



## “Raise the Age” and the Collateral Consequences of Charging 17-Year-Olds as Adults

### PROBLEM STATEMENT

In Texas, 17-year-olds who are arrested are automatically sent to the adult justice system. **Texas is one of only three states left to treat these teens as adults** for criminal justice purposes<sup>1</sup> – removing their parents from the court process, and exposing kids to confinement in adult jails. Of the 16,000 17-year-olds arrested in Texas in 2019, approximately 95 percent were arrested for nonviolent and misdemeanor offenses.<sup>2</sup>

Youth arrested and tried in the criminal justice system are adversely impacted in multiple ways, both with short- and long-term collateral consequences.<sup>3</sup>

### IN SHORT

Raising the automatic age of adult jurisdiction from 17 to 18 will start kids off in the juvenile system but give judges the discretion to transfer kids with the most serious offenses to the adult system on a case-by-case basis.

### THE CONSEQUENCES OF SENDING YOUTH TO THE ADULT CRIMINAL LEGAL SYSTEM

- **Criminal Record:** Prosecution and conviction in the adult system results in an adult criminal record, which poses obstacles to higher education, employment, housing, and practicing civic duties, including joining the military or voting.<sup>4</sup>
- **Education Challenges:** Youth incarcerated in adult corrections facilities lack access to educational services that they would receive in the juvenile system; adult facilities are not equipped to address their special educational needs. Furthermore, incarceration reduces the chance of youth completing high school by 13.3 percent,<sup>5</sup> and even those young people who do complete high school may not qualify for financial aid to pursue a college education due to their criminal record.<sup>6</sup>
- **Employment Barriers and Lower Wages:** Youth with justice system contact and educational limitations are at increased risk of unemployment and lower wages. Incarceration itself negatively impacts wages earned by 11 percent and decreases yearly income by 40 percent.<sup>7</sup>
- **Housing Barriers:** Individuals recently released from prison may have difficulty qualifying for public and private housing. Most applications require background checks, which will indicate their criminal record and likely disqualify them.<sup>8</sup>
- **Military Ineligibility:** About 75 percent of Americans aged 17–24 are ineligible to join the military, and 10 percent of those cases are due to past criminality. Texas ranks higher than the national average for military ineligibility due to a criminal record.<sup>9</sup>
- **Inability to Carry out Civic Duties:** Per Texas law, individuals released from prison on parole do not have the right to vote until they have completed their sentence.
- **Higher Recidivism:** Incarcerated youth who reside in adult prisons not only have an increased likelihood of reoffending, but their likelihood of committing a violent offense also increases.<sup>10</sup>

*Continued on reverse.*

## THE CONSEQUENCES OF SENDING YOUTH TO THE ADULT SYSTEM [CONTINUED]

- **Limits on Family Bonding:** For developing youth, incarceration has a devastating impact on social relationships with family and friends.<sup>11</sup> This negative impact is especially significant because adult support reduces aggressive behaviors, and family interaction during confinement reduces symptoms of depression.<sup>12</sup>
- **Mental Health Challenges:** Incarceration has been found to increase depression and suicidal ideation. Youth in adult prisons are 36 times more likely to commit suicide than youth in juvenile justice settings.<sup>13</sup> While separation from adults in prison is routine to keep juveniles safe, prolonged isolation occurs, which profoundly affects mental health, and many treatment options through the Texas Department of Criminal Justice do not allow children under 18 to participate.<sup>14</sup>
- **Physical Threats and Health Problems:** In the adult system, 17-year-olds face a higher risk of sexual assault.<sup>15</sup> Incarceration during adolescence also affects cognitive and social development, with long-term effects including disproportionate morbidity and mortality, worse physical health outcomes, and limited overall functioning as adults.<sup>16</sup>

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT “RAISE THE AGE” LEGISLATION

**Texas leaders should hold 17-year-olds accountable in the youth justice system**, while giving judges the discretion to transfer kids with the most serious offenses to the Texas Department of Criminal Justice on a case-by-case basis. **Doing so will:**

- **Prevent most youth under the age of 18 from being prosecuted as adults**, without overwhelming the juvenile system. It is important to note that, between 2016 and 2019, arrests of 17-year-olds fell nearly 25 percent (from 21,374 to 16,104).<sup>17</sup> Also during that time, the average daily population in Texas’ secure juvenile facilities fell 16 percent (from 1,129 youth aged 10-16 to 949 youth).<sup>18</sup> With COVID-19 also reducing populations of kids in county facilities,<sup>19</sup> the Texas Juvenile Justice Department is well equipped to absorb 17-year-olds who are confined to or facing adult prison. Crucially, reports from other states that have recently “raised the age” have not shown evidence that such a policy change has overwhelmed their juvenile systems.<sup>20</sup>
- **Allow teens to receive the rehabilitative and educational support provided by the juvenile justice system, which will improve their capacity to desist from delinquency.** When 17-year-olds (like their 15- and 16-year-old counterparts) have access to services intentionally designed to meet their needs as young people – including counseling, education, and treatment that offers positive, age-appropriate redirection – they have increased chances of future success.
- **Decrease the likelihood of abuse that youth may encounter in adult prison**, which threatens their physical and mental health in both the short and long term.
- **Reduce long-term collateral consequences**, many of which stem from a criminal record.
- **Reduce recidivism and foster the perspective that youth are worth saving.** Keeping kids in the youth (vs. adult) system lowers their likelihood of re-offending by 34 percent,<sup>21</sup> and it reduces their risk of exposure to the traumatic experiences and hardships that can lead to further legal involvement.

## Citations

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<sup>1</sup> Other states that have not yet raised the age of criminal court jurisdiction to 18 include Georgia and Wisconsin.

<sup>2</sup> Texas Department of Public Safety, *Crime in Texas: 2019*, p. 22, 24, <https://www.dps.texas.gov/crimereports/19/cit2019.pdf>.

<sup>3</sup> Lambie, Ian, and Isabel Randell. "The impact of incarceration on juvenile offenders." *Clinical psychology review* 33, no. 3 (2013): 448-459.

<sup>4</sup> Alex Tway and Jonathan Gitlen, "An End to the Mystery, a New Beginning for the Debate: National Inventory of Collateral Consequences of Conviction (NICCC) Provides Complete List of Every Collateral Consequence in the Country," *Crim. L. Prac.* 2 (2014): 15.

<sup>5</sup> Anna Aizer and Joseph Doyle, "What is the long-term impact of incarcerating juveniles?," *VoxEU*, July 16, 2013.

<sup>6</sup> Gary Sweeten, "Who will graduate? Disruption of high school education by arrest and court involvement," *Justice Quarterly* 23, no. 4 (2006): 462-480.

<sup>7</sup> Joy James, "Collateral Costs: Incarceration's Effect on Economic Mobility," The Pew Charitable Trusts, 2010.

<sup>8</sup> Peter Leasure and Tara Martin, "Criminal records and housing: An experimental study," *Journal of Experimental Criminology* 13, no. 4 (2017): 527-535.

<sup>9</sup> Mission: Readiness, "Ready, Willing, and Unable to Serve," 2009, <http://cdn.missionreadiness.org/MR-Ready-Willing-Unable.pdf>.

<sup>10</sup> M. Deitch, E. Ling, and E. Quintero, *Juveniles in the Adult Criminal Justice System in Texas*, Lyndon B. Johnson School of Public Affairs, University of Texas at Austin, March 2011, <http://campaignforyouthjustice.org/images/states/texas/juvenilestexas--final.pdf>.

<sup>11</sup> M. Little, "A social development model of incarceration on juvenile offenders' social network support, exposure to antisocial peers, aggressive offending and psychological adjustment," *Philadelphia, PA: Temple University* (2006).

<sup>12</sup> Kathryn C. Monahan, Asha Goldweber, and Elizabeth Cauffman, "The effects of visitation on incarcerated juvenile offenders: How contact with the outside impacts adjustment on the inside." *Law and human behavior* 35, no. 2 (2011): 143-151.

<sup>13</sup> M. Deitch, *Juveniles in the Adult Criminal Justice System*.

<sup>14</sup> Elizabeth S. Barnert, et al., "Child incarceration and long-term adult health outcomes: a longitudinal study," *International journal of prisoner health* (2018).

<sup>15</sup> Bureau of Justice Statistics, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12, 2013*, p. 23, <http://www.bjs.gov/content/pub/pdf/svpjiri1112.pdf>.

<sup>16</sup> Richard E. Redding, "Juvenile transfer laws: An effective deterrent to delinquency?" *Juvenile Justice Bulletin*, August (2008).

<sup>17</sup> Texas Department of Public Safety, *The Texas Crime Report for 2016*, [https://www.dps.texas.gov/administration/crime\\_records/pages/crimestatistics.htm](https://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm); also: Texas Department of Public Safety, *Crime in Texas: 2019*, p. 22, 24, <https://www.dps.texas.gov/crimereports/19/cit2019.pdf>.

<sup>18</sup> Texas Juvenile Justice Department, *The State of Juvenile Probation Activity in Texas: Statistical and Other Data on the Juvenile Justice System in Texas*, 2016 and 2019, <http://www.tjjd.texas.gov/index.php/doc-library/send/334-state-of-juvenile-probation-activity/2479-the-state-of-juvenile-probation-activity-in-texas-2019> and [https://www.tjjd.texas.gov/index.php/component/jdownloads/send/594-state-of-juvenile-probation-activity-archive/314-the-state-of-juvenile-probation-activity-in-texas-2016?option=com\\_jdownloads](https://www.tjjd.texas.gov/index.php/component/jdownloads/send/594-state-of-juvenile-probation-activity-archive/314-the-state-of-juvenile-probation-activity-in-texas-2016?option=com_jdownloads).

<sup>19</sup> Texas County Juvenile Court Case Counts, file received via email, October 8, 2020, compiled from the Office of Juvenile Justice and Delinquency Prevention, <https://www.ojjdp.gov/ojstatbb/ezaco/>. File available upon request.

<sup>20</sup> Justice Policy Institute, *Raise the Age: Shifting to a Safer and More Effective Juvenile Justice System*, 2016, [http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheagesummary\\_final\\_3\\_6\\_16.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheagesummary_final_3_6_16.pdf).

<sup>21</sup> 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 56, No. RR-9 (2007), <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.