

RAISE THE AGE

18

Shifting to a safer and more effective juvenile justice system

ACKNOWLEDGMENTS

ABOUT THE ORGANIZATION

Justice Policy Institute (JPI) is a national nonprofit that is dedicated to reducing the use of incarceration and the justice system by promoting fair and effective policies. JPI staff includes Paul Ashton, Jeremy Kittredge, Olivia Martinez, Marc Schindler, Jamille White, Keith Wallington, and Jason Ziedenberg. We would like to acknowledge the following individuals who helped support the development of *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*.

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EXECUTIVE SUMMARY

RAISING *THE* AGE

“If I were kept in the juvenile system, I would’ve already been home with a trade or a college degree in child counseling, showing I can be a good citizen in society. Instead, I’m being labeled and wrote off as a lost cause.”

–17-YEAR-OLD IN A JAIL IN MISSOURI

SHIFTING TO A SAFER AND MORE EFFECTIVE JUVENILE JUSTICE SYSTEM

Over the past ten years, half of the states that had previously excluded all 16- and/or 17-year-olds from juvenile court based solely on their age have changed their laws so that most youth under age 18 who touch the justice system will fall under the jurisdiction of the juvenile justice system. These policy changes are a part of a shift to “raise the age”—reforms focused on moving out of the adult criminal justice system the tens of thousands of youth under 18 who are automatically treated as adults because of age of jurisdiction laws. States have raised the age for many reasons, one of which is research showing that justice-involved teenagers are more likely to move past delinquency and successfully transition to adulthood if they are served by a juvenile justice system, not an adult criminal justice system.

WHICH STATES HAVE ENACTED RAISE THE AGE LEGISLATION?

States that raised the age: Connecticut (2007), Illinois (2010), Mississippi (2010), Massachusetts (2013), New Hampshire (2014), Louisiana (2016), South Carolina (2016).

Georgia, Missouri, Michigan, New York, North Carolina, Texas, and Wisconsin still place 16- or 17-year-olds (or both) under adult court jurisdiction.

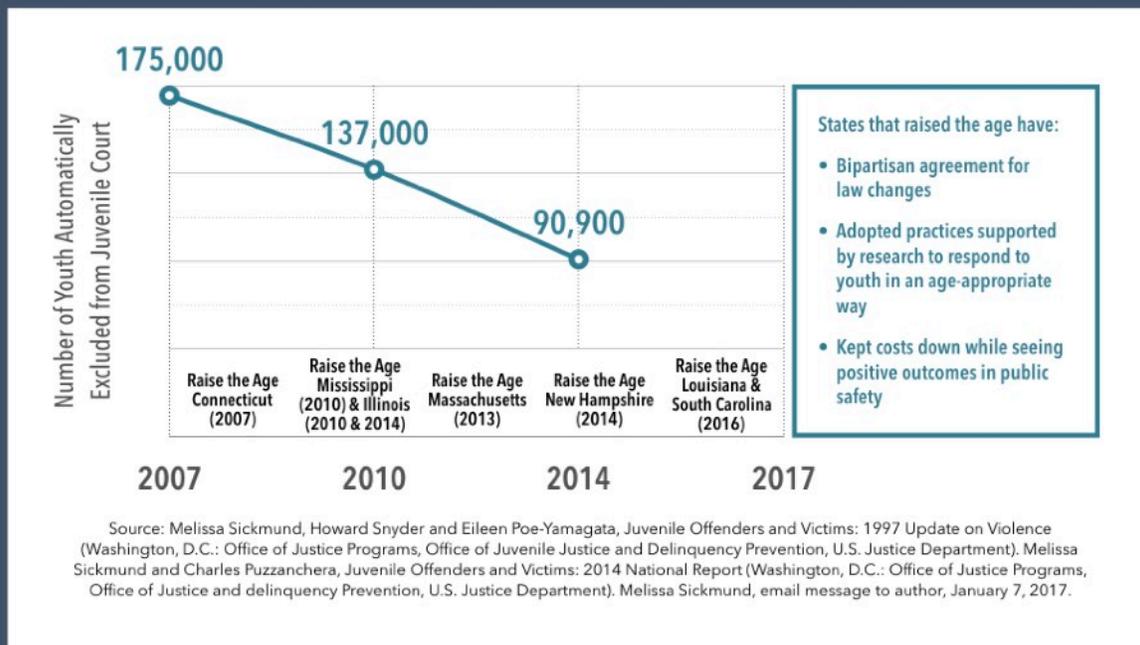
Since 2007, Connecticut, Illinois, Louisiana, Massachusetts, Mississippi, New Hampshire, and South Carolina have all passed laws to raise the age so that now, the majority of young people nationally who are arrested will be served by the juvenile justice system—not the adult justice system. Louisiana and South Carolina just changed their laws in 2016. There are only seven states left with lower ages of

criminal responsibility, the fewest number of states in decades. This trend is gaining ground: *in 2017, every one of the seven remaining states—Georgia, Michigan, Missouri, New York, North Carolina, Texas, and Wisconsin—are expected to consider some type of legislative proposal that would raise the age from 17 and/or 16 years of age to 18 years of age.*

Underlining the bipartisan nature of the issue, Republican legislators and governors have voted for and signed raise the age legislation. Conservative and liberal lawmakers changed policy in light of emerging research showing that young people are different from adults, and that serving them in the juvenile justice system, whose focus is rehabilitation, yields better public safety outcomes.

During this past decade when seven states raised the age, the number of young people excluded from the juvenile justice system solely because of their age was cut in half.

GRAPH A. DECREASE IN YOUNG PEOPLE AUTOMATICALLY EXCLUDED FROM JUVENILE COURT (2007-2014)



The number of young people automatically excluded from juvenile court due to their age has dropped by nearly half.

VOICES ON RAISING THE AGE

NATIONAL

"We know that many of us made mistakes as kids but most of us were in forgiving environments. Once a kid is labeled a criminal, it is very difficult for him or her to escape the stigma and to reach his or her full potential. It does not make sense to treat all 16- and 17-year-olds as adults when the science and our own common sense tells us that that is too early."

—ROY L. AUSTIN, JR., FORMER DEPUTY ASSISTANT TO THE PRESIDENT, OFFICE OF URBAN AFFAIRS, JUSTICE AND OPPORTUNITY, DOMESTIC POLICY COUNCIL

YOUTH

*Question: If you could tell legislators anything about what they could do to improve the justice system for 17-year old's, what would you tell them?
"I would tell them not to send them to jail or prison because it's not the place for kids... that I can't even explain the things they would be put through."*

—A 17-YEAR-OLD THAT EXPERIENCED BEING IN JAIL IN MISSOURI

"If I were kept in the juvenile system, I would've already been home with a trade or a college degree in child counseling, showing I can be a good citizen in society. Instead, I'm being labeled and wrote off as a lost cause."

—17-YEAR-OLD, IN A JAIL IN MISSOURI

CONNECTICUT

"Here's the reality. Raise the Age resulted in a significant decrease in the number of cases, and today I am proud to report that we now have the lowest number of juveniles in pre-trial detention. We now have the lowest ever population at the Connecticut Juvenile Training School. The number of inmates under the age of 18 at Manson Youth Institute is also at its lowest ever...."

—CONNECTICUT GOVERNOR DANIEL P. MALLOY

ILLINOIS

"Raising the age will not require new detention or youth incarceration facilities."

—ILLINOIS JUVENILE JUSTICE COMMISSION

"Raise the age did not create the backlash that some claimed it would."

—JEFF BRADLEY, JUVENILE JUSTICE PROJECT MANAGER AND GOVERNMENT AFFAIRS LIAISON FOR THE ILLINOIS COLLABORATION ON YOUTH AND FORMER STATE'S ATTORNEY

"County juvenile detention centers and state juvenile incarceration facilities were not overrun, as some had feared. Instead, one detention center and two state incarceration facilities have been closed, and excess capacity is still the statewide norm."

—ILLINOIS JUVENILE JUSTICE COMMISSION

LOUISIANA

"We're going to focus on real, bipartisan approaches to criminal justice reform. We began this critical work in 2016 with the passage of the Raise the Age Act. Before this law passed through our legislature with bipartisan support, 17 year olds who committed delinquent acts were automatically tried as adults. Because of Raise the Age, young people can now be held accountable for their actions in age-appropriate settings."

—LOUISIANA GOVERNOR JOHN BEL EDWARDS

"My staff tries hard, but adult jails cannot prepare 17-year-olds for success. Outside, these kids are juniors in high school. We don't offer a high school education in the jail. Our staff is not equipped to manage the unique needs of adolescents. And most of the offenders we house have been through the system before—they are not the right peers for 17-year-old-children."

—SHERIFF MIKE NEUSTROM AND DIRECTOR OF CORRECTIONS ROB REARDON, LAFAYETTE PARISH

MASSACHUSETTS

"Raising the age of juvenile jurisdiction furthered the Commonwealth's efforts to comply with the federal Prison Rape Elimination Act (PREA). This law requires courts and facilities to provide sight and sound separation between adults and juveniles in order to protect young people under the age of eighteen from possible rape and sexual assault in adult holding cells and prisons. Costly construction and staffing changes in the adult facilities were not needed in Massachusetts because of the shift of youth under 18 to the juvenile system."

—RAISE THE AGE ANNUAL REPORT, MASSACHUSETTS DEPARTMENT OF YOUTH SERVICES (2015)

SIXTEEN- AND 17-YEAR-OLDS WERE ABSORBED WITHOUT OVERWHELMING JUVENILE JUSTICE SYSTEMS

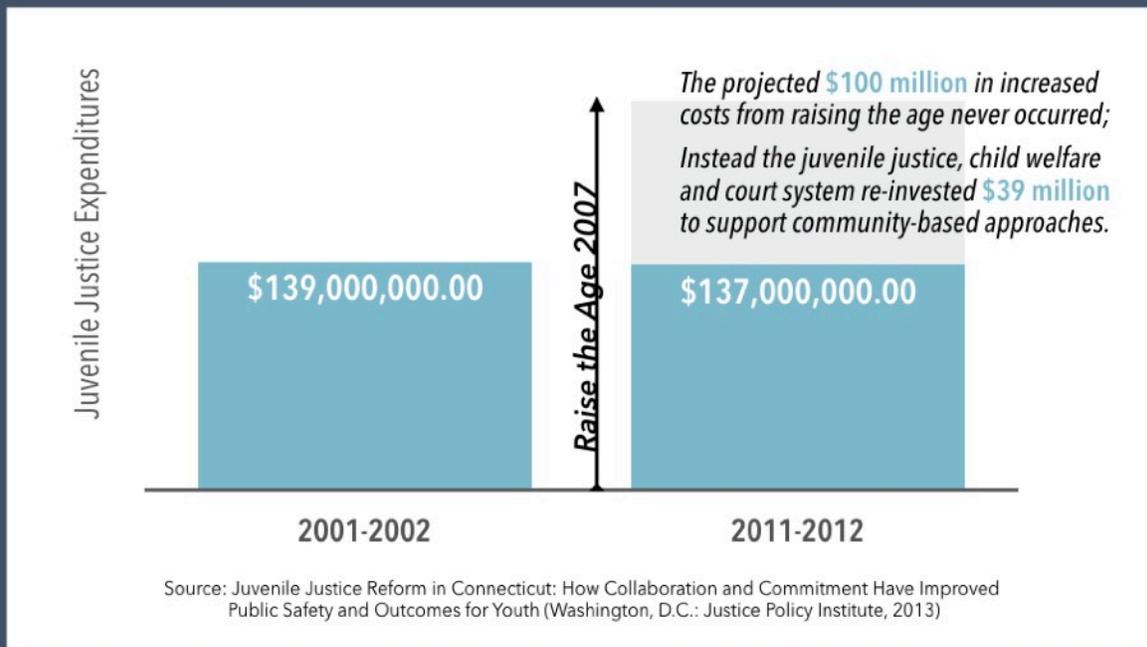
Prior to raising the age, some juvenile justice stakeholders said taking on responsibility for 16- and 17-year-old youth would overwhelm the youth justice system, and that costs would rise dramatically. But in state after state that raised the age, *these dire predictions did not materialize.*

CONNECTICUT:

In Connecticut, a fiscal note prepared for proposed raise the age legislation stated that juvenile justice costs could rise by \$100 million by the time the change was fully implemented. However, after passing a raise the age law in 2007, the state did not experience a \$100 million increase in its juvenile justice budget; in 2001-02, spending on the juvenile justice system was \$139 million, compared to \$137 million in 2011-12.

Instead, the raise the age process in Connecticut inspired a shift to better juvenile justice policies and practices, *which resulted in the state being able to reallocate \$39 million to expand the number of community-based approaches that could serve a youth outside of a more expensive custodial setting, while maintaining public safety.*

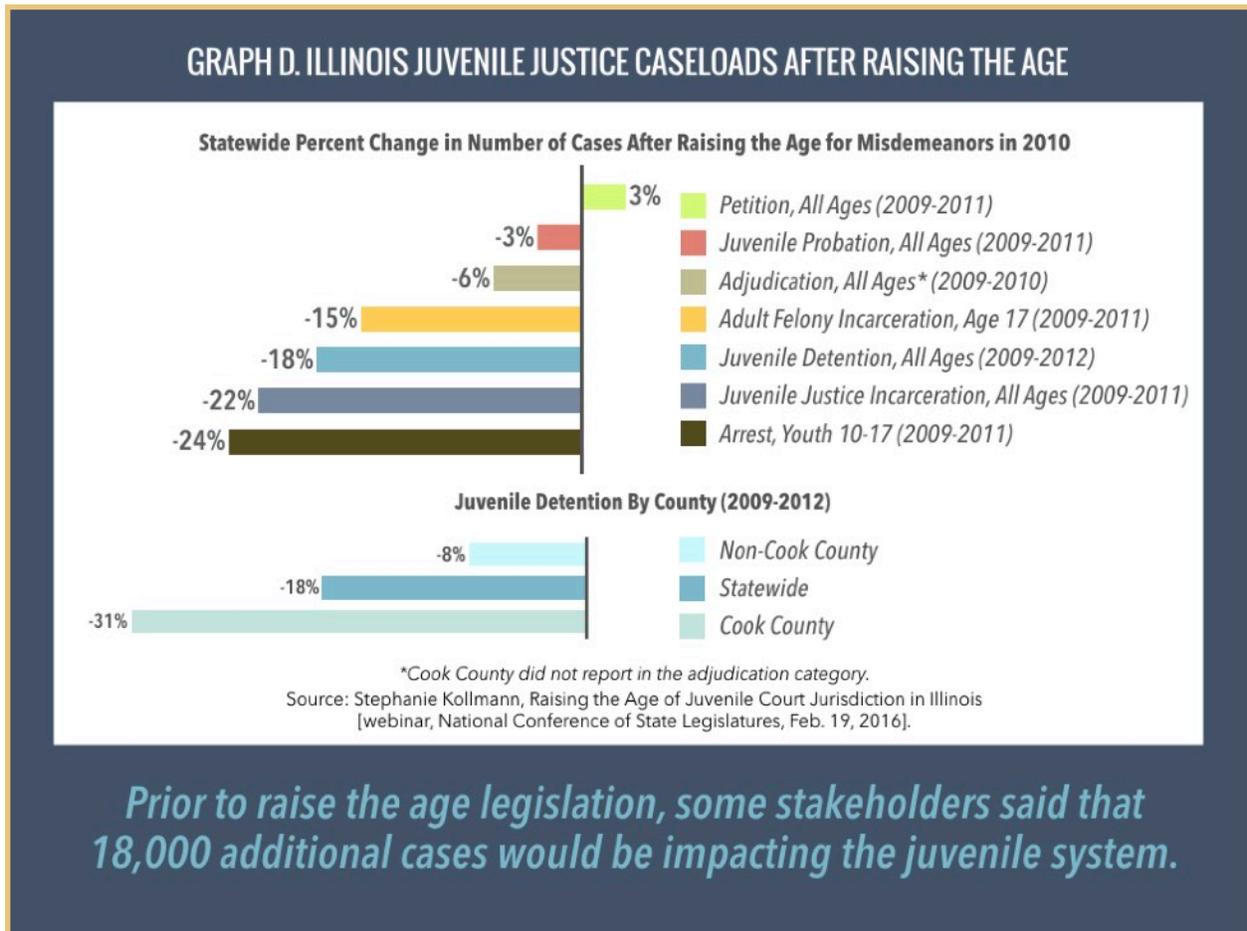
GRAPH B. CONNECTICUT JUVENILE JUSTICE EXPENDITURES 2001-2012



While raising the age, Connecticut reduced reliance on confinement, and reallocated money to serve youth in the community.

“Raise the age did not create the backlash that some claimed it would.”

—JEFF BRADLEY, JUVENILE JUSTICE PROJECT MANAGER AND GOVERNMENT AFFAIRS LIAISON FOR THE ILLINOIS COLLABORATION ON YOUTH AND FORMER STATE’S ATTORNEY



ILLINOIS:

In the year before Illinois raised the age for 17-year-olds charged with misdemeanor offenses, some stakeholders offered estimates that 18,000 more youth might enter the youth justice system, an increase of 35 percent. Stakeholders also raised concerns that probation and court caseloads would rise, and that there would be an increase in the number of youth charged with felonies who had previously been charged with misdemeanor offenses.

In the years that followed, the projected 35 percent increase of youth entering the Illinois juvenile justice system and the

expected rise in costs associated with their processing never materialized: the additional courtrooms, the additional State’s Attorney positions, and additional dollars were not needed.

Instead, Illinois stakeholders saw that they had the capacity to serve 17-year-olds charged with felonies in the juvenile justice system, and fully implemented raise the age in 2014. Dollars set aside by Illinois’ State Advisory Group to help the system absorb 17-year-olds charged with felonies were also not spent, as juvenile crime and juvenile confinement continued to fall.

MASSACHUSETTS:

In 2013, some Massachusetts stakeholders estimated that raising the age to include 17-year-olds in juvenile court would cost taxpayers an additional \$24.57 million. The courts estimated that taxpayers would have to pay millions of dollars more to hire new probation officers and clinicians, and that the juvenile justice system would need nearly 200 new beds in 14 programs at a cost of \$20.5 million.

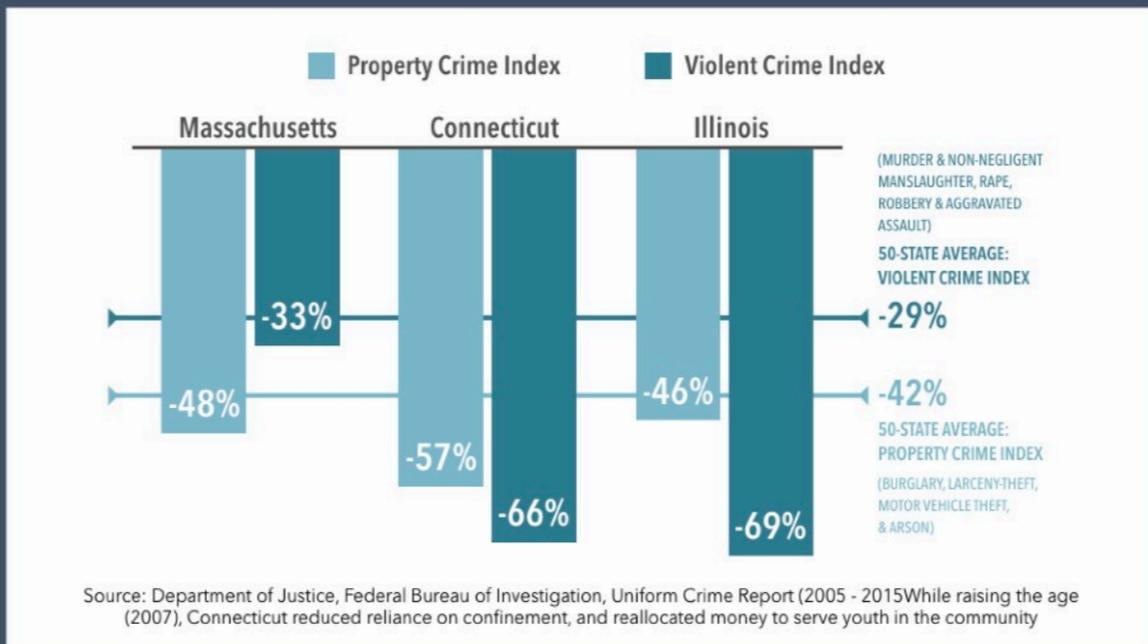
Instead, when Massachusetts legislators eventually raised the age, the juvenile justice department received an increase of \$15.6 million—37 percent less than what was originally estimated by some stakeholders earlier in the process.

NEW HAMPSHIRE:

In New Hampshire, legislators were told that raising the age for 17-year-olds would carry a \$5.3 million price tag. In reality, no new dollars were appropriated to serve 17-year-olds when the state raised the age.

Stakeholders in places considering raise the age proposals this year have already prepared their juvenile justice systems to serve 16- and 17-year-old youth. For example, North Carolina has taken a number of steps to build the capacity to raise the age. North Carolina stakeholders recognize that the Division of Juvenile Justice's efforts to close and reduce reliance on facilities generated millions of dollars in cost savings that can be reallocated to serve 16- and 17-year-old youth and help manage the change.

GRAPH F: FIRST GENERATION RAISE THE AGE STATES DECREASED ARRESTS (2005-2015)



The first generation of large raise the age states outperformed the rest of the country in decreased percentages of violent and property arrests between 2005 and 2015.

HOW DID STATES THAT RAISED THE AGE AVOID OVERWHELMING THEIR JUVENILE JUSTICE SYSTEMS?

There are multiple reasons why places that raised the age avoided the dire predictions that juvenile justice systems would be overwhelmed, and why places considering raise the age proposals can pass them this year, knowing the change in jurisdiction can be managed effectively.

1) Juvenile crime is falling, particularly in the first generation of raise the age states:

Over the past decade during which seven states raised the age, juvenile crime declined: this gave youth justice systems more capacity to manage the jurisdictional change without overwhelming the system. As their systems relied on more effective juvenile justice practices, Connecticut, Illinois, and Massachusetts outpaced the juvenile crime drop seen across the country. In Connecticut, stakeholders say there may even be a “raise the age effect,” through which better outcomes experienced by 16- and 17-year-olds has had a downstream impact, reducing adult crime and adult imprisonment among the group of people who first benefited from the jurisdictional change.

With juvenile crime continuing to fall, and with research showing that young people are less likely to reoffend when they avoid adult justice system involvement, the safer approach embodied by keeping youth in the youth justice system also helps stakeholders implement the jurisdictional change, and keeps juvenile justice systems from being overwhelmed. (See Graph F)

2) Fiscal impact statements on raise the age proposals were limited:

Stakeholders in some places that raised the age used a very limited process to develop estimates of what it might cost their part of the system to absorb 16- or 17-year-olds into the juvenile justice system. Unlike the cost-benefit analyses developed in Connecticut, Illinois, and North Carolina, “fiscal notes” developed by a legislature or system partner may not account for the reduced rates of reoffending and all the associated savings that result if young people are served in a place better designed to help them move past delinquency.

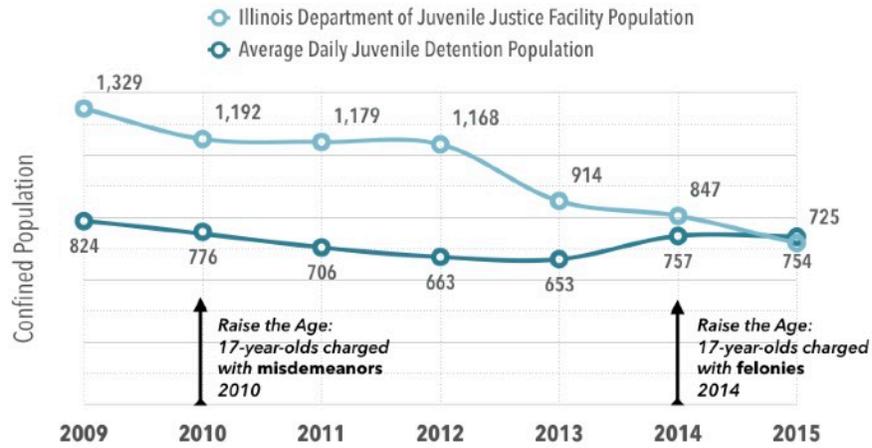
3) Resources were reallocated from confinement to community-based approaches:

Most places that navigated a change in their age of jurisdiction in the past decade saw some part of their juvenile justice system use approaches that reduced their reliance on the most expensive tool available to the juvenile justice system—an out-of-home placement or confinement in a juvenile facility. Reducing the use of pretrial detention or confinement means governments can reallocate dollars from one approach to another.

Of note, the states whose raise the age change affected the largest number of young people—Connecticut, Illinois, and Massachusetts—outperformed the rest of the country in reducing the number of youth committed to the juvenile justice system and placed out of the home, according to the only national data set that allows for a state-to-state comparison.

“Fiscal notes” developed by a legislature or system partner may not account for the reduced rates of reoffending and all the associated savings that result if young people are served in a place better designed to help them move past delinquency.

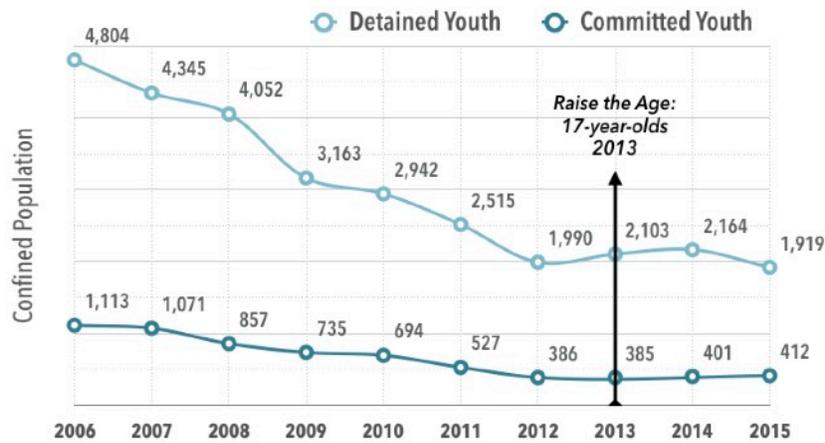
GRAPH J : ILLINOIS JUVENILE JUSTICE CONFINEMENT 2009-2015



Source: N.A., Annual Report 2015 (Springfield, IL: Illinois Juvenile Justice Department, 2016); 2014-2015 Comparison Summary and 2011 - 2015 Data Trends of Illinois Juvenile Detention Data Springfield, IL: Illinois Juvenile Justice Commission, 2016, Pg. 17)

The population of youth confined in an Illinois Department of Juvenile Justice facility decreased 45% while the juvenile detention average daily population decreased nearly 9%.

GRAPH K: MASSACHUSETTS CONFINED AND DETAINED YOUTH (2006-2015)



Source: Department of Youth Services (December, 2016).

As Massachusetts raised the age, the number of youth confined and detained dropped.

Even looking at Connecticut, Illinois, and Massachusetts' individual methods of accounting for their use of confinement, all three reduced the use of incarceration as they raised the age, and all saw larger declines in juvenile arrests than seen nationwide, while maintaining public safety.

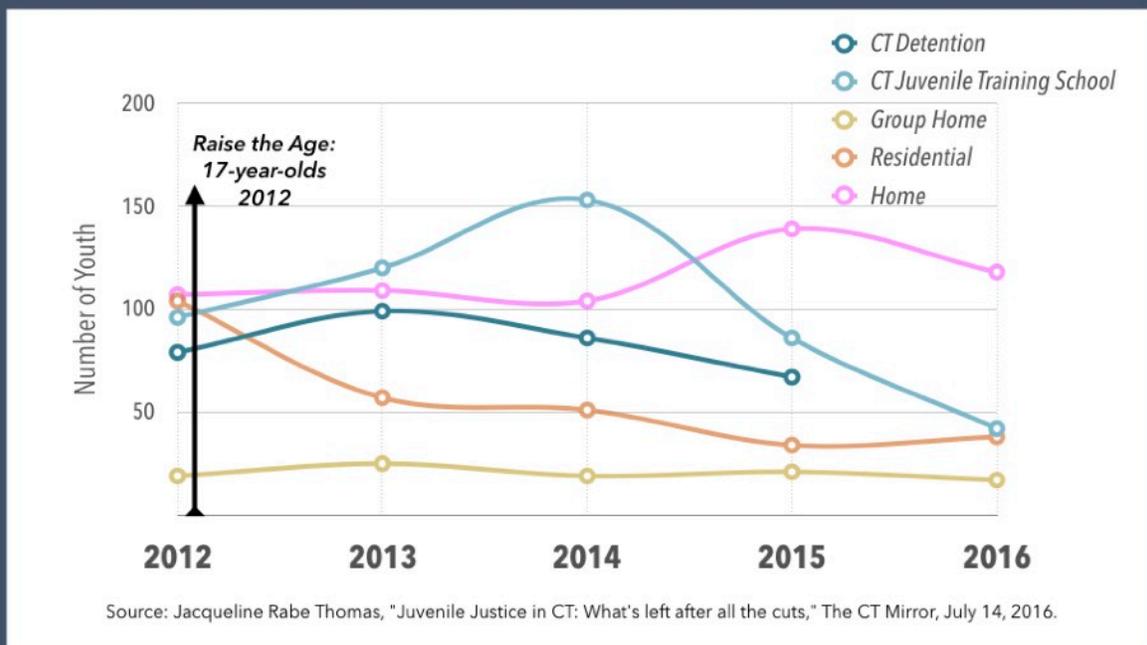
Reducing the use of confinement means a juvenile justice system can close facilities and reallocate resources to less expensive, more effective approaches that can better leverage available funding by serving youth in the community.

Connecticut closed a state-operated detention center in New Haven in 2011, and by July of 2018, the official state plan is to close the Connecticut Juvenile Training School. Illinois closed three state-operated youth prison facilities (in Murphysboro, Joliet, and Kewanee), and closed its DuPage County Detention Center. In April 2016, Massachusetts closed a 15-bed secure treatment program for girls based on the department's decreased operational needs.

Not every state that closed a facility reinvested each dollar it saved to support a less expensive, more effective community-based approach. In some states still emerging from the Great Recession or facing new economic challenges, more resources may be needed to address young people's mental health, schooling, and vocational needs outside the justice system.

But even without additional dollars being allocated to a juvenile justice department, when juvenile justice systems increase their reliance on practices that serve more youth in the community, they can draw upon state and/or federal health, mental health, child welfare, education, and employment dollars to help address a young person's needs. These non-justice-system youth-serving systems have larger budgets than those that exist in juvenile justice, but still represent a more cost-effective approach because they reduce reliance on expensive facilities, and serve more youth in their homes or home communities for less cost.

GRAPH I: REDUCED YOUTH CONFINEMENT IN CONNECTICUT SINCE RAISING THE AGE (2012)



More young people are at home, and fewer young people are confined since raising the age in Connecticut.

HOW CAN STATES CONSIDERING RAISE THE AGE AVOID OVERWHELMING THEIR JUVENILE JUSTICE SYSTEMS?

In *Reforming Juvenile Justice: A Developmental Approach*, the National Research Council of the National Academy of Sciences stated that raising the age is part and parcel of the kind of developmentally appropriate juvenile justice approach that youth justice systems should be moving towards.

The developmental research shows that there are better public safety and stronger youth development outcomes when 16- and 17-year-olds are served by the juvenile justice system. The same research points to the kind of strategies a state can use to manage a jurisdictional change without overwhelming the youth justice system.

Along with raising the age, a developmentally appropriate juvenile justice approach diverts young people from the justice system, addresses a youth's mental health challenges in the community, and reduces the use of pretrial detention and post-adjudication confinement. A developmentally appropriate juvenile justice approach also keeps young people who are incarcerated safe from sexual violence—something accomplished when a state raises the age and removes youth from adult prisons and jails. And a developmental approach embraces the tools now available to juvenile justice systems to manage young people and resources more effectively.

GEORGIA, MICHIGAN, MISSOURI, NEW YORK, NORTH CAROLINA, TEXAS & WISCONSIN

Georgia, Michigan, Missouri, New York, North Carolina, Texas, and Wisconsin have all already taken some significant steps to advance a developmentally appropriate juvenile justice approach. While every system should examine how it can improve its approach, the principal step that these seven states can take now towards having a more effective approach is to raise the age.

There are better public safety and stronger youth development outcomes when 16- and 17-year-olds are served by the juvenile justice system.

For these seven states, raising the age is the natural next step of their ongoing juvenile justice reform processes that have been evolving for a decade or more, and would represent a critical step in moving closer to a developmentally appropriate juvenile justice approach.

No state that raised the age focused on every one of the above strategies to change its age of jurisdiction; nor will states considering raise the age proposals need to embrace every strategy to be successful in their raise the age efforts.

Policy makers in Connecticut have been working for a decade since they passed their raise the age law to continue to improve their practices. Illinois took small steps with demonstration projects to improve its juvenile justice approach for over a decade before they staggered a set of legislative changes that eventually raised the age for all 17-year-olds by 2014. In the years that followed, Illinois took further steps to refine its juvenile justice approach by passing laws to reduce the use of confinement and narrow other legal pathways allowing transfer of youth to the adult system.

Georgia, Michigan, Missouri, New York, North Carolina, Texas, and Wisconsin have already embraced approaches that have reduced the use of confinement, and as a result are serving more youth in the community; for these seven states, raising the age is the next logical step in their juvenile justice reform process.

Among the states that have raised the age or are considering legislation in 2017 to do so, if needed, there is a clear roadmap of strategies that will allow them to implement the legislative change today without overwhelming their youth justice systems in the future.

ROAD MAP TO RAISE THE AGE

States can contain costs and enhance public safety while absorbing 16- and 17-year olds into their youth justice systems by:

- 1) Expanding the use of diversion.
- 2) Making probation and aftercare approaches more effective.
- 3) Addressing young people's mental health needs outside the deep end of the system.
- 4) Reducing the use of pretrial detention.
- 5) Reducing reliance on facilities, and focusing resources on community-based approaches.
- 6) Keeping young people safe by complying with the Prison Rape Elimination Act (PREA).
- 7) Improving juvenile justice systems' management of resources, and strengthening strategies to serve young people more effectively.

STEPS TOWARDS A MORE DEVELOPMENTALLY APPROPRIATE JUVENILE JUSTICE APPROACH INCLUDE:

1) Diverting youth from the justice system.

Advancing pre-arrest and pre-adjudication diversion strategies provides meaningful opportunity to resolve a young person's behavior outside the juvenile justice system, and avoid the negative consequences of needless justice system involvement. Juvenile justice systems in Connecticut, Illinois, Louisiana, Michigan, Mississippi, Missouri, North Carolina, and Texas have taken steps to expand the use of pre-arrest or pre-adjudication diversion.

2) Making probation and aftercare approaches more effective.

Instead of simply keeping an eye on youth or making them follow the rules, a more developmentally appropriate juvenile justice approach focuses probation and aftercare on engaging a young person in behavior change, partnering with community organizations, engaging families, and limiting the likelihood a young person's supervision will be revoked. Juvenile justice systems in Connecticut, Georgia, Illinois, Louisiana, Mississippi, Missouri and New York have implemented changes to make their probation or aftercare approaches more effective.

3) Addressing young people's mental health needs outside the deep end of the system.

A more developmentally appropriate approach connects youth to community-based mental health services and helps youth get the treatment they need in a way that does not deepen their justice system involvement. Juvenile justice systems in Michigan, Texas, Wisconsin, and elsewhere have mechanisms to address young people's mental health needs outside the deep end of the system.

4) Reducing the use of pretrial detention.

Youth who are detained pretrial are more likely to reoffend than youth who are not detained, physical and mental health conditions often worsen during detention, and detained youth can face significant challenges reconnecting to school, getting a job, and staying employed. Juvenile justice systems in Connecticut, Georgia, Illinois, Louisiana, Massachusetts, Mississippi, Missouri, and New York have taken measures to reduce the use of pretrial detention.

5) Reducing reliance on facilities, and focusing resources on community-based approaches.

Policymakers have redeployed existing taxpayer dollars in ways to serve a young person closer to home, at home, or in his or her home community, and they have reduced the number of young people placed in the most expensive and restrictive options. Juvenile justice systems in Connecticut, Georgia, Illinois, Massachusetts, Michigan, Mississippi, New York, North Carolina, Texas, and Wisconsin all took steps to reduce reliance on facilities and focus resources on community-based approaches.

6) Keeping young people safe by complying with the Prison Rape Elimination Act (PREA).

PREA has become a catalyst for raise the age initiatives by galvanizing stakeholder support for states to keep young people safer and avoid the increased taxpayer costs that would result from having to alter the physical structure of adult facilities to comply with federal law. Stakeholders in Illinois, Louisiana, Massachusetts, New Hampshire, and Texas' juvenile justice systems cited the need to keep young people safe and comply with PREA as reason to raise the age.

7) Improving the juvenile justice systems' management of resources, and strengthening strategies to serve young people more effectively.

When juvenile justice systems make better use of objective tools that can assess what a young person might need to move past delinquency, and can analyze what is working in the system to help youth change their behavior, systems can shift to a more cost-effective developmentally appropriate approach. Juvenile justice systems in Connecticut, Georgia, Massachusetts, Michigan, Missouri, New York, North Carolina, and Texas have all made better use of tools to help address the needs of a young person and also manage resources more effectively.

THERE IS A SENSE OF URGENCY TO RAISE THE AGE

When young people are in the adult justice system, they and their communities are less safe than they could be. In places that have not yet raised the age, a generation of youth will continue to face challenges transitioning to adulthood because of their exposure to the adult justice system.

This is why raising the age is such an urgent issue not only for youth and their families, but for anyone concerned about fairness, enhancing public safety, and improving the local economy in states with lower ages of juvenile court jurisdiction.

Lawmakers should address this sense of urgency by raising the age.



For more information and for a full list of citations on the information presented in the Executive Summary, please see, *Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System*. (Washington, D.C.: The Justice Policy Institute, 2017), which is available at www.justicepolicy.org.
