

# Raise the Age:

Protecting Kids and Enhancing  
Public Safety in Michigan



# Executive Summary

All kids deserve the opportunity to lead healthy, productive lives. Yet Michigan puts kids at risk by being 1 of only 5 states that still automatically try 17-year-old arrestees as adults in criminal court. As a result, 17-year-olds in Michigan are subjected to a harsh criminal justice system that separates them from their families and limits their access to the services and education they need to rehabilitate.

In 2016, Michigan police made 7,215 arrests of 17-year-olds — more than 80% of these arrests were for nonviolent offenses, and more than half were considered misdemeanors. Though many of the kids involved in the criminal justice system have experienced extreme hardship, they are resilient and can turn their lives around. They deserve attention and treatment, not incarceration.

In this report, we evaluate the health and equity impacts of charging 17-year-olds in juvenile court rather than adult court, to inform legislation under consideration in Michigan that would raise the age of juvenile court jurisdiction from 17 to 18 years of age.

## Raising the Age improves health and safety

Michigan's juvenile justice system is far more developmentally appropriate for young people because it prioritizes community-based options, educational resources, and physical and behavioral health services that help youth get their lives back on track. Keeping 17-year-olds in the juvenile justice system builds healthier and more productive young adults, improves community health, increases public safety, and saves us all money in the long term.

- The juvenile justice system includes the possibility to stay connected to family and community
- The juvenile justice system supports youth staying in school, which leads to better long-term health outcomes, job opportunities, and higher incomes
- Juvenile institutions offer treatment, rehabilitation, educational, and personal development resources
- Youth in the juvenile justice system recidivate less
- Keeping 17-year-olds in the juvenile justice system decreases long-term costs to taxpayers

## Youth tried in adult court are more likely to be convicted and receive harsh sentences

Youth who are tried in adult court are more likely to be convicted and receive harsh sentences than youth who remain in juvenile court, and are punished more severely than young adults (ages 18-24) who are charged for similar crimes.

## The adult system is a costly, dangerous place for kids

Youth detained in adult facilities are significantly more likely to be beaten by staff, sexually assaulted, and commit suicide than youth in the juvenile justice system. Moreover, experiencing incarceration is damaging to kids' mental and physical health throughout their lives.

The State of Michigan cannot afford to continue subjecting 17-year-olds to the adult criminal justice system, because the cumulative costs — trauma, poor health outcomes, lost opportunities for youth, and lost tax revenue — are simply too high to ignore. The rise of alternative programming in Michigan has already contributed to fewer youth being sent even to juvenile justice facilities — now it's time for Michigan to follow the lead of other states to raise the age.

Visit [www.humanimpact.org](http://www.humanimpact.org) to read the full report and view references.



# Acknowledgments

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# Introduction

All kids deserve the opportunity to lead healthy, productive lives. Yet Michigan puts kids at risk by being 1 of only 5 states that still automatically try 17-year-old arrestees as adults in criminal court.<sup>1</sup> This policy is at odds with state and national laws that define adulthood as age 18 and older, and is damaging to the health and lives of Michigan kids and their communities.

This report evaluates the health and equity impacts of charging 17-year-olds in juvenile court rather than adult court, to inform legislation under consideration in Michigan that would raise the age of juvenile court jurisdiction from 17 to 18 years of age.

## State Laws Distinguish 18-Year-Olds as Adults

Overwhelmingly, Michigan's state laws draw a clear distinction of 18 years as a marker of adulthood — for example, one must be 18 in Michigan to enter into a contract, make a will, purchase a home, serve on a jury, or give consent for medical care.<sup>2</sup> Charging 17-year-olds as adults is therefore inconsistent with other laws and practices in the state.

## Justice System Involvement Is a Determinant of Health

Although health care and individual behaviors undoubtedly influence health and well-being, more than 50% of our health is actually determined by social and environmental conditions — social determinants of health.<sup>3</sup> These are shaped by environmental, economic, and social policies, which can either help build healthier communities or harm them.<sup>4</sup>

The criminal justice system has profound impacts on the health of individuals and society as a whole.<sup>5,6</sup> Involvement in any level of the system, from arrest to incarceration to probation, is disruptive and traumatic.<sup>5,7</sup> Being incarcerated as a young person is particularly damaging, causing major risks to one's long-term physical and mental health.<sup>8</sup>

## About This Report

This report was written by Human Impact Partners (HIP). HIP's Health Instead of Punishment Program increases the consideration of health in public decisions about criminal legal system policy and practices.

The research in this report includes peer-reviewed literature, government reports and data, grey literature, and stories of people who have been impacted by Michigan's juvenile justice and adult prison systems. Together, these data sources synthesize the health and equity impacts of trying 17-year-old youth in the juvenile justice system rather than in the adult system.

## Notes about language in this report

We use the following terms: “people in prison,” “youth in prison,” and “system-involved youth” rather than “prisoner” or “offender.” We also use “formerly incarcerated youth/individuals/people” instead of “convicts.” Our intent is to avoid defining people permanently based on past experiences or behaviors.

# The Role of Environment in Adolescent Development and Behavior

A person's physical, emotional, and cognitive development occurs in the context of one's social and physical environment — from one's family and friends to where one lives, learns, and plays.

## Childhood Trauma and Community Disinvestment Affect Youth Behavior

Almost all system-involved youth have experienced Adverse Childhood Experiences (ACEs) such as physical or emotional abuse or witnessing violence in the community.<sup>9 10</sup> Girls in the justice system are particularly likely to have histories of trauma, physical violence, sexual exploitation, and substance use.<sup>11</sup> These ACEs can have long-term physical health impacts such as chronic diseases and cancer,<sup>12</sup> and long-term mental health outcomes like disruptive and/or antisocial behavior, psychosis, and mood disorders.<sup>13 14 15</sup> In addition, many system-involved youth come from poverty. Poverty creates stress, prevents families from providing material needs, and often reduces parents' presence in their children's lives.<sup>16</sup>

Community disinvestment also affects youth development and behavior. Historically, federal and state policies have disenfranchised low-income communities and communities of color, resulting in poor quality housing, under-resourced schools, and scarce and low-paying jobs.<sup>17 18</sup> At the same time, these communities have experienced an increase in police presence. Proactive policing efforts like “stop-and-frisk” and “broken windows” policing have become all too common, as have police harassment and misconduct, including excessive and deadly force.<sup>19 20</sup> These policies and their consequences marginalize communities, and the lack of opportunity influences young peoples' physical health and outlook on life. Growing up in these under-resourced and over-policed communities puts children at risk for behaviors that current laws and practices treat as illegal.<sup>21</sup> All too often, instead of repairing harm and addressing root causes of behavior, the justice system shuffles youth to adult court for punishment.<sup>16</sup>

In spite of experiencing adversity in their homes and communities, kids are resilient. With the presence of other protective factors in their lives, they can bounce back and succeed even after traumatic experiences and mistakes they've made.<sup>22 23</sup>

## Acting Out Is Normal Adolescent Behavior

It's common and normal for youth to engage in risky behaviors that may negatively impact their health. The prefrontal cortex is responsible for advanced reasoning and managing impulses; this part of the brain doesn't fully develop until the mid-20s. Physiologically, a kid's ability to demonstrate self-control, fully process decisions, and regulate emotions at the same time is a challenge. Therefore, youth have less capacity for self-regulation in emotionally charged situations, increased sensitivity to environmental influences and peer pressure, and difficulty considering the consequences of their actions.<sup>24 25</sup> Some of their behaviors make perfect sense when acknowledging their developmental stage — for example, acting out, trying to create boundaries with parents, and trying to differentiate themselves from others may be expressed by breaking curfew, running away, underage drinking, driving under the influence, shoplifting, and other common misbehaviors.<sup>26</sup> Adult guidance and support are appropriate ways to prevent and respond to these behaviors — not adult criminal court and conviction.

# The 17-Year-Olds in the Justice System

In 2016, Michigan police made 7,215 arrests of 17-year-olds. More than 80% of arrests of Michigan 17-year-olds were for nonviolent offenses, and more than half were considered misdemeanors. Based on arrest categorization, 16-year-olds and 17-year-olds do not look much different on paper. Kids in both of these age groups were most often arrested for petty crimes — shoplifting, fighting, and possession of drugs and alcohol.<sup>27 28</sup> Furthermore, most of those who enter the system at age 17 have no prior record.<sup>11</sup>

Due to racial bias and overpolicing of schools and communities of color,<sup>29 30 31</sup> 53% of 17-year-olds who enter Michigan's adult justice system are youth of color, even though youth of color only make up 23% of the youth population statewide.<sup>11</sup> This trend is reflected in State of Michigan arrest statistics. In 2016, Black 17-year-olds in Michigan were 4.7 times more likely to be arrested for obstructing police, 2.6 times more likely to be arrested for retail theft, and 2.5 times more likely to be arrested for nonaggravated assault than White 17-year-olds.<sup>27</sup>

Nationally, youth who identify as lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ) also experience higher rates of arrest and incarceration due to sex- and gender-based discrimination and lack of institutional and family support.<sup>33 34</sup> Youth of color who identify as LGBTQ experience a perilous double bind due to both sex- and gender-based discrimination and race-based discrimination. Unfortunately, numbers and statistics that illustrate the experience of these youth in the adult justice system are lacking.<sup>34</sup>

When youth are tried in adult court, they are more likely to be convicted and receive a harsh sentence than youth who remain in juvenile court. They're also punished more severely than young adults (ages 18 to 24) who are charged in adult criminal court for similar crimes. Nationally, when charged with violent offenses, for example, approximately 60% of transferred youth are sentenced to prison compared with 26% of young adults over age 18.<sup>35</sup>

# Raising the Age Improves Health and Safety for Everyone

Raising Michigan's age of juvenile jurisdiction from 17 to 18 would support the health and safety of Michigan's young people, and by extension, Michigan's entire population. Raising the age is vital for health and safety because it provides:

- Better access to community-based rehabilitative services
- Family involvement in treatment
- Improved access to educational resources
- Safer options when residential treatment is needed
- A lower likelihood of re-offending and recidivating, which indicates greater public safety
- Cost savings that can be reinvested into prevention, diversion, and community-based treatment

## 17-Year-Olds Can Receive the Treatment They Need in the Juvenile Justice System

### Treatment and services offered by diversion and community programming

In Michigan, the majority of youth under the age of 17 who commit crimes participate in diversion programming or are placed in community-based programming following adjudication. In 2015, 1 in 3 Michigan cases were diverted — meaning that they never made formal contact with the juvenile court system.<sup>94</sup>

Research has shown that diversion programs are highly effective in rehabilitating youth and preventing future harm. While diversion programs vary, most programs in Michigan use evidence-based programming and offer support to youth through a case-management framework. One program of note is the Community Restorative Board in Berrien County. Using restorative justice theory, participants conduct community service, write essays and letters, and pay restitution, all with the aim of making amends between the youth and the person(s) who was harmed.<sup>36</sup>

In 2010, about 75% of Michigan youth who were adjudicated were placed in community-based programming.<sup>37</sup> According to the Juvenile Justice Delinquency and Prevention Act, “Community-based programs and services are small group homes or other suitable places located near the juvenile’s home or family that provide needed services, [and] [h]ome-based alternative services are programs that serve youth in their own homes instead of incarceration or other out-of-home placements.”<sup>38</sup>

Recognizing their reliance on costly and ineffective out-of-home placements, many juvenile courts in Michigan are actively working to expand the treatment and services available to justice-involved youth in their home communities.<sup>39</sup> A common program utilized in Michigan’s 2 largest counties, Wayne<sup>40</sup> and Oakland,<sup>41</sup> is the Youth Assistance Program (YAP), which serves high-risk youth in the community.<sup>42</sup> YAP provides individualized services and involves the youth and their families in decision making.<sup>42</sup> A national report on the YAP program found that youth spent an average of 4 months in the program and 86% of youth remain free of arrest while enrolled in YAP.<sup>43</sup>

Despite the success of alternative programming, these types of services are less available in the adult system than the juvenile justice system. When services are available, they're not appropriate for 17-year-olds, as they were developed for the adult population. Anecdotally, the adult justice system does not involve families in decision making, nor do they provide much-needed wrap-around services to system-involved kids on probation.<sup>44</sup> Based on interviews with service providers for system-involved adults in Wayne County, 17-year-olds need to be engaged differently than older adults in their programs due to different home environments, lack of education, and past trauma.<sup>45 46</sup>

### Treatment and services available at juvenile justice facilities

Due to diversion and community-based programs being more effective in terms of rehabilitation and cost, as well as incarceration being much more risky for health and safety, placing youth in facilities should be the last resort. However, facilities in the juvenile justice system afford teenagers age-appropriate rehabilitative services that 17-year-olds are denied in adult prisons and jails.

Juvenile justice institutions tend to have more programming geared toward treatment, rehabilitation, and personal development than adult facilities. In adult institutions, security is the overriding priority and the staff's primary function is surveillance and control.<sup>47</sup>

**Ray,\* a formerly incarcerated youth in Michigan, said that the treatment for substance use disorder and counseling offered through a juvenile justice facility changed his life. He credits his teachers and counselors for helping him change his belief system and learn self-discipline.** Today, Ray is working as a carpenter, and he strives to be a recovery coach at a juvenile facility someday. He hopes the State of Michigan will expand juvenile justice services to youth.

*\* Not his real name*

Source: Male, 17 years of age. Stakeholder Interviews. September 2017.

Juvenile facilities offer youth specialized care and developmentally appropriate services that are not available in adult facilities. This type of care is critical as many youth enter the system with a history of childhood trauma, mental health disorders, or substance use disorders.<sup>11 48</sup> Typically, juvenile facilities have a staff-to-youth ratio of 1 to 8, while adult facilities have a ratio of 1 to 64.<sup>49</sup> The difference in available staff translates into a lack of appropriate services and one-on-one care for youth in the adult system.<sup>49</sup>

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**1 to 8**  
Staff-to-Youth ratio  
at juvenile facilities

**1 to 64**  
Staff-to-Youth ratio  
at adult facilities

The focus on mental health counseling and treatment for substance use disorders in juvenile detention offers youth a second chance to be productive Michigan citizens. At the Shawono Center, 1 of 2 state-operated youth facilities in Michigan, all youth are required to participate in counseling programs.<sup>50</sup> At adult prisons in Michigan, only 17-year-olds with a mental health diagnosis receive an evaluation and behavioral treatment plan.<sup>11</sup> Additionally, only 20% of incarcerated people participate in mental health programming<sup>51</sup> at the Michigan Department of Corrections (MDOC), and “prisoner programming is not viewed as a basic need.”<sup>52</sup> According to a 2014 report by the National Research Council, over 50% of incarcerated persons in the United States report mental health concerns, and about 10–25% suffer from serious mental illness.<sup>53</sup> This means that many incarcerated persons in adult prisons and jails are not receiving essential mental and behavioral health services.

## Raising the Age Allows Kids to Remain Connected with Their Families

Community and home placements allow youth under juvenile court supervision to remain in the counties where they reside, which means they can remain connected with family and other support systems during treatment. Connection with family and friends is crucial for emotional stability and rehabilitation, especially for young people who are at a critical developmental stage. Additionally, studies show that retaining connections with formal and informal institutions, such as school, church, and family, significantly decreases recidivism rates.<sup>54 55</sup>

When youth are incarcerated, family relationships may suffer due to the high cost of contact. Family members of incarcerated persons bear a tremendous financial burden every time they choose to make a phone call, send a package, or travel to a residential facility to visit with a loved one. According to one study, 34% of families reported going into debt to pay for phone calls or visitation.<sup>54</sup> Low-income families are thus forced to choose between economic hardship and damaged relationships. Because the juvenile justice system offers a robust menu of community-based treatment options, families have a higher chance of staying together, and a mother doesn't have to choose between caring for her children on the outside or her child in prison.

Incarceration also hurts communities. When a community member is incarcerated, social and community life is disrupted and crime rates may increase when a formerly incarcerated person returns with more “street-smart” knowledge.<sup>55</sup> One study found that people living in neighborhoods with high prison admission rates reported higher rates of depression and anxiety than those living in neighborhoods with low prison admission rates (accounting for neighborhood- and individual-level risk factors).<sup>93</sup>

## Spotlight on Community-Based Programs

### Wayne County Right TRAC (Taking Responsibility and Accepting Consequences) Program

- Available to first-time, low-risk youth
- May include academic tutoring, counseling, mentoring, and mental health services
- 90% success rate\*

### Grand Traverse County Diversion Program

- Available to low-risk youth
- May include mentoring, home visits, community service, and apology letters
- 80% success rate\*

\* Success refers to a youth completing the program and remaining out of the formal justice system for one-year following the program

Source: Smith, J., Weemhoff, M. *Restoring Kids, Transforming Communities: Enhancing Michigan's Approach to Juvenile Diversion*. Lansing, MI: Michigan Council on Crime and Delinquency; 2017. [https://docs.wixstatic.com/ugd/03c-b01\\_2673303a139441de914ef30e8dee39df.pdf](https://docs.wixstatic.com/ugd/03c-b01_2673303a139441de914ef30e8dee39df.pdf).

## 17-Year-Olds in the Juvenile Justice System Have Better Educational Opportunities

Teenagers housed in adult facilities are denied access to the education that they need and deserve. The average public high school student in Michigan receives 4 to 6 hours of education each day or 20 to 30 hours per week,<sup>56</sup> while a 17-year-old in Michigan's adult system receives a mere 8 hours of education each week.<sup>11</sup> Over a year, this translates into an educational loss of 682 hours<sup>57</sup> or about 5.5 months<sup>a</sup> when compared to a public school student.

**Lisa,\* a 17-year-old high school student in Ypsilanti,** was sent to jail for about 2 months on assault and battery charges in spring 2017. Despite her parents bringing school assignments to the prison, she was unable to stay on track due to an absence of educational resources in jail. ***“It messed up my whole 10th grade,”*** she said. As the only 17-year-old in the jail, Lisa said she was unable to participate in educational or behavioral programming that older girls had access to, such as anger management classes. Despite her time at a “correctional” facility, Lisa said, “I didn’t learn any skills, nothing.”

*\* Not her real name*

Source: Female, 17 years of age. Stakeholder Interviews. September 2017.

In addition to providing less instruction time, adult facilities are ill equipped to offer personalized education plans due to a lack of full-time teachers and a high student–teacher ratio.<sup>49</sup>

Raise the Age legislation creates greater opportunities for 17-year-olds to remain enrolled in their schools through pre-adjudication diversion and community-based programming. Youth who stay in school are more likely to graduate on time and gain employment,<sup>58</sup> and are less likely to be incarcerated. Youth incarcerated in juvenile facilities receive more hours of education each week and more personalized instruction than in adult facilities.

Education is an essential building block to a long, healthy life. People with more education can expect to live 7 years longer, on average, than their less educated peers.<sup>59</sup> Education can increase health knowledge and coping skills, enabling a person to make better-informed choices regarding medical care and adopt and maintain healthy behaviors (e.g., less alcohol and drug use and more exercise).<sup>60,61</sup>

More education also leads to better job prospects and a higher income, which in turn leads to better health. People who have at least a high school education make nearly twice as much as those without a high school education.<sup>58</sup> Higher incomes afford individuals and their families the benefit of economic security and wealth accumulation, which reduces stress, makes it easier to obtain health care when needed, increases access to healthy food, promotes physical activity, and makes it easier to find a home.<sup>60</sup>

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**15 to 1**  
Student-to-Teacher ratio  
at juvenile facilities

**100 to 1**  
Student-to-Teacher ratio  
at adult facilities<sup>49</sup>

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<sup>a</sup> Assumes 6-hour school days for 5 days a week, 4 weeks per month.

The combined advantage of more education and higher income leads to a longer and healthier life. On average, high school graduates live 2.8 years longer than individuals without a high school education.<sup>60</sup> Black and Latinx populations have lower rates of employment and income than other racial/ethnic groups due to a multitude of structural and interpersonal forms of discrimination, leaving them more vulnerable to health challenges.<sup>62 63</sup>

In addition to having health benefits, correctional education has been shown to decrease recidivism rates by increasing employability.<sup>64 65 66</sup> This is essential since 95% of people in prison will return to their communities.<sup>52 67</sup> Without employment opportunities or a way to provide for themselves, many formerly incarcerated people return to crime.<sup>51 65</sup> A study by the RAND Corporation found that for every \$1 invested in correctional education, taxpayers save an additional \$5 in re-incarceration costs.<sup>67</sup>

## Raising the Age Is Safer and More Humane for 17-Year-Olds in the System

For a 17-year-old, being placed in the adult system drastically increases the chance that they will experience trauma including solitary confinement, physical abuse, and/or sexual abuse. Such traumatic events can lead to psychiatric disorders, anxiety, depression, self-harm, or even suicide.

### 2013 Class Action Lawsuit Claims Michigan's Prisons Do Not Protect Youth from Harm

According to a 2013 class action lawsuit, *John Doe v. Michigan Department of Corrections*, youth of ages 14 to 17 in Michigan prisons were not separated from adults by sight and sound as required by federal law. The case argued that having kids in contact with adults resulted in the youth receiving degrading treatment and being punished more, placed in solitary confinement, and deprived of rehabilitative programming and educational services. In addition, the lawsuit claimed that MDOC staff failed to adequately supervise incarcerated youth, train and monitor prison staff, and implement proper policies and procedures for identifying and housing youth in prison.

Source: Weemhoff M, Staley K. *Youth Behind Bars*. Lansing, MI: Michigan Council on Crime and Delinquency; 2014. [https://docs.wixstatic.com/ugd/03cb01\\_a9d053d7f65141fbbe982057dbd920d1.pdf](https://docs.wixstatic.com/ugd/03cb01_a9d053d7f65141fbbe982057dbd920d1.pdf).

In contrast, the juvenile justice system is a safer place for Michigan's kids. Reported incidents of violence and abuse are much lower, which means that trauma and threats to mental health are substantially reduced.

### Kids in adult prisons are targets for physical and sexual assault

Youth in adult prisons and jails are twice as likely to be beaten by staff, 5 times as likely to be sexually assaulted, and 36 times more likely to commit suicide than youth in the juvenile justice system.<sup>11</sup> Youth incarcerated with adults are at the highest risk for sexual abuse of any group of incarcerated people.<sup>68</sup> According to a Department of Justice survey, 1.8% of 16- and 17-year-olds imprisoned with adults report being sexually abused by other people who are incarcerated. Of these, 75% also report being sexually abused by staff.<sup>69</sup>

Young women and girls in adult prisons, and especially those who are in prison for the first time, are particularly vulnerable to sexual abuse by prison guards.<sup>70</sup> A largely male staff guards women and girls in Michigan prisons,<sup>70</sup> and this job entitles these men to have access to these women and girls in their most vulnerable states. Men are the perpetrators of 98% of sexual assault of females in prison by correctional staff.<sup>71</sup> Male prison staff not only use force and violence to commit sexual assault, but also use their powerful positions to threaten, bribe, and intimidate girls and women into sexual activity. Some male correctional officers and staff use mandatory pat-frisks or room searches to sexually abuse women, and they reportedly particularly target younger women in doing so.<sup>70</sup>

**“I felt uncomfortable in the jail sometimes. Guys want to have sex and date you.”**

Source: Female, 17 years of age. Stakeholder Interviews. September 2017.

The risk of sexual abuse, discrimination, and harassment is also amplified for LGBTQ youth in adult jails and prisons. Abusers include both correctional officers and other incarcerated people.<sup>34 70</sup>

The situation is likely even worse than statistics suggest. Sexual assault is underreported in all prisons and jails. This is especially true for young people due to developmental and emotional barriers,<sup>49</sup> as well as power imbalances between children and adults who are staff or in the system themselves.<sup>69</sup>

Victims of sexual assault often experience long-lasting psychological scars such as depression, post-traumatic stress disorder, anxiety, addiction, anger, difficulty sleeping, nightmares, and fear.<sup>72 73</sup>

<sup>74</sup> Physical impacts can include bruises, cuts, sprained or broken bones, damaged genitals, sexually transmitted infections, chronic pain, sexual dysfunction, fertility problems, decreased immunity, and other aches, pains, and illnesses.<sup>73</sup>

### **Kids in adult prison can end up in solitary confinement**

Due to these risks, kids under age 18 in adult prisons are required by federal law to be separated from incarcerated adults by sight and sound. While this law is intended to reduce the risk of abuse by adults, due to a dearth of underage kids in prisons and jails, in practice this means that youth are often placed in solitary confinement.<sup>11</sup> Solitary confinement leads to risks of its own, including depression, anxiety, and self-harm.<sup>11</sup>

The majority of Michigan’s boys who are incarcerated at an adult prison are placed at Thumb Correctional Facility in Lapeer, Michigan. On a single day of data collection, 6 out of 50 youth were in solitary confinement at this facility.<sup>11</sup>

Another way that kids can end up in solitary confinement is if they are at risk of suicide. As reported in *Youth Behind Bars*, youth who are at risk of suicide may end up tied down by restraints to a metal bed or a concrete slab in an observation cell.<sup>11</sup> In the moment when a person desperately needs to be in connection with other human beings — when they are thinking about killing themselves — a common but inhumane prison practice is to place them in solitary confinement.

### **Trauma experienced in prison harms mental health and compounds prior trauma**

Trauma and abuse experienced in prison take a toll on one’s mental health, and this hits especially hard for those who have already experienced trauma in the past. Young people who’ve already experienced sexual assault before being incarcerated in an adult prison are more than twice as likely to report sexual victimization in correctional facilities than those with no sexual assault history.<sup>75</sup>

Childhood trauma and other ACEs, including physical and sexual abuse, increase the likelihood of physical and behavioral health problems in adulthood<sup>12</sup> and even in future generations.<sup>76</sup> A greater number of traumatic events leads to greater risks for health problems later in life<sup>9</sup> — thus, for youth who have experienced trauma prior to being incarcerated, additional trauma experienced in adult prison is especially damaging.

Simply being incarcerated is considered trauma, even without being a victim of abuse. Negative impacts on identity formation and development may be particularly strong for youth transferred to the adult system, because youth may internalize the notion that they are labeled as an “unsalvageable adult,” and seek companionship of others who tolerate or support deviant behavior.<sup>77</sup>

A longitudinal study of more than 1,800 system-involved youth found that girls and boys tried as adults who receive prison sentences are significantly more likely to have had 1 or more psychiatric disorders than youth tried as adults who remain in juvenile facilities.<sup>35</sup> Another study found that youth are 36 times more likely to commit suicide in an adult jail than in a juvenile facility.<sup>78</sup>

## Raising the Age Results in Less Recidivism

Currently, Michigan does not collect data specific to recidivism rates of those who entered adult prison as a youth.<sup>11 79</sup> However, national studies find that youth in the juvenile justice system recidivate less than youth who have been tried in the adult system:

- The National Institute of Corrections, part of the U.S. Department of Justice, convened almost 40 juvenile justice and adult corrections experts to look at the issue of youth in adult corrections systems. Their top conclusion was that youth transferred to the adult corrections system recidivate at a higher rate than those kept in juvenile justice systems.<sup>80</sup>
- The Centers for Disease Control and Prevention’s Task Force on Community Preventive Services found that youth exiting the adult system are 34% more likely to re-offend, re-offend sooner, and escalate to more violent offenses than their counterparts in the juvenile justice system.<sup>81</sup>
- The Office of Juvenile Justice and Delinquency Programs, also part of the U.S. Department of Justice, reviewed multiple comparison studies that all found that youth going through the adult courts were more likely to be re-arrested or to re-offend, committed more crimes, and re-offended sooner than youth who remained in the juvenile justice system.<sup>82</sup> Their report states, “The extant research provides sound evidence that transferring juvenile offenders to criminal [adult] court does not engender community protection by reducing recidivism. On the contrary, transfer substantially increases recidivism.”

The author of a review of recidivism studies hypothesized as to why youth going through the adult system re-offend more often. Researchers offered several possible explanations:<sup>82</sup>

- Stigmatization and effects of youth being labeled as convicted felons
- Decreased focus on rehabilitation and family support in the adult system
- Resentment and injustice youth may feel about being tried and punished as adults
- Learning criminal behavior while incarcerated with adults
- Loss of civil rights and privileges from adult felony conviction, which reduces employment and community reintegration

Access to rehabilitative programming and educational opportunities in the juvenile justice system is far superior to that in the adult system. When researchers asked youth who had been in both juvenile

and adult facilities what helped them not re-offend, overwhelmingly youth mentioned services like job training, treatment for substance use and mental health issues, mentoring by staff, and the general rehabilitation orientation of the juvenile justice system. Most of the youth incarcerated in juvenile facilities felt confident they would not re-offend, often crediting the staff with helping them make a positive change.<sup>82</sup>

In comparison, only 1/3 of youth in adult prisons said they would not re-offend. Youth who had been incarcerated in adult prisons reported that much of their time was spent learning criminal behavior from other incarcerated people and proving how tough they were. Researchers also reported a “brutalization effect,” where youth who had experienced or witnessed violence in adult prison were less likely to say their incarceration would deter them from committing crimes in the future.<sup>82</sup>

A New York State Senate report on raising the age in New York concludes, “Getting troubled juveniles the rehabilitation, mental health counseling and social service programs that they desperately need to turn around their lives will greatly reduce recidivism, resulting in a drop in crime for the public and a decline in future arrests.”<sup>83</sup>

## Raising the Age Saves Money in the Long Run

Since 2003, the number of youth placed in juvenile justice facilities in the State of Michigan has steadily declined due to both a rise in alternative programming instead of detention, and a decrease in youth crime.<sup>39 84</sup> By diverting youth before adjudication or placing youth in community-based

### Spotlight on Other State Policy Changes

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#### Connecticut - 2007 to 2012

Projected costs: \$100 million

Actual costs: \$39 million was reallocated from “non-justice funding streams” to serve justice-involved youth in community-based settings.

Policy effects: The State of Connecticut closed a juvenile detention facility in 2011 due to a continuing decrease in juvenile arrest rates and an increased use of community-based programming. The state also credits the Raise the Age legislation with a reduction in recidivism and in the number of 18- to 21-years-olds in the adult state prison system.

#### Illinois - 2010 to 2014

Projected costs: 35% increase in youth entering the juvenile justice system; 3 new court rooms staffed with Assistant State Attorneys

Actual costs: No additional costs; Raise the Age legislation resulted in cost savings (see below)

Policy effects: The rate of juvenile violent crime and property crimes decreased at a rate higher than the national average. With an increased focus on pre-arrest and pre-adjudication diversion, Illinois experienced a drop in confinement, allowing them to close 3 state-run juvenile facilities and a detention center.

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Source: Justice Policy Institute. *Raise The Age: Shifting to a Safer and More Effective Juvenile Justice System*. Washington, D.C.: Justice Policy Institute; 2017. <http://www.justicepolicy.org/research/11239>.

programming, counties are able to provide healthier options to confinement and save taxpayers money.

The yearly costs of incarcerating teenagers in a juvenile facility are much higher than the costs of incarcerating them in the adult system. However, about 1/3 of juvenile cases never reach the juvenile justice system due to pre-adjudication diversion programs, and 75% of adjudicated youth are placed in community-based programs or remain in the home.<sup>37</sup> Youth who are referred to residential facilities serve an average of 1 year — 6 years less than the average placement in adult prison.<sup>37</sup>

Pre-adjudication diversion and community-based programming offered through the juvenile justice system cost a mere fraction of confinement costs — and as discussed previously in this report, they are also a more appropriate alternative for youth. Between 1997 and 2015, out-of-home placement rates in the State of Michigan decreased by 58%,<sup>84</sup> which indicates that more youth are currently placed in community-based programs. The trend in Michigan has followed a national trend to reduce the number of youth in correctional institutions by prioritizing space for those who commit the most serious offenses, and by reallocating some of the cost savings to evidence-based strategies to reduce recidivism.<sup>85</sup>

Since the adult system does not have as many options for pre-adjudication diversion as the juvenile courts,<sup>86</sup> raising the age would result in lower incarceration rates for 17-year-olds who have committed low-level offenses, such as retail fraud, minor in possession of alcohol, or misdemeanor property damage.<sup>36</sup> These cases would likely be diverted, thus decreasing court caseloads and eliminating associated fees.<sup>87</sup>

### Costs of Juvenile Facilities, Adult Facilities, and Community-Based Programming

Facility/Program for Confining Youth in Michigan	Cost per Year per Youth*
Juvenile Justice Facility	\$178,911
Adult Prison	\$40,100
County-Level Youth Assistance Program (community-based; \$1,672 per 6 months)	\$3,344

\* Adjusted for inflation to August 2017 dollars

Source: Hodges K, Martin L, Smith C, Cooper S. *Recidivism, Costs, and Psychosocial Outcomes for a Post-Arrest Juvenile Diversion Program*. J Offender Rehabil. 2011;50:447-465. doi:10.1080/10509674.2011.586106.

Case studies of states that have recently passed legislation to raise the age of court jurisdiction to 18 demonstrate that it can be cost effective. A cost-benefit analysis examining North Carolina’s Raise the Age campaign showed a net benefit of \$52.2 million per year in benefits to youth, victims, and taxpayers — and these benefits will reoccur on an annual basis. However, this analysis did not

include intangible benefits to youth, families, and communities, such as well-being and a reduction in stigma.<sup>88</sup> Quantifiable benefits included decreased criminal justice costs, harm reduction, and greater employment opportunities for youth.

Raising the age would have positive effects on the criminal justice system due to decreased recidivism rates and reduced MDOC caseloads. After implementing Raise the Age legislation, Massachusetts, Connecticut, and Illinois experienced a more precipitous drop in the percentage of violent and property crimes committed by juveniles than the rest of the nation.<sup>39</sup> Due to lower crime rates, law enforcement agencies would make fewer arrests and courts would have fewer cases to process. Additionally, adult jails and prisons would have lower overhead due to an increase in bed vacancies.<sup>88</sup>

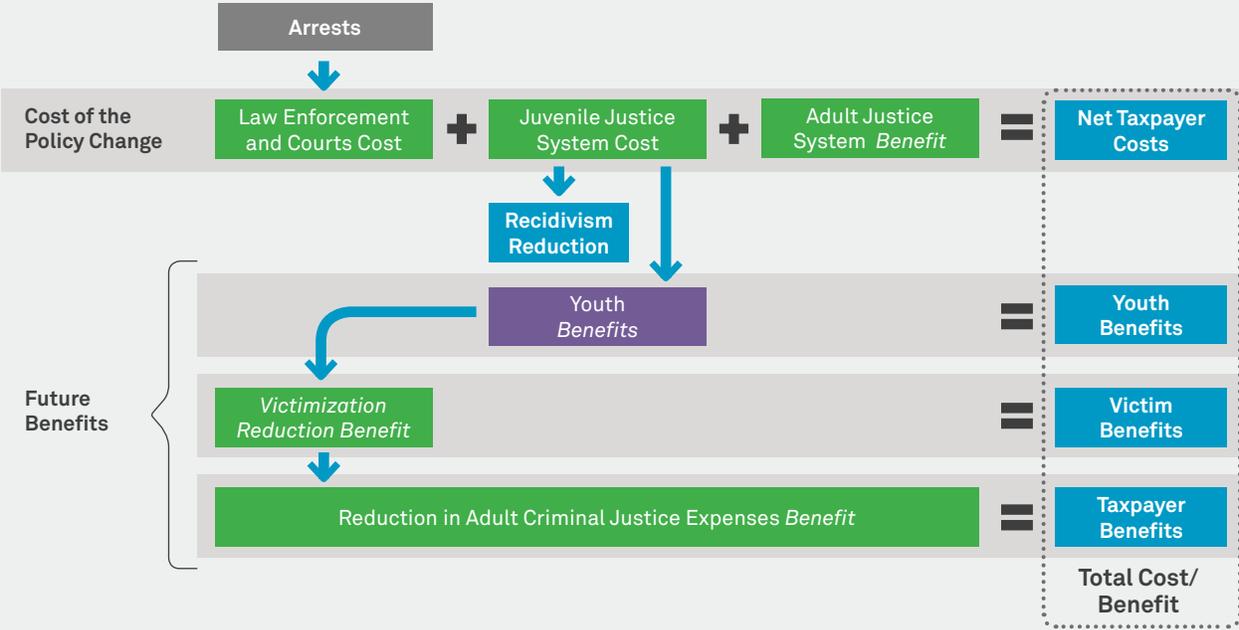
A reduction in recidivism also translates into lower rates of victimization. According to studies by the Vera Institute, the average cost of harm caused by felonies is \$4,000 and the average cost of harm caused by misdemeanors is \$500.<sup>88</sup> This cost estimate includes “medical expenses, cash losses, property theft or damage and lost earnings because of injury and other victimization-related consequences.”<sup>88 89</sup>

Finally, raising the age brings tangible benefits to youth by allowing them to seal their criminal records, increasing their ability to secure employment.<sup>88</sup> According to a study on the benefits of Raise the Age in the State of New York, “Youths who no longer have a criminal conviction will earn \$9,360 more a year and \$327,600 in additional earnings over a 35-year career between ages 20 and 65.”<sup>83</sup> This translates into an additional \$593 in tax revenue per year per teen.<sup>83</sup> In this context, without raising the age, Michigan is at a competitive disadvantage with respect to neighboring states. A 17-year-old just across state lines who committed the same actions as someone in Michigan would be able to pursue their future education and employment without an adult criminal record.

The difference in additional earnings also decreases the chances that a formerly incarcerated person will apply for and receive public support, such as Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, and Medicaid.<sup>90</sup> One study found that the government pays an additional \$790 annually in public benefits to unemployed individuals without a college degree.<sup>91</sup> Thus, by raising the age and eliminating barriers to employment, the State of Michigan would avoid the double costs of incarceration and public welfare and gain a larger tax base.<sup>92</sup>

When calculating the costs and benefits of Raise the Age, policymakers must also consider the intangible benefits to youth, victims, and taxpayers, such as less social stigma, longer lives, and stronger and safer communities.

Figure 1. Diagram of the Cost-Benefit Model



Source: Henrichson C, Levshin V. *Cost-Benefit Analysis of Raising the Age of Juvenile Jurisdiction in North Carolina*. New York: Vera Institute of Justice; 2011.

# Recommendations

Michigan's young people — even those who have made mistakes — deserve attention and treatment, not incarceration. All Michigan residents will benefit from better public safety and long-term cost savings when Michigan raises the age of juvenile court jurisdiction from 17 to 18 years old. Raising the age is common sense and is crucial for the health and safety of all Michigan residents, particularly Michigan youth.

**Based on this analysis, we recommend the following strategies to protect the health of kids and communities in the State of Michigan:**

- 1. Raise the age of juvenile court jurisdiction from 17 to 18 years old, in line with state and national standards.**
- 2. Remove all 17-year-olds who are currently in adult prisons and instead direct them to juvenile facilities or community-based programs.**
- 3. Ensure adequate funding for Michigan's juvenile courts to successfully implement Raise the Age while effectively serving all youth.**
  - Michigan must secure adequate funding to reflect youth needs for age-appropriate services, and to ensure that the juvenile courts have the staff capacity to absorb the additional population of youth
- 4. Prioritize diversion and community-based programs when possible. This would achieve the following:**
  - Allow some youth to stay with their families and communities during treatment
  - Avoid needless justice-system involvement for youth who are being treated for minor and/or nonviolent infractions
  - Reduce costs to taxpayers and make raising the age financially feasible
- 5. Collect better data on youth in the adult system. Michigan state agencies should collect data on youth in MDOC, including the following:**
  - Number of youth who are prosecuted, convicted, and incarcerated as adults
  - Recidivism rates
  - Educational attainment
  - Health status
  - Sexual orientation and gender identity

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