# DIRECT-FILE RESOLUTION

A resolution stating the preference and will of the County of \_\_\_\_\_\_\_\_ to have the children of this community treated as children when they break Florida law.

**WHEREAS** children are developmentally different from adults and these differences are documented by research on the adolescent brain and acknowledged by the U.S. and state supreme courts, as well as state and federal laws that prohibit youth under age 18 from taking on major adult responsibilities such as contracting, voting, jury duty, and military service;

**WHEREAS** the juvenile justice system is designed for, and more effective at, rehabilitating children who fall into the delinquency system than the adult corrections system, which focuses on punishment rather than rehabilitation;

**WHEREAS** children who are placed under the commitment of the juvenile court system are required to receive age-appropriate services and education, and remain closer to their families, all of which reduces the likelihood of future offending;

**WHEREAS** prosecuting children in adult court has been proven not to deter crime, and in fact, a child prosecuted in the adult criminal justice system is 34% more likely to be rearrested for a felony than a child who remains in the juvenile justice system;[[1]](#endnote-1)

**WHEREAS** it is harmful to both public safety and children’s well-being to confine youth in adult jails, where they are significantly more likely to be physically and sexually assaulted or to commit suicide;

**WHEREAS** adult jails are not designed to house children separately from adults, as required by law, and thus often hold children in solitary confinement and deprive them of adequate educational services, which, in turn, makes them less likely to succeed in school and more likely to reoffend;

**WHEREAS** most of the children tried as adults in Florida are charged with non-violent offenses;

**WHEREAS** Florida’s reliance on prosecutorial discretion leads to disparate sentencing under similar circumstances creating a system of “justice by geography,” which disproportionally harms children of color and children with disabilities and mental health conditions;

**WHEREAS** children prosecuted as adults receive an adult criminal record when convicted that can diminish their future education and employment opportunities and strip them of the right to vote, enlist in the military, or receive financial aid for college before these youth even turn 18;

**WHEREAS** since 2009, more than 14,000 children have been prosecuted as adults in Florida[[2]](#endnote-2)—ninety-eight percent of whom are “direct filed” in adult court by prosecutors with no hearing, due process, oversight, or input from a judge;[[3]](#endnote-3)

**WHEREAS** Florida is one of only 13 states that allows its children to be prosecuted as adults for criminal offenses and one of only three states that do not allow a juvenile court judge to participate in the decision to prosecute a child as an adult;

**WHEREAS** Florida prosecutes more children as adults for criminal offenses than any other state and \_\_\_\_\_\_\_\_ transferred \_\_\_\_ children to adult court in Fiscal Year 2016-2017;

**WHEREAS** even if prosecutors did not have sole discretion to transfer children to the adult system through “direct file,” children could still be transferred to the adult system through the “judicial waiver” process—a process in which a judge is involved in the decision to prosecute a child as an adult—which, according to a 2017 public opinion poll, 70% of registered Florida voters believe is the better way for the state to decide whether to prosecute children as adults;[[4]](#endnote-4)

**WHEREAS** seventy-four percent of registered Florida voters believe children should be held in a system separate from adult offenders;

**WHEREAS** the oversight, training, and expertise of juvenile court judges uniquely qualifies them to advise on the suitability of the adult court for a child;

THEREFORE BE IT RESOLVED that the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, affirms its support of treating children as children through the juvenile justice system where services are provided to the child and his/her family;

AND BE IT FURTHER RESOLVED that the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, urges our Legislative Delegation and the entire Florida Legislature to adopt comprehensive reform legislation that would require a fitness hearing before a juvenile court judge for any and all prosecution of children under the age of 18 and require that children prosecuted as adults be held in juvenile facilities only.

This Resolution shall be transmitted to the Speaker of the House, the Senate President, and all members of our Legislative delegation upon its passage and prior to all committee hearings addressing this issue.

 ADOPTED this \_\_\_\_ day of \_\_\_\_\_\_\_\_, 2018

1. Centers for Disease Control and Prevention, Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services. MMWR 2007; 56 (No. RR-9); Richard E. Redding, Juvenile transfer laws: An effective deterrent to delinquency? (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention) (June 2010). [↑](#endnote-ref-1)
2. Florida Department of Juvenile Justice, The 2015-2016 *Delinquency Profile*, available at <http://www.djj.state.fl.us/research/>delinquency-data/delinquency-profile; and Human Rights Watch, *Branded for Life: Florida’s Prosecution of Children as Adults under its “Direct File” Statute* (2014), available at <https://www.hrw.org/sites/default/files/reports/us0414_ForUpload%202.pdf> [↑](#endnote-ref-2)
3. Human Rights Watch, *Branded for Life: Florida’s Prosecution of Children as Adults under its “Direct File” Statute* (2014), available at <https://www.hrw.org/sites/default/files/reports/us0414_ForUpload%202.pdf>*;* see also Florida Statutes § 985.557. [↑](#endnote-ref-3)
4. 70% of registered Florida voters believe judges, not prosecutors, should decide whether to prosecute children as adults. Fabrizio Lee, “Florida RV Survey: 800 Registered Voters Statewide + Oversample of 600 Registered Republican Voters” (October 2017), available at <http://rightoncrime.com/2017/11/florida-poll-reveals-strong-support-for-criminal-justice-reform/>. [↑](#endnote-ref-4)