



The Adolescent & Young Adult Brain and Delinquency

❌ FICTION

Adolescents and young adults should be treated the same as adults re: culpability and rehabilitation when they commit criminal offenses.

✅ FACTS

It is **settled constitutional law** that children are less culpable than adults for the purpose of sentencing because of their developmental differences and heightened capacity for rehabilitation.

See e.g., Roper v. Simmons, 543 U.S. 551, 567 (2005)[1]

Adolescents' risk assessment, decision-making capacities, and future orientation **differ from those of adults in ways that are particularly relevant to criminal conduct.**[2]

RECENT NEUROSCIENCE RESEARCH

Maturation of brain structure, brain function, and brain connectivity continues throughout the early twenties. This ongoing brain development has profound implications for decision-making, self-control and emotional processing.[3]

- During emotionally charged situations, late adolescents (18–21) respond more like younger adolescents (13–17) than like young adults (22–25) due to differences in brain maturation.
- Compared to young adults above age 21, late adolescents (18–21) also take more risks and engage in more sensation-seeking behavior.
- Due to differences in brain development, late adolescents are more likely than young adults to respond to immediate outcomes and are less likely to delay gratification.

These developmental differences in behavior have direct implications for legal decision-making, including waiving Miranda rights, susceptibility to false confessions, and making ill-advised trial decisions (e.g., plea decisions).[4]

The Ceiling: Raising The Age Beyond 18

Several states are considering extending the upper age limits of juvenile court jurisdiction beyond age 18 to include emerging adults or young people through their early 20s.[5]

The Floor: Raising The Minimum Age of Juvenile Prosecution:

Twenty-three states have set a minimum age at which youth and young adults can be processed through juvenile courts.[6]



Children's Code Reform Task Force

Undertaking Thoughtful Reform

Legislative Resource

One-Page Info Sheet
(Both sides)

FOOTNOTES

[1] BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER; THE CENTER FOR LAW, BRAIN AND BEHAVIOR; THE SENTENCING PROJECT; AND THE CHILDREN'S POLICY AND LAW INITIATIVE OF INDIANA ON BEHALF OF APPELLANT, *Kedrowitz v. Indiana*, p. 7 (2023)

<https://www.sentencingproject.org/app/uploads/2023/03/2023.3.13-Amicus-Brief-STAMPED-RECEIVED.pdf>

[2] *Id.*, p.10

[3] *White Paper on the Science of Late Adolescence, A Guide for Judges, Attorneys and Policy Makers*, p.2 (2022)

<https://clbb.mgh.harvard.edu/wp-content/uploads/CLBB-White-Paper-on-the-Science-of-Late-Adolescence-3.pdf>

[4] *Id.*

[5] As of 2021, three states, **Vermont**, **Michigan** and **New York**, have raised the age of maximum juvenile court jurisdiction to 18, meaning that a young adult can remain under the purview of juvenile courts until they turn 19. **Vermont's** Act 201 of 2020 allows for further age expansions of juvenile court jurisdiction to include 19 year olds in 2022. See, *Age Boundaries in Juvenile Justice Systems* (2021)

<https://www.nga.org/publications/age-boundaries-in-juvenile-justice-systems/>

[6] *Id.*

ADDITIONAL RESOURCES

1. *Roper v. Simmons*, 543 U.S. 551 (2005)

<https://tile.loc.gov/storage-services/service/ll/usrep/usrep543/usrep543551/usrep543551.pdf>

2. *Understanding the Adolescent Brain and Legal Culpability*, (2015)

https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/august-2015/understanding-the-adolescent-brain-and-legal-culpability/

3. *Adolescent Brain Development and Youth Justice*, (2023)

<https://www.ncsl.org/civil-and-criminal-justice/adolescent-brain-development-and-youth-justice>

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