



# **Senators Holly J. Mitchell and Lara**

## **SB 439 - Setting a Minimum Age for Juvenile Court Prosecution**

### **THIS BILL**

SB 439 would exclude children 11 years old and younger from prosecution in juvenile court. The bill would protect young children from the negative impacts of formal justice system involvement, promote their rights, health, and well-being through alternative child-serving systems, and decrease the amount of resources wasted in the juvenile justice system. It would amend California Welfare & Institutions code 601 and 602 to establish that juvenile court jurisdiction excludes children 11 years old and younger from prosecution.

### **ISSUE**

California has no law specifying a minimum age for juvenile justice jurisdiction, meaning that young children of any age can be prosecuted in the juvenile justice court system. In 2015, 874 referrals were made in California to prosecute children under 12. Of these referrals, over 70 percent were closed or dismissed before the child's case reached court, and approximately 250 youth under age 12 were prosecuted. In the end, fewer than 8 percent of the prosecuted cases were sustained as true.

Although these young children represent a small proportion of cases in juvenile court, it remains important to protect this extremely vulnerable group. Numerous scientific studies, court decisions and experience have demonstrated that children are less culpable than adults for the same acts, and are also less able to meaningfully navigate justice system processes, including working with their own attorneys. Moreover, system involvement can have lasting and negative psychological and health impacts on children. Ultimately, the needs underlying their alleged offenses are better addressed through alternatives to prosecution, including through child welfare, education, health care or human services.

### **BACKGROUND**

The United Nations Convention on the Rights of the Child recommends a minimum age of criminal responsibility of at least 12 years old. As of 2014, 19 states had established a minimum age threshold for juvenile delinquency jurisdiction, with twelve states setting a minimum age of 10. In 2016, the Massachusetts Senate passed legislation to raise the minimum age of juvenile court jurisdiction to age 11. California has an opportunity to be a leader in this critical area of juvenile justice reform.

There are several reasons to consider setting a minimum age of juvenile justice jurisdiction. These include:

- The inherent lesser culpability of youth under criminal law, given their expected developmental immaturity, as repeatedly recognized in recent United States Supreme Court decisions
- The diminished capacity of children to make intentional decisions regarding participation in crime or understand that an act was morally wrong;
- The lesser ability of children to understand court proceedings and meaningfully participate, emotionally or cognitively, in working with attorneys to wage their own defense
- The wasteful spending on prosecution and court proceedings on cases that end up largely dismissed and not proven true;
- Evidence that formal justice processing is harmful for children's health and development.
- Existing alternative services outside of the juvenile justice system – such as community-and family based health, education and welfare services – are more beneficial for the child and for public safety.

## SUPPORT

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Children's Defense Fund - California (Sponsor)  
National Center on Youth Law (Co-Sponsor)  
Center on Juvenile and Criminal Justice (Co-Sponsor)  
Youth Justice Coalition (Co-Sponsor)  
Alameda County Office of Education  
Alliance for Boys and Men of Color  
Asian Americans Advancing Justice-California  
California Alliance for Youth and Community Justice  
California School-Based Health Alliance  
Courage Campaign  
Contra Costa County Defenders Association  
Fair Chance Project  
Legal Services for Prisoners with Children  
MILPA (Motivating Individual Leadership for Public  
Advancement)  
National Institute for Criminal Justice Reform  
Prison Law Office  
Public Counsel  
Reentry Solutions Group  
Society for Adolescent Health and Medicine  
Urban Peace Institute  
W. Haywood Burns Institute  
Youth Law Center

## FOR MORE INFORMATION

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