

Youths charged as adults

December 3, 2020

Juvenile court jurisdiction

Maryland's Juvenile Courts have jurisdiction over youths under 18 years old charged with delinquent acts.

Statutory exclusions:

- 14 years and older; charged with an act punishable by life imprisonment
- 16 years and older; specific driving offenses
- 16 years and older; specific serious crimes, including:

Statutory exclusions

<u>AUTOMATIC ADULT JURISDICTION</u> Source: § 3-8A-03 of the Maryland Courts & Judicial Proceedings Article		
AGE 14 AND OLDER	AGE 16 AND OLDER	
<ul style="list-style-type: none"> • Murder – 1ST Degree • Rape – 1ST Degree • Any attempts of above • Any conspiracies of above 	Serious/Violent Offenses: <ul style="list-style-type: none"> • Kidnapping • Assault – 1st Degree (CL, §3-202) • Carjacking & Armed Carjacking (CL, § 3-405) • Murder – 2nd Degree <ul style="list-style-type: none"> • Attempted Murder –2nd Degree (CL, §2-206) • Voluntary Manslaughter • Rape – 2nd Degree <ul style="list-style-type: none"> • Attempted Rape – 2nd Degree (CL, §3-310) • Robbery w/ Dangerous Weapon <ul style="list-style-type: none"> • Attempted Robbery w/ Dangerous Weapon (CL, §3-403) • Sex Offense-- 3rd (CL, 3-307(a)(1)) (IF force, a weapon, or threat of force used) 	Firearms Offenses: <ul style="list-style-type: none"> • Wear, Carry, Transport Handgun (CL, §4-203) • Possession of Unregistered Short-barreled Shotgun or Short-barreled Rifle (PS, §5-203(a)) • Possession of Regulated Firearm (PS, §5-133--convicted of prior disqualifying offense, etc.) • Minor in Possession of Regulated Firearm (PS, § 5-133(d)(1)) • Use Wear, Carry, Transport Firearm during Drug Trafficking Crime (CL, §5-621) • Use of Firearm in Commission of Crime of Violence or Felony (CL, §4-204) • Possess, Own, Carry, Transport Firearm by Drug Felon (CL, §5-622) • Possess, Sell, Transfer Stolen Regulated Firearm (PS, §5-138) • Sell, Rent, Transfer Regulated Firearm (PS, §5-134(b)) • Sell, Rent, Transfer Regulated Firearm to Minor (PS, §5-134(d)) • Use or Possess Machine Gun in commission/attempted commission of Crime of Violence (CL, §4-404) • Use or Possess Machine Gun for Offensive or Aggressive Purpose (CL, §4-405) Miscellaneous: <ul style="list-style-type: none"> • Any felony <u>IF</u> prior felony conviction as an adult • Non-incarcerable Traffic & Boating Offenses • Domestic Violence Peace Order requests are heard in the adult court where the victim is: the current or former spouse of the respondent; a cohabitant of the respondent; a person related to the respondent by blood, marriage or adoption; a parent, stepparent, child, or stepchild of the respondent or victim who
<u>Abbreviations:</u> CL = Criminal Law Article CP = Criminal Procedure Article PS = Public Safety Article		

Pathways to adult court

➤ Discretionary Waiver

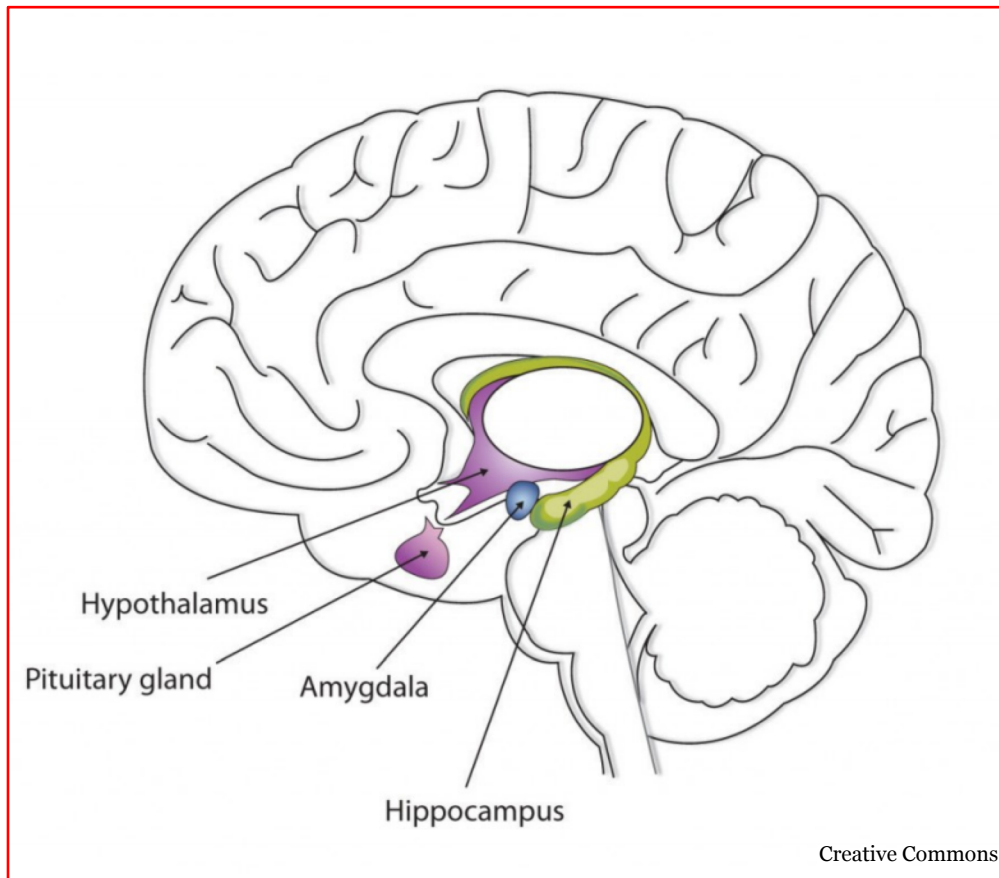
Maryland's Juvenile Courts **may waive** the exclusive jurisdiction over any youth age 15 and older for any alleged offense, or for youths not yet 15 years old but who are alleged to have committed a crime which is punishable by life imprisonment.

- Maryland's Juvenile Courts **may not waive** jurisdiction **unless** a court determines, by a preponderance of the evidence presented at the hearing, that **the child is an unfit subject for juvenile rehabilitative measures**.

➤ Once an adult, always an adult

Maryland's Juvenile Court **does not** have original jurisdiction over youth previously convicted as an adult of a felony and who is subsequently alleged to have committed an act that would be a felony if committed by an adult.

Brain development in healthy youths



Adolescence brings changes in the limbic system resulting in greater sensitivity to rewards, threats, novelty, and peers. In contrast, it takes longer for the cortical region, which is implicated in cognitive control and self-regulation, to develop.

Why strive to avoid adult court?



Youth lack full autonomy



Youth lack maturity and responsibility



Youth are susceptible to negative influences



Youth in adult system face higher risk of abuse

Best practices

- Juvenile courts should have original jurisdiction over youth for matters involving delinquent behavior.
- Youth should not be automatically transferred to the jurisdiction of the adult court.
- Juvenile court judges who are trained and equipped to assess the individual needs of youth should decide whether the youth can be rehabilitated in the juvenile justice system.

Legislative measures some
states have taken

Raise the age

Some states are taking steps to expand juvenile courts jurisdiction for youths above 18 years old.

In May 2018, Vermont became the first state to set its juvenile justice age threshold above 18. By the year 2022, with some exceptions for violent offenses, all teens including 19-year-olds will be treated as juveniles.

Limit waivers to adult court

Three states have recently repealed their presumptive waiver provisions.

- California (2016) – *Prop 57* requires all cases involving juveniles to begin in juvenile court.
- Kansas (2015) – *SB 367* creates a rebuttable presumption for juvenile court jurisdiction.
- New Jersey (2015) – *S 2003* requires prosecutors seeking waiver of cases to adult court to include a written statement including facts used in assessing the waiver factors along with an explanation of how those facts support waiver for each youth.

Reduce delay

- Montana's Youth Court Act requires that the hearing to determine youth court adjudication take place within 30 days of the probable cause determination.
- Georgia Code requires the petition alleging dependency to be filed within five days of the preliminary hearing if the child has been removed from their home, or 30 days if the child has been released.

Repealed statutory exclusions

Three states have recently repealed their statutory exclusion provisions.

- California (2016) – *Prop 57* requires all cases involving juveniles to begin in juvenile court.
- Florida (2019) – *HB 339* overrides the previous standard of a prosecutor-determined direct file and requires a due process hearing which acts as a “second opinion” on the prosecutor’s direct file decision.
- Oregon (2019) – *SB 1008* requires that all youth cases start in juvenile court, including serious crimes like Robbery 1, Attempted Murder, and Kidnapping.

Limit statutory exclusions

Several states have recently narrowed their statutory exclusion provisions.

- Delaware (2017) – *HB 9* gives judges discretion to direct cases to Family Court for youth charged with serious felony offenses like charges involving youths possessing firearms or deadly weapons in the commission of a felony.
- Illinois (2015) – *HB 3718* eliminates mandatory transfers to adult court for armed robbery with a firearm and aggravated vehicular hijacking with a firearm.
- South Carolina (2016) - *S 916* raised the floor of transfer eligibility from 16 to 17.
- Utah (2020) - *HB 239* narrowed the list of offenses with original adult court jurisdiction to murder alone.
- Washington State (2018) – *SB 6160* narrowed the list of eligible offenses for original adult court jurisdiction, giving juvenile courts discretion to adjudicate 1° robbery, 1° drive by shooting, 1° burglary, and violent offense committed while armed with a firearm.

Group discussion
