

SUPPORT SB 936 AND HB 509

# Stop Prosecuting Children as Adults in Florida

## THE FACTS

Florida prosecutes more children in the adult criminal justice system than any other state. Since 2009, more than 14,000 children — some as young as 10 years old — have been prosecuted as adults in Florida.

During 2015-16, more than 1,200 children were prosecuted as adults. Most of these children were charged with nonviolent offenses and were not a threat to public safety. Almost all of these children — 98 percent — were prosecuted as adults solely at the discretion of prosecutors without a judge's input. More than 70 percent of children convicted in adult court are sentenced to probation, not prison, calling into question whether the more serious, adult court transfer was necessary in the first place.

This practice continues despite a lack of public support. Seventy percent of Floridians believe judges — *not prosecutors* — should decide whether to prosecute a child as an adult, according to a 2017 public opinion poll. The same poll found that 74 percent of Floridians believe juveniles charged with crimes should stay in the juvenile justice system not the adult criminal justice system.<sup>1</sup>

## THE PROBLEM

**Funneling children into the adult system threatens public safety.** Recidivism rates for children prosecuted as adults are higher than the rates for children adjudicated in the juvenile justice system. This creates more crime — not less.

**Only juvenile facilities can provide appropriate education and transition services.** Without the appropriate education and special education services, children in adult facilities are less likely to get back on track. This also creates more crime.

**Prosecution as an adult brands a child with a felony conviction for life.** An adult felony conviction deprives a child of the opportunity to serve in the military, to receive financial aid for college and to vote — all before he or she even turns 18. This harsh system disproportionately harms children of color. Florida inflicts these severe penalties on children despite their unique propensity to change. Research shows that young people's brains are still maturing and they may not effectively judge the risks and consequences of dangerous or illegal behavior. Because of that, children should be treated differently.

**Children in the adult system are at risk of victimization and suicide.** Children housed in adult facilities are *36 times more likely to commit suicide than those in juvenile facilities.*<sup>2</sup> They are also at the highest risk for sexual abuse.<sup>3</sup>

**Jails are not designed to house children separately.** When children are prosecuted as adults, they are required to be held in adult jails but must be separated from adult offenders. To meet this requirement, jails often hold children in solitary confinement despite widespread condemnation of the technique as so psychologically damaging that it is tantamount to torture.



86%

of Floridians think that children should not be held in adult jail while awaiting trial.

## SOLUTIONS

### Enact reforms to limit the number of children prosecuted as adults.

- Eliminate the ability to indict a child younger than 14 as an adult. Prohibit prosecuting a child who a judge has determined is incompetent as an adult.
- Prohibit direct file of 14- and 15-year-olds. These children will still be held accountable by the juvenile justice system.
- Limit adult prosecution of 16- and 17-year-olds to only the most serious crimes, like murder or manslaughter.
- Create a fitness hearing before a judge in which a child can request a return to juvenile court. Let the judge, not the prosecutor, decide which court is more appropriate for a child.
- Require judges to justify why adult sanctions are necessary when they impose an adult sentence on a child.

### More children should be housed in juvenile facilities, which provide greater opportunities for rehabilitation and education.

- Judges should be given discretion to house children prosecuted as adults in juvenile facilities instead of adult jail as they await their trials.
- Florida should ensure that children in adult jails and prisons receive an appropriate education.

### Ensure a transparent process.

- Florida should require prosecutors to document the bases for their decisions to prosecute children as adults. The state should also require better data collection regarding the prosecution of children as adults.

### Give all children the chance to succeed.

- Florida should not deprive children of their civil rights — such as the right to vote — because they were needlessly prosecuted as adults for mistakes made when they were young.



**81%**

of Floridians think prosecutors should disclose threats to prosecute kids as adults — a practice that could pressure youth to take plea deals to remain in the juvenile justice system with juvenile sanctions.

1 Right on Crime, Florida registered voter survey, Oct. 23-29, 2017, available at [www.twitdoc.com/upload/bascomllc/right-on-crime-poll.pdf](http://www.twitdoc.com/upload/bascomllc/right-on-crime-poll.pdf).

2 Jailing Juveniles (2007, November). Washington, D.C.: Campaign for Youth Justice.

3 National Prison Rape Elimination Commission, Report 18 (June 2009), available at [www.ncjrs.gov/pdffiles1/226680.pdf](http://www.ncjrs.gov/pdffiles1/226680.pdf).