



POLICYMAKER'S GOAL 4.1

State law should eliminate mandatory minimum sentencing for all offenses committed by minors.

JLM POLICY GOAL 5



ELIMINATING MANDATORY MINIMUM SENTENCES FOR OFFENSES COMMITTED BY MINORS IS A critical step toward ensuring more just outcomes for vulnerable youth, especially those who have experienced trafficking and other forms of abuse or exploitation. In many states, mandatory minimum sentencing schemes disregard the important distinction between minors and adults—a difference recognized by the Supreme Court. The Court has acknowledged that minors possess decreased criminal culpability and increased prospects for reform compared to adults.¹ Despite this, sentencing policies often treat both groups the same, ignoring established scientific research on adolescent brain development which demonstrates differences in minors' and emerging adults' perception of the consequences of their actions.²

The injustice of mandatory minimum sentences for juvenile defendants is closely connected to the processes that allow, and sometimes require, minors to be prosecuted as adults.³ Once transferred to adult court, juvenile defendants face the same sentences as adults, including mandatory minimums, unless state law grants courts the authority to depart from these minimums when sentencing juveniles. Unfortunately, most states do not allow this discretion, leaving judges with no option but to impose lengthy sentences—potentially resulting in decades of incarceration—often without the possibility of early release on parole.⁴

With the various pathways that states have established to transfer minors into adult court, the need for judicial discretion in sentencing has become increasingly urgent. More and more young people are facing severe sentences without consideration of their age or the circumstances that led to their involvement in criminal activity. For instance, trafficking victims who are coerced into criminal conduct by their traffickers may be judged solely on their actions, without any recognition of the circumstances that contributed to those actions or access to the rehabilitative services available in juvenile court.

As Marsha Levick, Chief Legal Officer and Co-Founder of the Juvenile Law Center, explains, “Once these youth are placed into the adult criminal justice system, those systems are driven by punishment and retribution . . . The kinds of rehabilitation programs and positive interventions . . . will be significantly fewer, if they exist at all, than what you will see in the juvenile system.”⁵

Imposing mandatory minimum sentences on minors also subjects them to greater risks within the adult criminal justice system. According to statistics from the Juvenile Law Center, youth prosecuted and sentenced as adults are five times more likely to experience sexual abuse, twice as likely to be assaulted with a weapon, and face increased chances of psychological harm and suicide.⁶

Given these heightened risks and the compounded harms of prosecuting, sentencing, and incarcerating juveniles as adults—along with the incompatibility of these practices with established brain science—states should amend their sentencing schemes. Specifically, they should eliminate mandatory minimums for minors and expressly authorize courts to take an individualized approach to sentencing juvenile defendants, taking into account their age and the specific circumstances that led to their involvement in criminal conduct.

DRAFTING CONSIDERATIONS:

TO ACCOMPLISH THIS POLICY GOAL, STATE LAW SHOULD...

- ▶ Amend sentencing statutes to explicitly state that mandatory minimum sentences shall not apply to defendants who were under 18 at the time of the offense was committed, regardless of age when convicted.
- ▶ Clarify that the policy applies to all individuals under 18 at the time of the offense, regardless of whether they are charged in juvenile or adult court.
- ▶ Consider whether to extend to “youthful offenders” (e.g., up to 21) given developmental science.
- ▶ Carefully define “trauma” and “victimization” to include physical, sexual, or psychological abuse, neglect, human trafficking, exposure to violence, or other significant adverse experiences.
- ▶ Require the judge to place on the record findings that justify deviation.
- ▶ Require training for judges, prosecutors, and defense counsel on recognizing and understanding trauma’s impact.

1 Miller v. Alabama 132 S.Ct. 2455 (2012); see also, Juvenile Law Center, Legal Docket: Miller v. Alabama (<https://jlc.org/cases/miller-v-alabama>).

2 Harvard Petrie-Flom Center (2023). Children Tried as Adults: Transfer Laws and Neuroscience. Available at: <https://petrieflom.law.harvard.edu/2023/04/19/trying-and-sentencing-youth-as-adults-key-takeaways-from-recent-petrie-flom-center-event/>

3 See issue brief for Policy Goal #4 for further discussion on how state law can protect minors from being prosecuted as adults.

4 See issue brief for Policy Goal # 6 for more discussion on resentencing relief for youth facing long sentences.

5 See *infra* endnote 2.

6 Mandatory Minimums, Maximum Consequences, Emily Steiner, Legal Intern, Juvenile Law Center, August 16, 2017 (<https://jlc.org/news/mandatory-minimums-maximum-consequences>)