

Juvenile Justice & the School System

The LITE Center | Monday, April 20, 2015

UL Lafayette Education Law Conference

Christine Roberts, Assistant District Attorney

Juvenile Division Track Leader, 15th JDC

Trends:

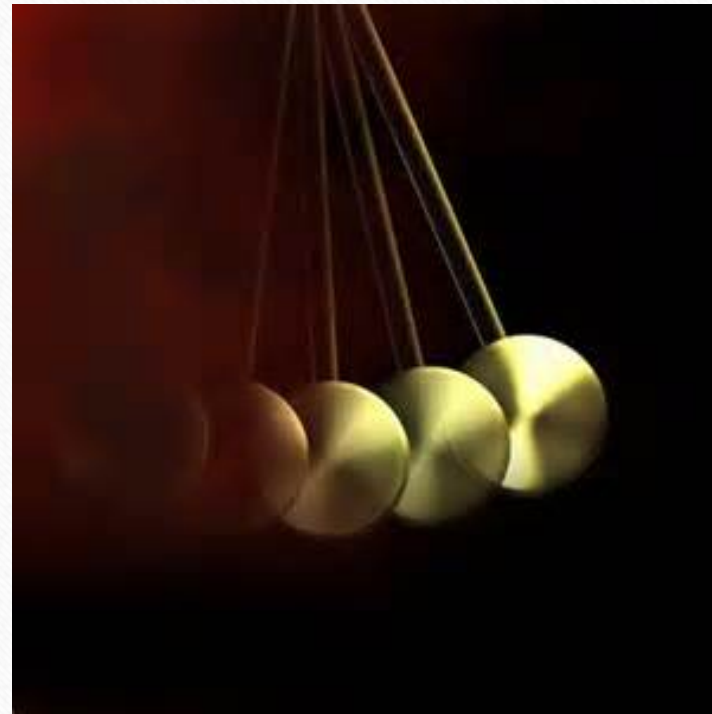
Rehabilitation

Rehabilitation

Rehabilitation

WHY HAS PENDULUM SWUNG?

- Cost
- Neurological development of juveniles
- School to Pipeline Movement
- Statistics
- Trickle-down from adult criminal system



Age for Juvenile Jurisdiction

2009

- Age 15- 3 states
- Age 16- 10 states
- Age 17- 38 states

2013

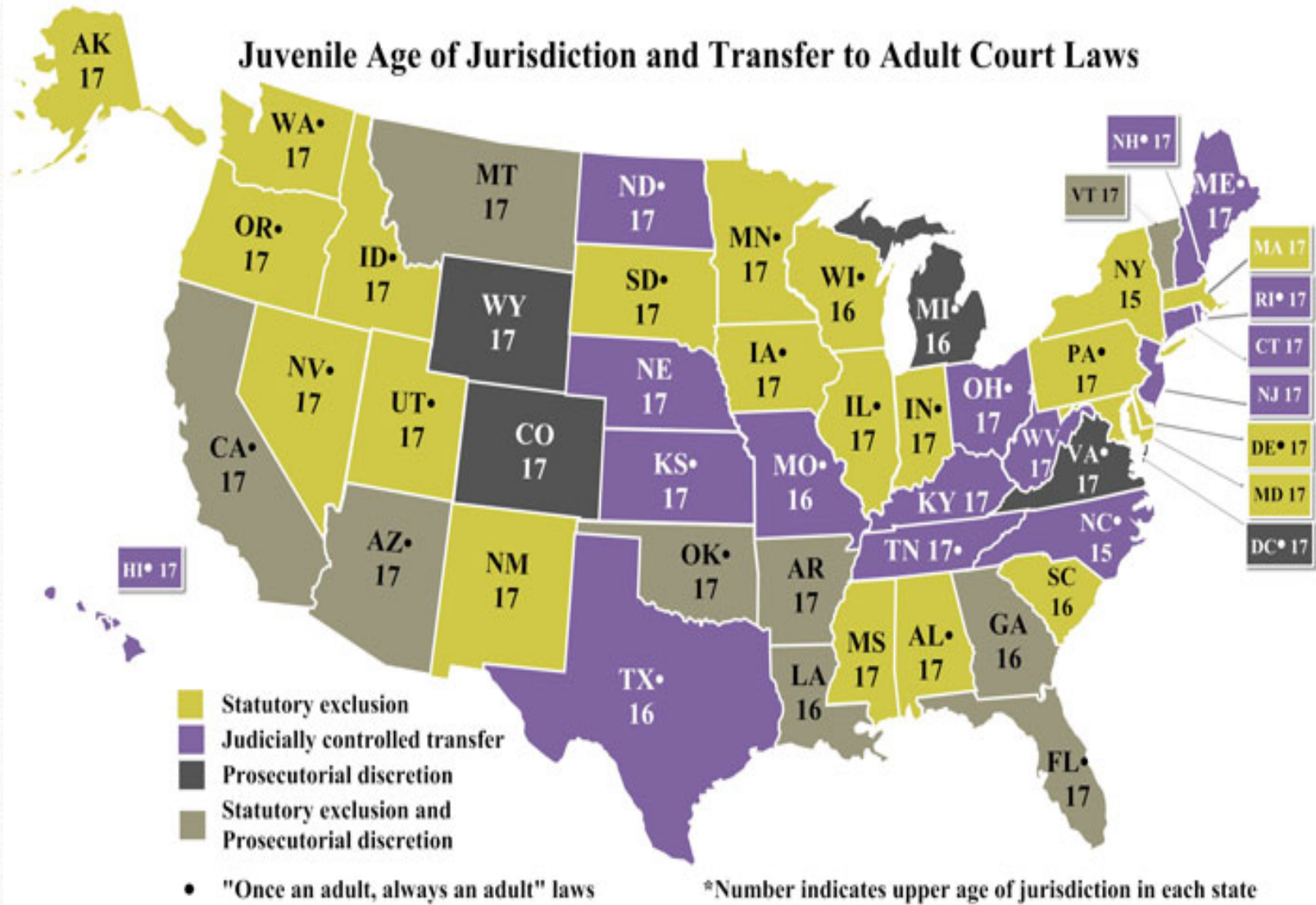
- Age 15- 2 states
- Age 16- 9 states
- Age 17- 40 states

- Office of Juvenile Justice and Delinquency Prevention-ojjdp.gov

Changes to age criteria since 1975

- 1976- Alabama from 15 to 16
- 1977- Alabama from 16 to 17
- 1993- Wyoming from 18 to 17
- 1996- NH and Wisc from 17 to 16
- 2010- Conn from 15 to 16
- 2012- Conn from 16 to 17
- 2010- Illinois from 16 to 17(misd)
- 2014- Illinois from 16 to 17 (felony)
- 2013- Mass from 16 to 17

Juvenile Age of Jurisdiction and Transfer to Adult Court Laws



2014 Changes to Jurisdictional Age in the U.S.

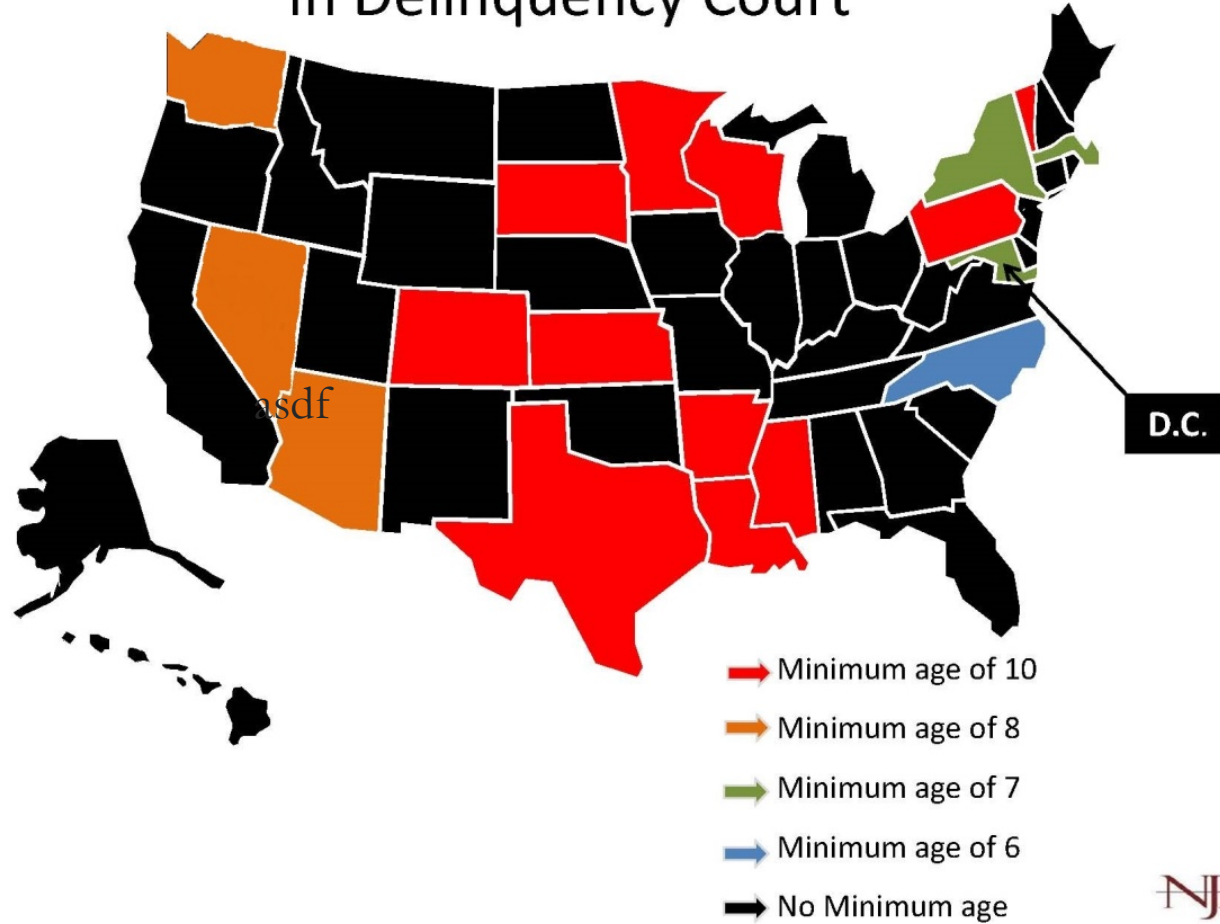
- **New Hampshire** legislature raised the age of juvenile court jurisdiction from 17 to 18. The law, which takes effect July 1, 2015, prevents most 17-year-old offenders from having an adult criminal record or from being sent to state prison.
- **Maryland** passed two laws that repeal mandatory youth transfer provisions and restore juvenile jurisdiction to the juvenile court. The laws give judges more discretion to determine whether a young person is tried as a youth or an adult, allowing judges to take into account factors like age, physical and mental health, and possibilities for treatment and rehabilitation. The law does retain exceptions for some serious violent crimes.
- **Nebraska** law now requires that all criminal charges pressed against youth aged 18 and younger would have to be filed in a juvenile court. The case can be transferred up to adult court only after a juvenile hearing and a prosecutor's motion.
- <http://www.ncsl.org/research/civil-and-criminal-justice/2014-juvenile-justice-state-legislation.aspx>

17 States Have Minimum Age for Delinquency

- 11 states/territories have minimum age of 10
- 3 states have a minimum of age of 8
- 3 states have minimum of age of 7
- 1 state has a minimum age of 6
- Minnesota - jurisprudential minimum age of 10
- If no age limit, prosecutorial discretion

- Source: NJDC 2014

Minimum Age at which a Child May Be Prosecuted in Delinquency Court



Juvenile Terms

- Article 412: Confidentiality of Records
- Article 804: Definitions
- Article 804(1): “Child”
 - Under 21 years of age, including emancipated minor, who commits a delinquent act before age 17
- Article 804(3): “Delinquent act”
 - Crime committed by a child 10 or older
 - If it’s a crime for an adult, it’s a crime for a child
- Article 730: Grounds for FINS

Juvenile Terms

Children's Code

Delinquent act

Petition

Answer

Admission

Adjudication

Disposition

Criminal Code

Crime

Bill of Information

Arraignment

Guilty plea

Trial

Sentencing

Common Campus Crimes

- Battery (R.S. 14:35)
- Assault (R.S. 14:38)
- Disturbing the peace (R.S. 14:103)
- Theft (R.S. 14:67)
- Drugs (Possession of marijuana – R.S. 40:966)
- Weapon on school property (14:95.2)
- *Cyberbullying (R.S. 14:40.7)

Juvenile-Specific Crimes

- 14:95.8 Juvenile in possession of a firearm
- 14:81.1.1(A)(2) Sexting
 - No person under the age of 17 shall knowingly and voluntarily use a computer or telecommunication device to transmit an indecent visual depiction of himself to another person
 - No person under the age of 17 shall knowingly possess or transmit an indecent visual depiction that was transmitted by another under the age of 17 in violation of the provisions of section one

Timeline: Incident to Courtroom

Timeline: Incident to Courtroom

Incident at school



School investigates the incident



Handles internally



Calls in SRO/police officer



Timeline: Incident to Courtroom

Law enforcement generates a report



Report is forwarded to the DA's Office



ADA reviews the report



Timeline: Incident to Courtroom

- ADA reviews the report:
 - Refers the case to a diversion program
 - Refuses to prosecute
 - Accepts the charges (prosecute the case)

Timeline: incident to courtroom

- **Refers the case to a diversion program**
 - What is a diversion program?
 - Formal or informal
 - Options in Lafayette Parish

Timeline: incident to courtroom

- **Refuses to prosecute**
 - School level punishment was sufficient
 - Insufficient evidence:
 - Police report is not detailed enough
 - Witness statements are conflicting
 - **Witness statements are not detailed enough**

Timeline: incident to courtroom

- **Witness statements – THIS IS WHERE YOU HAVE CONTROL**
 - The information is still fresh
 - Give your full name and all contact information
 - Give DETAILS of who, what, where, when, how
 - Use of pronouns
 - Help officers get statements from all witnesses
 - Once finished, ask the officer if the statement includes all relevant information
 - Give video to officer (FERPA issues)
 - **IF IT'S NOT IN THE REPORT OR A WITNESS STATEMENT, IT DID NOT HAPPEN**

Timeline: incident to courtroom

- Accepts the charges (prosecutes the case)
 - Because I got **excellent witness statements!**

Trial (*Adjudication*) Tips



Trial (Adjudication) Tips

- You are not *for* the juvenile or *against* the juvenile
- **You simply state the facts objectively**
- Be honest and professional
- Don't be defensive
- Do not guess or make up an answer
- If you do not know the answer, "I don't know" is acceptable
- If you do not remember the details, "I don't remember" is acceptable

Trial (Adjudication) Tips

- Avoid saying “I think...” or “I believe...” or “In my opinion...”
- A witness only testifies to FACTS
- Be yourself! 😊



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SOON WE WON'T BE
ABLE TO DISTINGUISH
OUR SCHOOLS FROM
OUR PRISONS.

NOT TRUE.
PRISONS ARE
BETTER FUNDED,
AND CORRECTIONS
OFFICERS ARE
UNARMED.

**NRA DETAILS
ARMED SCHOOLS
PLAN**