

## A Comparison of Juvenile and Adult Justice Systems in Massachusetts

Massachusetts' legislature is considering an innovative reform initiative that would gradually raise the upper age of juvenile jurisdiction to include most youths alleged to have committed an offense prior to their 21<sup>st</sup> birthday.<sup>1</sup> This proposal is not without precedent. The Commonwealth successfully raised the age of its juvenile jurisdiction from 17 to 18 in September 2013, and has since experienced a significant decline in delinquency caseloads despite the inclusion of the older youth.<sup>2</sup> The Massachusetts Department of Youth Services (DYS), a state juvenile correctional agency that is nationally lauded for its developmentally appropriate practices, already serves some youth up to age 21 (those in the youthful offender category) and also provides voluntary services to youth until age 22, including youth committed for serious offenses.

Policymakers have long debated the impact of processing youth in juvenile courts rather than adult courts. At a theoretical level, while both justice systems seek to hold individuals **accountable**, the juvenile system prioritizes the *rehabilitative* ideals for the developing youth and the adult system focuses on *punishment*. This fundamental difference between the two systems of justice has a number of important practical and legal implications.

During the court proceedings and after sentencing, Massachusetts' juvenile system offers protections and measures that are not provided in the adult system. These include, for example, **confidentiality** of proceedings, the judicial discretion to **divert a case before arraignment**, adoption of the "**positive youth development**" framework by system actors, and others listed in the accompanying chart. One of the most important distinctions between the juvenile and adult system, with arguably the greatest impact on youth outcomes and desistance from future criminal activities, is the **disposition of court proceedings**: Youth charged as delinquents are **adjudicated**, which is not accompanied by a public record, while youth charged as adults are **convicted**, which has far-reaching, life-long "collateral consequences." An adult conviction creates barriers to employment, higher education, civic engagement, and housing. These protections provided in the juvenile justice system can play a critical role in a healthy transition to adulthood, even after a young person's 18<sup>th</sup> birthday, and perhaps even more so. Yet none of them are afforded to older, but still developing, justice-involved youth in Massachusetts in a systemic way. While recent localized efforts in Massachusetts to better serve this population (such as specialized correctional units and courts within the adult system) are to be commended, the Commonwealth has an opportunity to do *better for all* of its youth by raising the age of its juvenile justice system to include an important subset of emerging adults.<sup>3</sup>

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<sup>1</sup> An Act to Promote Public Safety and Better Outcomes for Young Adults (S.825/H.3420). If the bill passes, youth charged with murder will continue to be prosecuted in adult courts and those accused of other serious crimes can be indicted as "youthful offenders," which carries the possibility of an adult sentence. Massachusetts is not the only state considering raising the upper age of its juvenile jurisdiction above a person's 18<sup>th</sup> birthday. Vermont passed legislation in May 2018 to gradually raise the upper age of juvenile jurisdiction to a young person's 20<sup>th</sup> birthday, which will be fully implemented by July 2022. Similar bills have been filed in Connecticut and Illinois but have not yet passed.

<sup>2</sup> See Columbia University Justice Lab (October 2019). "Massachusetts' Youth Justice System: Data Trends and Three Key Indicators."

<sup>3</sup> For more information about emerging adults as a distinct group in the justice system, see Siringil Perker, S. and Chester, L. (June 2017). "Emerging Adults: A Distinct Population That Calls for an Age-Appropriate Approach by the Justice System." Emerging Adult Justice Issue Brief Series, Program in Criminal Justice Policy and Management, Harvard Kennedy School,

[https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/MA\\_Emerging\\_Adult\\_Justice\\_Issue\\_Brief\\_0.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/MA_Emerging_Adult_Justice_Issue_Brief_0.pdf).

## Comparison of MA's Juvenile and Adult Justice Systems

	Juvenile Delinquency	Adult Criminal
Seeks to hold individuals accountable	Yes	Yes
Rehabilitation an explicit goal	Yes	No
Positive Youth Development framework adopted	Yes	No
Judge has authority to divert case before arraignment	Yes	No
Specialized indigent defenders apply Youth Development Approach	Yes	No
Proceedings are confidential*	Yes	No
Adjudications (not convictions)	Yes	No
Focus on individualized assessments and treatment plans	Yes	No
Developmentally tailored mental and behavioral health services	Yes	No
Classroom instruction (or vocational training) required during confinement	Yes	No
Special education teachers available and utilized in correctional settings	Yes	No
Outreach made to families to strengthen connections, and in-person visits encouraged	Yes	No
Solitary confinement prohibited	Yes	No
Developmentally appropriate disciplinary measures used	Yes	No
Requirements to identify and address racial disparities	Yes	No
Model regulations to protect LGBTQ in confinement	Yes	No

\* Cases are *not* confidential for Youthful Offender cases prosecuted in Juvenile Court.