



**CAMPAIGN OF THE NATIONAL JUVENILE JUSTICE & DELINQUENCY  
PREVENTION COALITION**

[www.act4jj.org](http://www.act4jj.org)

**Juvenile Justice and Delinquency Prevention Act (JJDP A) Fact Sheet Series**

**Core Protections: Jail Removal/Sight and Sound Separation**

**BACKGROUND:** The week of December 10, 2018, Congress passed [H.R. 6964](#), the Juvenile Justice Reform Act of 2018 (the Act) with overwhelming bipartisan support. The President signed the bill into law on December 21, 2018, amending the Juvenile Justice Delinquency Prevention Act (JJDP A) after years of collaborative efforts among juvenile justice organizations and advocates across the United States.

Below, please find a summary and impact of the provisions related to the jail removal and sight and sound separation core protections in the bill.

**WHAT'S NEW<sup>1</sup>:** H.R. 6964, closes a critical loophole in the jail removal provision of JJDP A, by calling on states and localities to remove youth who are charged as adults from adult jails pretrial. Previous [iterations](#) of the JJDP A only prevented minors facing delinquency charges from being held in adult jails, leaving youth charged as adults vulnerable to the [dangers and shortcomings](#) of adult jails, a system not designed for youth, nor their safety. Under the reauthorized statute, youth held in adult jails—including those charged as adults<sup>2</sup>—must be removed to juvenile detention centers by December 21, 2021. The definition of “adult” in the new statute is tied to each states age of criminal responsibility and extended age of jurisdiction<sup>3</sup>.

The one exception to the broadened jail removal requirement occurs when a court holds a hearing and finds that keeping a minor in an adult facility is “in the interest of justice.” To determine whether detaining a youth in an adult jail is in the interest of justice, the court must weigh seven factors: (1) the person’s age; (2) their physical and mental maturity; (3) their present mental state, including whether they present an imminent risk of self-harm; (4) the nature and circumstances of the charges; (5) the youth’s history of delinquency; (6) the relative ability of the

---

<sup>1</sup> The amendments made to the Juvenile Justice and Delinquency Prevention Act by this law will not apply until the beginning of Fiscal Year 2020.

<sup>2</sup> NEELUM ARYA, JAIL REMOVAL PROJECT, GETTING TO ZERO: A 50-STATE STUDY OF STRATEGIES TO REMOVE YOUTH FROM ADULT JAILS 11 (2018), *available at* [https://drive.google.com/file/d/1LLSF8uBlrcqDaFW3ZKo\\_k3xpk\\_DTmItV/view](https://drive.google.com/file/d/1LLSF8uBlrcqDaFW3ZKo_k3xpk_DTmItV/view) (80 percent of youth in adult jails are youth charged as adults).

<sup>3</sup> Currently, only four states set the age of criminal responsibility below age 18—they include Georgia, Michigan, Texas and Wisconsin. There are five more states who are in the process of implementing their “raise the age” laws.

available adult and juvenile facilities to both meet the needs of the individual but to protect the public and other youth in their custody; and (7) “any other relevant factor.” If the court concludes that the balance of these factors points in favor of detaining the youth in an adult facility, the court<sup>4</sup> must hold a hearing once every 30 days<sup>5</sup> to review whether the placement in an adult jail is still in the best interest of justice. Furthermore, even when it is in the interest of justice, the youth cannot be held in an adult facility for more than 180 days total, unless the court finds good cause for an extension or the youth waives the 180-day maximum. Youth who are held in adult facilities under the interest of justice exception will still be protected by the Prison Rape Elimination Act’s (PREA) Youthful Inmates provision, which guarantees sight and sound separation between adult inmates and inmates under 18 years of age.<sup>6</sup>

**STATE EXAMPLES:** A little over half of the states and Washington, D.C. already permit youth charged as adults to be housed in juvenile facilities. There has been considerable movement in advancing these reforms at the state and local level over the past decade.

In 2016, Vermont passed a major juvenile justice reform bill aimed at avoiding treating juveniles as adults.<sup>7</sup> Under the new law, youth under the custody of the Department of Corrections (DOC) may be placed in Vermont’s juvenile detention facility, Woodside Juvenile Rehabilitation Center. Placement in Woodside allows the youth to have access to a designated Treatment Team and programming focused on promoting well-being. DOC and Woodside have an interdepartmental agreement laying out the eligibility requirements of youth who can be detained in Woodside and to ensure those youth are getting access to services.

The District of Columbia recently met its statutory deadline for removing youth charged as adults from the adult jail and returning them back to a youth facility.<sup>8</sup> On October 1, 2018, 25 youth were moved to New Beginnings, a youth facility run by the Department of Youth Rehabilitative Services (DYRS) in Washington, D.C. Delinquent youth are held in the same facility with a capacity of 60 youth. Prior to the passage of the Comprehensive Juvenile Justice Reform Act, youth certified as adults were placed on their own unit in the D.C. Jail. Conditions in the jail were dangerous and programming was limited. Between 2011 and 2014, the D.C. Jail contracted with DYRS to try and implement developmentally-appropriate improvements.<sup>9</sup> Ultimately, it became clear that youth belong at a DYRS-operated facility. Since these young people have been transferred to New Beginnings, there have been no outbreaks of violence and, in line with national standards, the facility does not use pepper spray or restraints as a method of discipline.

---

<sup>4</sup> The law does not differentiate between juvenile or criminal court, indicating the spirit of the law requires whichever court has original jurisdiction over the young person to hold the hearing.

<sup>5</sup> A hearing must be held every 45 days if the court sits in a rural jurisdiction.

<sup>6</sup> Prison Rape Elimination Act National Standards, 28 C.F.R. § 115.14 (2012)

<sup>7</sup> H. 95, 2017, Leg. Sess. (Vt. 2016).

<sup>8</sup> D.C. CODE § 23-1322 (2016).

<sup>9</sup> The District of Columbia Dept. of Corrections Treatment Facility Juvenile Unit Assessment, The Ridley Group & Associates, LLC (2013), available at [https://doc.dc.gov/sites/default/files/dc/sites/doc/release\\_content/attachments/DOC%20CTF%20JUV%20ASSESSMENT%20REPORT.pdf](https://doc.dc.gov/sites/default/files/dc/sites/doc/release_content/attachments/DOC%20CTF%20JUV%20ASSESSMENT%20REPORT.pdf).

Washington and Oregon both allow youth pending trial as adults and those sentenced as adults to remain under custody of the juvenile justice system until the extended age of jurisdiction. West Virginia and Kentucky both house youth certified and sentenced as adults in their juvenile facilities.<sup>10</sup> Virginia also houses the vast majority of youth charged as adults in their youth facilities, and in the rare instance that they are housed in adult facilities, they must remain sight and sound separated from adults in the facility and the facility must be licensed by the state to house youth under age 18.<sup>11</sup>

**ADDITIONAL RESOURCES:** For a detailed empirical analysis of youth in adult prisons, click [here](#). For examples on ways states have been removing youth from adult jails, and why they can't afford not to, click [here](#). For more information on the protections provided by PREA's Youthful Inmate Standard, click [here](#).

*This fact sheet was prepared by:*



---

<sup>10</sup> Nat'l Conference of State Legislatures, Adolescent Development & Competency 13, available at <http://www.ncsl.org/documents/cj/jjguidebook-adolescent.pdf>.

<sup>11</sup> Va. Code § 16.1-249.