

**Joint Legislative Task Force
Juvenile Sentencing Reform**
2014 Briefing Paper

Transfer to Adult Jurisdiction Around the Country

Other states use a variety of transfer provisions, and like Washington, often use more than one mechanism. Generally, transfer mechanisms fall into one of three categories:

- **Judicial Waiver** - allows the juvenile court to waive jurisdiction on a case-by-case basis. A case that is subject to waiver is filed originally in juvenile court, but may be transferred with a judge's approval, based on articulated standards, following a formal hearing.
- **Prosecutorial discretion** - some states define a class of cases that may be brought in either juvenile or criminal court. No hearing is held to determine which court is appropriate, and there may be no formal standards for deciding between them.
- **Statutory exclusion** - criminal courts are granted exclusive jurisdiction over certain classes of cases involving juvenile-age offenders. If a case falls within a statutory exclusion category, it must be filed originally in criminal court.

All states have at least one of the above kinds of transfer laws. In addition, many states have one or more of the following:

- **Once an adult, always an adult** - a special form of exclusion requiring criminal prosecution of any juvenile who has been criminally prosecuted in the past - usually without regard to the seriousness of the current offense.
- **Reverse waiver** - a law that allows a juvenile whose case is in criminal court to petition to have jurisdiction transferred back to juvenile court.
- **Blended sentencing** - where a juvenile is given a blended sentence of juvenile and criminal sanctions. Blended sentencing can take two forms:
 - Juvenile blended sentencing laws. This law authorizes the juvenile court to impose a suspended criminal sentence along with its usual disposition, as a guarantee of good behavior. Assuming the youth cooperates in the juvenile disposition, the criminal sentence will never go into effect. At least 15 other states give the juvenile court enhanced sentencing power.
 - Criminal blended sentencing laws. Often a suspended adult sentence may be added to the juvenile disposition as a guarantee of good behavior. The overall tendency of this form of sentencing is to mitigate the effects of transfer laws in individual cases. At least 17 other states empower criminal courts, in sentencing transferred juveniles, to impose juvenile dispositions rather than criminal sentences.

Reference - Griffin, P., Addie, S., Adams, B., and Firestine, K., 2011. *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Trends in Juvenile Justice Sentencing Legislation

- Expand the jurisdiction of the juvenile court by increasing the upper age of jurisdiction.
 - 38 states set the maximum age at 17
 - 10 states set the maximum age at 16
 - 2 states set the maximum age at 15

- Reforming transfer and direct file laws
 - Requires a youth to actually be convicted of an offense that required transfer in order for "once an adult, always an adult" to apply (Virginia, Missouri);
 - Raising the age at which young offenders may be charged as adults for more serious crimes (Colorado, Nevada);
 - Gives juvenile court authority to determine whether to decline jurisdiction (Nevada, Mississippi, Utah);
 - Eliminates direct file in criminal court by prosecutor (Colorado)