jose Ortiz	Kalibon Hawkins	15 Oliver Fletcher	30	
Das Sherraz	09			





# Post-Release Supervision

● Full Credit ● Partial Credit ● No Credit



Promoting reintegration and the assumption of a constructive role in society for formerly incarcerated children necessarily includes the ability to discharge their full sentence, including any period of post-release supervision. In General Comment 24, the CRC stated that promoting reintegration requires a child in conflict with the law to be “protected from actions or attitudes that hamper the child’s full participation in his/her community, such as stigmatization, social isolation, or negative publicity.”

In many states, post-release supervision is considered a part of an offender’s sentence. For formerly incarcerated children serving lengthy prison sentences this could mean lifetime supervision that hinders his or her ability to move on with their life, exercise their full rights of citizenship, or assume a constructive role in society. Therefore, states should enact laws that allow the supervising authority to discharge a formerly incarcerated youth from supervision at a reasonable point after release. All but 9 states received full or partial credit for this category, with Alaska having one of the best laws in the nation. No new states received credit for this category in 2023.

# File Legislation To Fix This

## *Discharge from Parole or State Supervision*

The Parole Board may discharge a person from parole if the person:

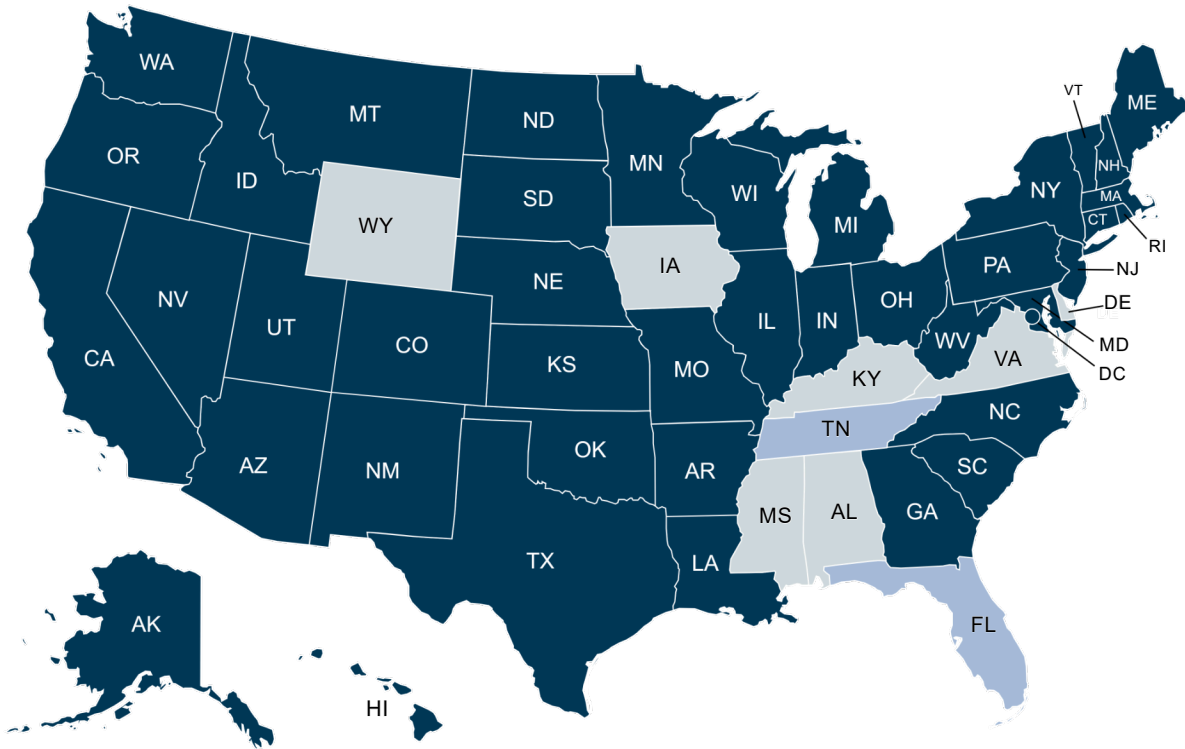
- (1) Was released on parole for having committed an offense as a minor; and
- (2) Has served five (5) years on parole without a violation.





# Voting Rights

● Full Credit    ● Partial Credit    ● No Credit



The successful treatment and full social reintegration of children who come into conflict with the law is the chief human rights principle behind many of the protections found in the Convention on the Rights of the Child. However, a child cannot achieve full social reintegration if he or she is denied the rights and privileges afforded to their fellow citizens. No right is more important to active citizenship than the right of suffrage. Therefore, states must create a pathway for formerly incarcerated children - who have reached the age of majority - to have their voting rights restored upon release. States that require the completion of the entire sentence - including post-release supervision - before the restoration of voting rights is permitted, must also create a mechanism that allows formerly incarcerated children to be discharged from state supervision in order to earn credit for this category.

The overwhelming majority of states - 41 and the District of Columbia - have statutes in place creating a pathway for all formerly incarcerated children to register to vote. While Tennessee and Florida received partial credit, Virginia, Kentucky, Delaware, Iowa, Wyoming, Mississippi, and Alabama received no credit. These states can look to Vermont where voting rights are never taken away or Nevada where formerly incarcerated youth are permitted to vote once they've been released from prison, for model language to receive credit for this category.

# File Legislation To Fix This

## *Restoration of Voting Rights*

A person who was a child at the time of the commission of an offense shall have his or her constitutional right to vote and other rights to civic participation restored after he or she has been released from prison.



## Words from Congressional Champions



“It is unconscionable that our nation – the land of the free – has the highest incarceration rate for youth in the world. The need to reform our juvenile system has never been more apparent...Our children are our future – only if we give them a chance to thrive.”

- Congresswoman Sydney Kamlager-Dove (D-CA)



“Reforming the juvenile sentencing process is overdue in the U.S. For too long, we’ve thrown young people into the justice system with an inadequate understanding of why crimes occur and what can be done to appropriately address them.”

- Congressman Bruce Westerman (R-AR)



“I believe our children deserve to live in a world where they can change for the better, and where their futures are not defined by a single mistake...We should be investing in education and intervention for children, not spending money on keeping them locked up.”

- Congressman Tony Cardenas (D-CA)



# Endnotes

<sup>1</sup> Human Rights for Kids. (2023). "Crimes Against Humanity: The Mass Incarceration of Children in the United States." <https://humanrightsforkids.org/publication/crimes-against-humanity-the-mass-incarceration-of-children-in-the-united-states>.

<sup>2</sup> Graf, G., Chihuri, S., Blow, M., Li, G., Pediatrics 147(1). "Adverse Childhood Experiences and Justice System Contact." (2021). <https://publications.aap.org/pediatrics/article/147/1/e2020021030/77102/Adverse-Childhood-Experiences-and-Justice-System>.

<sup>3</sup> Bartos, Leah. California Health Report. "Pipeline to Prison May Start with Childhood Trauma." 29 Aug. 2016. <https://www.pacesconnection.com/g/aces-in-criminal-justice/blog/pipeline-to-prison-may-start-with-childhood-trauma>



KEAIRA  
HOWARD

KHAN  
HOWARD

Khalid  
Keaira  
Stay Fresh  
Bach

YOUTH  
DETENTION

THOMAS  
BUCKLEY

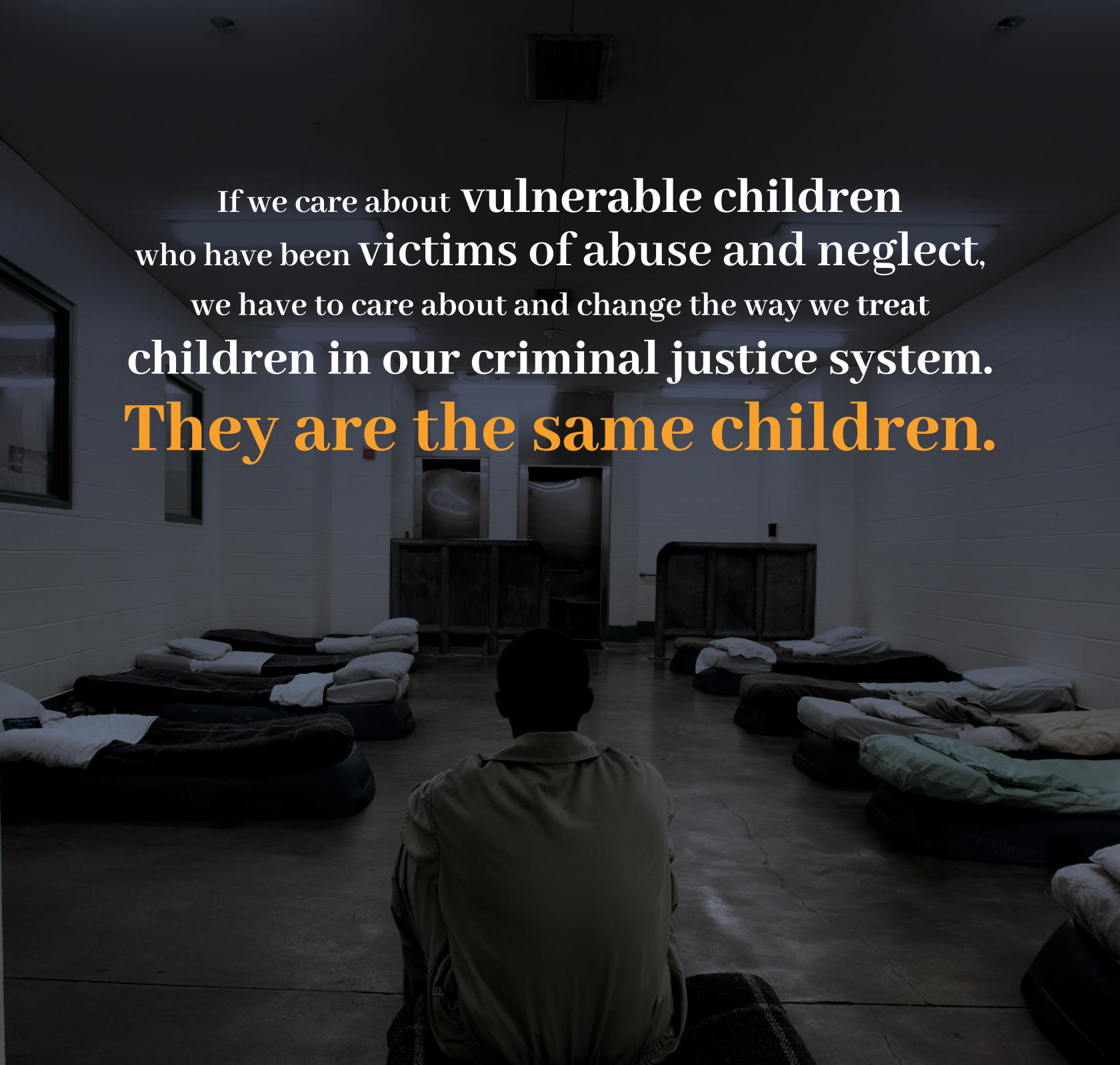
FREE  
KEAIRA

JASMINE  
HEBERGER

LADYA M.  
KHAN  
Bulldoz  
Bitches  
in 104  
£ 318.00

15/11/14



A person is sitting on a bench in the center of a large, sparsely furnished room. The room contains many beds arranged in rows, some with white linens and others with dark covers. The walls are light-colored with horizontal paneling. In the background, there are two doorways leading to other areas. The lighting is somewhat dim, creating a somber atmosphere.

If we care about **vulnerable children**  
who have been **victims of abuse and neglect**,  
we have to care about and change the way we treat  
**children in our criminal justice system.**  
**They are the same children.**

**Human Rights for Kids**

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Washington, D.C. 20036

[www.humanrightsforkids.org](http://www.humanrightsforkids.org)

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