



Sens. Holly J. Mitchell and Ricardo Lara

Senate Bill 439 - Setting a Minimum Age for Juvenile Court Prosecution

THIS BILL

Senate Bill 439 would exclude children 11 years old and younger from prosecution in juvenile court, unless the minor commits murder or rape. The bill would protect young children from the negative impacts of formal justice system involvement by diverting them to alternative school-, health-, and community-based child-serving systems.

ISSUE

California has no law specifying a minimum age for juvenile justice jurisdiction. This means that young children of any age can be prosecuted in the juvenile justice court system. In 2015 alone, 687 referrals were made in California to prosecute children under 12. Of these referrals, only 100 were prosecuted. In the end, fewer than 9 percent of the prosecuted cases ended in a sustained petition. Moreover, young children of color are far more likely to become justice system involved for the same acts as White children.

Although these young children represent only 0.2 percent 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 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, 20 states had established a minimum age threshold for juvenile delinquency jurisdiction, with 12 states setting a minimum age of 10. 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 young children under criminal law, given their expected developmental immaturity, as repeatedly recognized in recent United States Supreme Court decisions;
- The diminished capacity of young children to make intentional decisions regarding participation in crime or understand that an act was morally wrong;
- The lesser ability of young 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 or not sustained;
- Evidence that formal justice processing is harmful for children's health and development;
- The disproportionate impact juvenile court prosecution has on young children of color;
- Existing alternative services outside of the juvenile justice system – such as community- and family based health, education and welfare services – are more beneficial for young children and for public safety.

SUPPORT

Children's Defense Fund - California (Sponsor)
National Center for Youth Law (Co-Sponsor)
Center on Juvenile and Criminal Justice (Co-Sponsor)
Youth Justice Coalition (Co-Sponsor)

Anti-Recidivism Coalition (Co- Sponsor)
W. Haywood Burns Institute (Co- Sponsor)
Alameda County Office of Education
Alliance for Boys and Men of Color
Asian Americans Advancing Justice-California
Bend the Arc Jewish Action
California Alliance for Youth and Community Justice
California School-Based Health Alliance
Courage Campaign
Common Sense Kids Action
Contra Costa County Defenders Association
Fair Chance Project
Focus Forward
Further The Work
Legal Services for Prisoners with Children
MILPA (Motivating Individual Leadership for Public
Advancement)
National Institute for Criminal Justice Reform
National Juvenile Justice Network
Pacific Juvenile Defender Center
Prison Law Office
Public Counsel
Reentry Solutions Group
Silicon Valley De-Bug
Society for Adolescent Health and Medicine
Urban Peace Institute
Youth Law Center
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OPPOSITION

California District Attorneys Association

FOR MORE INFORMATION

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