No. 03-633

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**IN THE SUPREME COURT OF THE UNITED STATES**

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DONALD ROPER, Superintendent, Potosi Correctional Center,
*Petitioner*

v.

CHRISTOPHER SIMMONS,
*Respondent*

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ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSOURI

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**Brief of Juvenile Law Center, Children and Family Justice Center, Center on Children and Families, Child Welfare League of America, Children's Defense Fund, Children's Law Center of Los Angeles, National Association of Counsel for Children, and 45 other organizations, as *AMICI CURIAE* In Support of Respondent**

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## INTEREST OF *AMICI*[1]

The organizations submitting this brief work with, and on behalf of, adolescents in a variety of settings, from day care to foster care, substance abuse to homelessness, and at every stage of the juvenile and criminal justice process. *Amici* are advocates and researchers who bring a unique perspective and a wealth of experience in providing for the care, treatment, and rehabilitation of youth in the child welfare and juvenile justice systems. *Amici* know from first hand experience that youth who enter these systems need extra protection and special care, clearly necessitated by their status as youth. *Amici* also know from their collective experience that adolescent immaturity often manifests itself in numerous ways that implicate culpability, including diminished ability to assess risks, make good decisions, and control impulses. It is precisely for these reasons that *Amici* believe that the status of childhood and adolescence separates youth from adults in categorical and distinct ways and that, while youth should be held accountable, with respect to capital punishment, youth cannot be held to the same standards of blameworthiness and culpability as their adult counterparts.

## IDENTITY OF *AMICI*

See Appendix "A" for a list and brief description of all *Amici.*

## STATEMENT OF FACTS

*Amici* adopt the statement of facts as articulated in the brief of Respondent Christopher Simmons.

[1] *Amici* file this brief with the consent of all parties. Letters of consent have been lodged with the Clerk of Court. No counsel for a party authored this brief in whole or in part. No person or entity, other than *Amici*, their members, or their counsel made a monetary contribution for the preparation or submission of this brief.

## SUMMARY OF ARGUMENT

In *Atkins v. Virginia*, 536 U.S. 304 (2002), this Court ruled that subjecting mentally retarded individuals to the death penalty constitutes cruel and unusual punishment in violation of the Eighth Amendment. Citing developments in the law and social science that reflected a new national consensus regarding execution of the mentally retarded, the Court overruled its decision in *Penry v. Lynaugh*, 492 U.S. 302 (1989), that had upheld application of the death penalty to this group of individuals. A similar challenge confronts the Court in this case, with respect to the execution of youth who commit their crimes at age 16 or 17. The Court ruled in *Stanford v. Kentucky*, 492 U.S. 361 (1989) that such executions did not violate the Eighth Amendment. But legislative developments and an emerging powerful body of empirical research over the past fifteen years have eroded the foundation of *Stanford* and compel the conclusion that, under evolving standards of decency, the execution of such persons amounts to cruel and unusual punishment. In particular, such executions no longer serve the accepted purposes of capital punishment, retribution, and deterrence.

In addition to the clear legislative trend eliminating capital punishment for 16 and 17 year olds altogether and the reluctance of juries to sentence youth[2] to death (which are documented in the Respondent's brief and were central to *Atkins*), the well-entrenched practice in this country of circumscribing the rights and responsibilities of youth in all walks of life – from service in the armed forces and voting, to obtaining a driver's or marriage license – has been further extended since *Stanford*. State legislatures have passed new laws to limit minor's participation in activities freely open to adults, and this Court has broadened its own jurisprudence accommodating long-held views about the differences between youth and adults under the law. Premised on the diminished judgment of youth, these legal developments evidence a national determination that 16 and 17 year olds should be considered less culpable for their criminal acts than adults – a determination that undermines the retributive purpose of capital punishment.

Moreover, as in *Atkins*, the legislative trend to eliminate the

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[2] In this brief, *Amici* use the terms youth, minor, adolescent, and juvenile interchangeably to refer to those individuals under the age of 18, unless otherwise specified.

death penalty since *Stanford* is all the more compelling in light of the passage of anti-crime legislation targeting youth in almost every state during this same time period. *Amici* argue that the legislative trend with respect to the juvenile death penalty is even more persuasive, given the unmatched phenomenon involving youth – the now-discredited "super-predator" myth, intended to demonize today's youthful offenders as qualitatively different than earlier offenders -- which fueled this wave of transfer laws. Importantly, however, these statutes were primarily offense-, rather than offender-based, reflecting a legislative response to increased fears about public safety and frustration with the limited jurisdiction of the juvenile court. In the absence of any simultaneous attempts in the states to lower the age for juvenile court jurisdiction, there is no evidence that these transfer laws reflect new legislative views about the maturity or culpability of these youthful offenders, for the purposes of Eighth Amendment analysis.

These legal trends also have been complemented by an emerging body of social science research attesting to developmental differences between adolescents and adults that undermines the deterrent rationale of capital punishment. This path-breaking scholarship shows that 16 and 17 year olds are more likely than adults to engage in risky behavior; are more likely to consider only the immediate effects of their acts rather than the long-term consequences; and are far more susceptible to being overcome by peer pressure than adults, both in terms of how they evaluate their own behavior and in conforming their conduct to what peers are doing. And it shows that because they live in the moment, 16 and 17 year olds feel that they have less of a stake in the future. All told, this recent research confirms that 16 and 17 year olds as a class are less capable of controlling their impulses than adults, and thus are less likely than adults to be deterred from committing capital crimes by the prospect of execution.

On a separate but equally important front, social science research has recently demonstrated the special vulnerability of 16 and 17 year olds to confess to crimes that they did not commit. This research mirrors studies showing that the particular deficits of the mentally retarded make them likewise prone to giving false confessions – studies that informed the Court's decision in *Atkins*. The same potential for wrongful executions of adolescents compels their exclusion from eligibility for the death penalty.

## ARGUMENT

The Eighth Amendment's prohibition on cruel and unusual punishment forbids the imposition of penalties that are disproportionate to the offense. *Atkins*, 536 U.S. at 311. A penalty is constitutionally disproportionate if it is out of step with contemporary societal values, "the clearest and most reliable objective evidence [of which] is the legislation enacted by the country's legislatures." *Id*. at 312 (internal quotations omitted). As set forth in the Respondent's brief, the years since *Stanford* have seen a marked trend in the nation's legislatures toward a categorical ban on the application of the death penalty to persons who were 16 or 17 years old at the time of their offense. Death penalty legislation is not, however, the only set of laws relevant to assessing whether executing such persons is constitutionally disproportionate. In *Stanford*, a majority of the Court determined that this assessment should also be informed by the widespread pattern of statutes nationwide that curtail the rights and responsibilities of youth in countless facets of daily life. *Stanford*, 492 U.S. at 382 (O'Connor, J., concurring); *id*. at 394-96 (Brennan, Marshall, Blackmun, and Stevens, JJ., dissenting). *See also Thompson v. Oklahoma*, 487 U.S. 815, 854 (1988) (O'Connor, J., concurring) ("The special qualitative characteristics of juveniles that justify legislatures in treating them differently from adults for many other purposes are also relevant to the Eighth Amendment proportionality analysis."). Since *Stanford*, numerous laws have been passed to prohibit or limit 16 and 17 year olds from engaging in a wide range of constitutionally protected and other activities freely engaged in by persons 18 and older.

In addition to examining objective evidence of contemporary values, as reflected in the enactments of legislatures, this Court has said that it must bring its own reasoned judgment to bear on whether a particular form of punishment is constitutionally disproportionate. *Atkins*, 536 U.S. at 313. In exercising that judgment in *Atkins*, the Court turned to social science research and concluded that the evidence showed that the retributive and deterrent purposes of capital punishment would not be served by executing mentally retarded individuals. *Id*. at 318-21. The same is true with respect to adolescents. Landmark social science research now reveals that 16 and 17 year olds are less capable of controlling

their behavior than adults and may be more likely than adults to confess to crimes that they did not commit -- empirical evidence that greatly diminishes the supposed retributive and deterrent purposes of executing 16 and 17 year olds.

## I. LEGAL RESTRICTIONS ON THE RIGHTS AND RESPONSIBILITIES OF YOUTH DEMONSTRATE THAT THE EXECUTION OF MINORS UNDER THE AGE OF EIGHTEEN AT THE TIME OF THE OFFENSE FAILS TO SERVE ANY RETRIBUTIVE PURPOSE UNDER THE EIGHTH AMENDMENT

### A. Since *Stanford*, Increased Legislative Restrictions on Youth's Participation in Activities Open to Adults Evidence a Consensus about the Incapacities and Impairments of Youth That Make Them Less Culpable for the Purposes of Eighth Amendment Proportionality Analysis

The American legal tradition has consistently acknowledged that "there *are* differences which must be accommodated in determining the rights and duties of children as compared with those of adults." *Goss v. Lopez*, 419 U.S. 565, 590-91 (1975) (Powell, J. dissenting) (emphasis in original). To that end, federal and state legislatures have long "accommodated" these differences through laws distinguishing adolescents from adults by limiting the "rights and duties" of adolescents. These laws reflect basic assumptions that our society makes "about children as a class; we assume that they do not yet act as adults do, and thus we act in their interest by restricting certain choices that we feel they are not yet ready to make with full benefit of the costs and benefits attending such decisions." *Thompson*, 487 U.S. at 825 n.23. Notably, for most civil purposes, no state sets the age of majority below 18, and Alabama, Nebraska, Mississippi, and Pennsylvania set it at age 19 or older.[3] This is a powerful reminder that, as a nation, we treat 16 and 17 year olds differently than we treat 18

[3] Alabama, ALA. CODE § 26-1-1 (age 19); Mississippi, MISS. CODE. ANN. § 1-3-27 (age 21); Nebraska, NEB. REV. STAT. § 43-2101 (age 19); Pennsylvania, 1 PA. CONS. STAT. ANN. § 1991 (age 21).

year olds, in virtually all respects – from the exercise of fundamental constitutional rights such as voting and reproductive choice, to participation in more mundane activities, such as smoking cigarettes, drinking alcohol, driving a car, and even patronizing a tanning salon or tattoo parlor.

In *Stanford* and *Thompson*, a majority of the Court held that state laws distinguishing youth from adults in realms outside of the death penalty *are* relevant to determining whether the death penalty is excessive or disproportionate when applied to juveniles. *Stanford*, 492 U.S. at 382 (O'Connor, J., concurring in judgment); *id*. at 394-95 (Brennan, Marshall, Blackmun and Stevens, JJ., dissenting); *Thompson*, 487 U.S. at 823-25 (1988) (plurality opinion); *id.* at 854 (O'Connor, J., concurring in judgment).

Since *Stanford*, it appears that no legislature has eased age-based statutes imposing restrictions on adolescents. In fact, many states have either adopted new restrictions on adolescent activities (that present new risks to vulnerable youth) or increased existing limitations. For example, the recent growth in tanning salons and body piercing outlets, and the increased popularity of tattoos to adolescents have all led to new or amended legislation imposing age-based limits on access to these activities and services.[4] Similarly, a substantial number of states have imposed new restrictions on minors' driving or their eligibility for drivers' licenses.[5] Finally, many states have amended their tobacco

[4] Of the 33 states with laws regulating minors' ability to obtain body piercing services, at least 30 states passed their laws since 1989, with at least 19 states passing those laws within the past five years (1999-2004). *See* Appendix B. Of the 42 states that have age-based tattoo laws, at least 24 states passed their age-based tattoo restrictions since 1989, with at least seven states passing age-based tattoo restrictions in the past five years (1999-2004). *See* Appendix B. Of the 16 states that prohibit youth under age of 18 from tanning without parental consent, 15 states passed their tanning legislation since *Stanford* was argued. *See* Appendix B. At least two additional states (California and Pennsylvania) have proposed age-based tanning legislation this year. California, A.B. 2193, 2004 Leg., Reg. Sess. (Ca. 2004) (would prohibit youth under age 18 from tanning except on prescription by a physician); Pennsylvania, H.B. 109, 2004 Leg., Reg. Sess. (Pa. 2004) (would add requirement that youth under age 18 obtain parental consent for tanning).

[5] *See, e.g.*, Arkansas, ARK. CODE. ANN. § 27-16-604, effective July 1, 2002 (increased license age from 16 to 18); Colorado, COLO. REV. STAT. § 42-2-104, effective July 1, 1999 (increased requirements for driver's license and restricted hours youth under 18 may drive); Louisiana, LA. REV. STAT. ANN. § 32:405.1, effective July 1, 1993 (increased license age from 15 to 16); Mississippi, MISS. CODE ANN. § 63-1-9, effective September 1, 1995 (purpose of amendment to

legislation, either raising the age requirement for purchase, adding or increasing penalties for minors who possess or purchase tobacco, adding or increasing penalties for retailers who sell tobacco to minors, or limiting the availability of tobacco vending machines.[6] Areas of legislation not before the Court in *Stanford* but before the Court today include state age-based restrictions on abortion, body piercing, tobacco, firearms, employment hours, pawning property, artificial tanning, tattoos, and wills. In addition, before the Court today are areas of age-based legislation that states have made more stringent since *Stanford*, such as states' drivers' licensing requirements for youth under age 18. *See State Age Requirements for Various Activities, posted on Juvenile Law Center's website at www.jlc.org/agerequirements. (For the Court's reference, the website listing is reproduced at Appendix B.)*

*Rights and Responsibilities of Citizenship:*

- Jury Duty: In all 50 states and the District of Columbia no one under the age of 18 can serve on a jury.[7] Two jurisdictions require jurors to be 19; two others require jurors to be 21.
- Military service: Federal law does not allow youth under the age of 18 to enlist in the Regular Army, Regular Marine Corps, or Regular Coast Guard without written parental

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increase age for driver's license from 15 to 16 years); and New Jersey, N.J. STAT. ANN. § 39:3-10, effective January 1, 2001 (increased age for driver's license from17 to 18 years).

[6] *See, e.g.*, Colorado, COLO. REV. STAT. ANN. § 18-13-121, effective April 19, 1991 (increased penalties for retailers who furnish tobacco to youth under age 18 and for youth under 18 who purchase tobacco, and limited access of youth under 18 to cigarette vending machines); North Carolina, N.C. GEN. STAT. § 14-313, effective October 1, 1991 (increases age for sale of tobacco from 17 to 18 years); Pennsylvania, 18 PA. CONS. STAT. ANN.§ 6305, effective February 14, 1990 (increased age for sale or furnishing of tobacco from 16 to 18 years); and Virginia, VA. CODE ANN. § 18.2-371.2, approved March 25, 1991 (increased age for purchase or possession of tobacco from 16 to 18 years).

[7] Mississippi and Missouri prohibit jury service for youth under the age of 21 and Alabama and Nebraska prohibit youth under the age of 19 from serving on a jury. Alabama, ALA. CODE § 12-16-60; Mississippi, MISS. CODE ANN. § 13-5-1; Missouri, MO. ANN. STAT. § 494.425; and Nebraska, NEB. REV. STAT. § 25-1601.

consent.[8] Youth under eighteen may not be drafted.[9]

- Voting: The twenty-sixth amendment to the Constitution sets eighteen as the age at which citizens may vote; all state legislatures have followed suit for state and local elections.

*Constitutionally protected activities*:

- Abortion/reproductive rights: In 39 states, an unemancipated minor under age 18 needs either parental consent or judicial permission to obtain an abortion.
- Marriage In 36 states and the District of Columbia, youth under age 18 may not marry without parental consent.
- Access to pornography: 47 states either absolutely prohibit the sale or delivery of material that is obscene or harmful to minors to youth under the age of 18, or only allow sale or delivery if a youth's parent consents. Alabama prohibits the delivery of material harmful to minors to youth under the age of 19.[10]
- Curfew: Four out of five U.S. cities with a population of more than 30,000 were found in 1995 to have a nighttime youth curfew. The most common upper age limit is 18.[11]

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[8] 10 U.S.C.A. § 505.

[9] 50 APP. U.S.C.A. § 454. The ban on military service is particularly instructive. As Congress noted, *inter alia*, in a resolution urging the United States to support an international ban on the use of child soldiers,

> (3) children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand; Department of Defense Appropriations Act, 1999, Pub. L. No. 105-262, § 8128, 112 Stat. 2279 (1998).

It is surely ironic to acknowledge, implicitly or explicitly, that youth are too immature to be charged with the responsibility to exercise judgment in violent, life-threatening situations in combat, where much of their behavior would be directed by adults superior to them, yet ascribe such maturity to minors in a non-combat situation where there are making decisions on their own or in the company of other youth.

[10] Alabama, ALA. CODE § 13A-12-200.5.

[11] U.S. Conference of Mayors, *A Status Report on Youth Curfews in America's Cities: A 347-City Survey* 1 (1997) (www.usmayors.org/uscm/news/publications/curfew.htm. *See also* Deidre E. Norton, *Why Criminalize Children? Looking Beyond the Express Policies Driving Juvenile Curfew Legislation*, 4 N.Y.U. J. LEGIS. & PUB. POL'Y 175, 177 & n. 10

- Foreign travel: Juveniles under the age of eighteen cannot obtain a passport for foreign travel if the custodial parent objects.

*Other activities*:

- Wills: In all 50 states and the District of Columbia, youth under the age of 18 cannot make a valid will.[12]
- Contracts: In all 50 states and the District of Columbia, the contract rights of youth under age 18 are restricted and/or infancy is a defense to the enforcement of a simple contract.
- Gambling: 47 states and the District of Columbia prohibit youth under the age of 18 from participating in lotteries, bingo games and/or pari-mutuel betting. Seven states (Arizona, Iowa, and Louisiana, Mississippi, Nevada, Texas and Washington) prohibit youth under the age of 21 from some forms of gambling.[13] Three states (Alabama, Alaska, and Nebraska) prohibit youth under the age of 19 from some forms of gambling.[14]
- Driving: In 42 states and the District of Columbia, a youth

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(2000-2001) (citing William Ruefle & Kenneth Mike Reynolds, *Curfews and Delinquency in Major American Cities*, 41 CRIME & DELINQ. 347, 353 (1995) (estimating that almost 90% of the most populous cities in the U.S. impose teen curfews)).

[12] Seven states (Iowa , Kansas, Missouri, New Hampshire, Oregon, South Carolina, and Texas) allow married youth under the age of 18 to draw up wills. Iowa, IOWA CODE ANN. §§ 633.264, .3; Kansas, KAN. STAT. ANN. §§ 59-601, 38-101; Missouri, MO. ANN. STAT. § 474.310; New Hampshire, N.H. REV. STAT. ANN. § 551:1; Oregon, OR. REV. STAT. § 112.225; South Carolina, S.C. CODE ANN. §§ 62-2-501, 62-1-201; and Texas, TEX. PROB. CODE ANN. § 57. A similar exception for youth in the military exists in three states (Missouri, Indiana, and Texas), and for emancipated youth in four states (Idaho, Missouri, South Carolina, and Virginia.) Idaho, IDAHO CODE § 15-2-501; Indiana, IND. CODE § 29-1-5-1; Missouri, MO. ANN. STAT. § 474.310; South Carolina, S.C. CODE ANN. §§ 62-2-501, 62-1-201; Virginia, VA. CODE ANN. § 64.1-47; and Texas, TEX. PROB. CODE ANN. § 57.

[13] Arizona, ARIZ. REV. STAT. ANN. § § 5-512, -115; Iowa, IOWA CODE ANN. § § 99D.1, 99G.30; Louisiana, LA. REV. STAT. ANN. § 47:9025; Mississippi, MISS. CODE ANN. § 75-76-155; Nevada, NEV. REV. STAT. 463.350; Texas, TEX. REV. CIV. STAT. ANN. art. 179e; and Washington, WASH. REV. CODE ANN. § 67.16.350.

[14] Alabama, ALA. CONST. amends. 386, 387 (applies to named counties only), ALA. CODE § 11-65-44; Alaska, ALASKA STAT. § 05.15.180; and Nebraska, NEB. REV. STAT. 2-1207.

must be 18 years of age or older to be issued a driver's license free of restrictions or prerequisites. Virginia issues unrestricted driver's licenses only to persons 19 or older and the District of Columbia issues unrestricted driver's licenses only to persons 21 or older.[15]

- Alcohol: All 50 states and the District of Columbia set 21 as the legal age for purchasing alcohol.
- Tobacco: All 50 states and the District of Columbia prohibit either the possession or purchase of cigarettes by youth under the age of 18. Alabama, Alaska, and Utah prohibit either the possession or purchase of cigarettes by youth under the age of 19.[16]
- Tattoos: 42 states either absolutely prohibit youth under the age of 18 from obtaining a tattoo, or only allow a youth to obtain a tattoo if a parent consents. Illinois prohibits tattooing of youth under the age of 21. Illinois prohibits tattooing of youth under the age of 21.[17]
- Body piercing: In 33 states, minors under the age of 18 are either absolutely prohibited from getting body piercings or are only allowed to obtain such if a parent consents.
- Pawn shops: In 37 states, youth under the age of 18 are prohibited from engaging in transactions with pawnbrokers. Alabama prohibits youth under the age of 19 from engaging in transactions with pawnbrokers.[18]
- Firearms: Under Federal law, youth under the age of 18 cannot possess a handgun or handgun ammunition. Neither can any federally licensed importer, manufacturer, dealer, or collector sell or deliver any firearm to a juvenile under the age of 18 or any firearm, other than a shotgun or rifle, to any person under the age of 21. 46 states and the District of Columbia restrict the sale or delivery of certain firearms to youth under the age of 18 and/or prohibit the possession of certain firearms by youth under the age of 18.
- Tanning salons: 16 states prohibit youth under the age of 18 from using artificial sun tanning facilities without written

[15] District of Columbia, D.C. CODE ANN. § 50-1401.01; and Virginia, VA. CODE ANN. § 46.2-334.01.

[16] Alabama, ALA. CODE §§ 13A-12-3, 28-11-13; Alaska, ALASKA STAT. §§ 11.76.100, .105; and UTAH CODE ANN. §§ 76-10-104 to -105.

[17] Illinois, 720 ILL. COMP. STAT. 5/12-10.

[18] Alabama, ALA. CODE § 5-19A.

parental consent.

As expanded since *Stanford*, the breadth and depth of these legislative judgments about the immaturity of youth under 18, from their inability to pawn property to their inability to enlist in the military without parental consent, reflect a view of youth's limited decision-making capacity that spans virtually all aspects of life. To exempt capital punishment, which imposes the harshest penalty of all – death -- from society's protection of adolescents from the mistakes of youth in virtually all other arenas, be they weighty or trivial, is illogical at best. As explained in the plurality opinion in *Thompson*:

> It would be ironic if these assumptions that we so readily make about children as a class – about their inherent difference from adults in their capacity as agents, as choosers, as shapers of their own lives – were suddenly unavailable in determining whether it is cruel and unusual to treat children the same as adults for the purposes of inflicting capital punishment. ... [T]he very assumptions we make about our children when we legislate on their behalf tells us that it is likely cruel, and certainly unusual, to impose on a child a punishment that takes as its predicate the existence of a fully rational, choosing agent, who may be deterred by the harshest of sanctions and toward whom society may legitimately take a retributive stance.

*Thompson*, 487 U.S. at 825 n. 23.

The *Stanford* plurality's unwillingness to accord the legislative consensus about the rights and responsibilities of those under 18 any relevance to the constitutionality of executing minors[19] aged 16 and 17 incorrectly conflated the maturity to know

[19] The *Stanford* plurality's argument that state statutes that limit youth autonomy in various non-criminal domains, even those that implicate constitutionally-protected activity, have "no relevance" to the Eighth Amendment inquiry, *see Stanford*, 492 U.S. at 374 (plurality opinion), is inconsistent with a long line of cases in which the Court has looked to unrelated legislation to uphold state statutes restricting youth autonomy in constitutionally-protected activities. *See, e.g.*,

right from wrong with the maturity to be held as blameworthy as adults when youth make a plainly wrong decision. The *Stanford* plurality termed it "absurd to think that one must be mature enough to drive carefully, to drink responsibly, or to vote intelligently, in order to be mature enough to understand that murdering another human being is profoundly wrong...." *Stanford, 492 U.S.* at 374. But as the Court unequivocally held in *Atkins* with reference to the mentally retarded, the ability of a class of persons to know right from wrong is *not* the test for determining whether the imposition of the death penalty on that class of persons is constitutional:

> Mentally retarded persons frequently know the difference between right and wrong and are competent to stand trial. Because of their mental impairments, however, by definition they have diminished capacities to understand and process information, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others...Their deficiencies do not warrant an exemption from criminal sanctions, *but they do diminish their criminal culpability.*

*Atkins*, 536 U.S. at 318 (emphasis added) (footnote omitted).

More importantly, this entrenched legislative acceptance that adolescents are functionally limited in areas relevant to judgment and mature decision-making is indistinguishable from the Court's most recent observations about the mentally retarded. In *Atkins*, the Court's recognition that the "diminished capacities" of the mentally retarded also diminished their culpability was critical to its ruling that the execution of the mentally retarded is unconstitutional. *Id*. at 318. Youth under 18 are identical to the mentally retarded for the purposes of this Eighth Amendment

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*Hodgson v. Minnesota*, 497 U.S. 417, 444-445 (1990) ("The state has a strong and legitimate interest in the welfare of its young citizens, whose immaturity, inexperience and lack of judgment may sometimes impair their ability to exercise their rights wisely.... That interest, which justifies state-imposed requirements that a minor obtain his or her parent's consent before undergoing an operation, marrying, or entering military service..., extends also to the minor's decision to terminate her pregnancy.") (citations omitted).

analysis. *Id.* at 319-320.[20]

### B. Supreme Court jurisprudence recognizing the differences between adolescents and adults supports the proposition that adolescents are less culpable than adults for purposes of Eighth Amendment proportionality analysis

That minors are "different" is a principle that permeates our law. As Justice Frankfurter so aptly articulated, "[C]hildren have a very special place in life which law should reflect. Legal theories and their phrasing in other cases readily lead to fallacious reasoning if uncritically transferred to determination of a State's duty towards children." *May v. Anderson*, 345 U.S. 528, 536 (1953) (Frankfurter, J., concurring). Accordingly, for the last sixty years, this Court has consistently considered the developmental and social differences of youth in measuring the scope and breadth of minors' constitutional rights. This trend has continued unabated in the fifteen years since *Stanford* was decided.

For example, this Court has repeatedly noted that minors and adults are different for the purpose of determining the voluntariness of juvenile confessions during custodial interrogation. Thus, the Court has recognized that minors are generally less mature than adults and, therefore, are more vulnerable to coercive interrogation tactics. As the Court admonished in *Haley v. Ohio*, 332 U.S. 596 (1948), a teenager

> *cannot be judged by the more exacting standards of maturity*. That which would leave a man cold and unimpressed can overawe and overwhelm a lad… [W]e cannot believe that a lad of tender years is a

[20] These legislative and judicial boundaries delineating the more limited rights and responsibilities of youth under 18 reflect, and are drawn from, the large and growing body of scientific research outlining the psychological, neurological, cognitive, social and emotional deficits of youth. This research is summarized in Part III, *infra*, and in in detail in briefs of *Amici* American Psychological Association *et al.*, and *Amici* American Medical Association et al., filed separately. This body of knowledge also forms the basis of a growing, multi-disciplinary consensus among scientific experts opposed to the juvenile death penalty, as reflected in the "Health Professionals' Call to Abolish the Execution of Juvenile Offenders in the United States," attached at Appendix C, as well as the policy statement of the American Academy of Pediatrics and the Society for Adolescent Medicine, attached at Appendix D.

> match for the police in such a contest. He needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, may not crush him.

332 U.S. at 599-600 (emphasis added).

The Court also has noted that minors generally lack critical knowledge and experience, and have a lesser capacity to understand, much less exercise, their rights when they are "made accessible only to the police." *Gallegos v. Colorado*, 370 U.S. 49, 54 (1962) (finding statement taken from a 14- year-old boy outside of his parent's presence to be involuntary). And in *In re Gault*, 387 U. S. 1, 55 (1967), where the Court extended many key constitutional rights to minors subject to delinquency proceedings in juvenile court, the Court reiterated its earlier concerns about youths' special vulnerability: "The greatest care must be taken to assure that [a minor's] confession was voluntary, in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair."

More recently, in this Court's *per curiam* decision in *Kaupp v. Texas*, 538 U.S. 626 (2003), where it held a 17-year-old's confession must be suppressed following an illegal arrest (absent undisclosed intervening evidence in the record) under the Fourth and Fourteenth Amendments, this Court applied earlier precedents in considering the defendant's status as a 17-year-old in its analysis:

> A *17-year-old boy* was awakened in his bedroom at three in the morning by at least three police officers, one of whom stated "we need to go and talk." .... [The boy's] 'Okay' in response to Pinkins's statement is no showing of consent under the circumstances. *Pinkins offered [the boy] no choice, and a group of police officers rousing an adolescent out of bed in the middle of the night with the words "we need to go and talk" presents no option but "to go."* There is no reason to think [the boy's] answer was anything more than "a mere submission to a claim of lawful authority."

538 U.S. at 631 (emphasis added) (citations omitted).[21]

This Court's protective stance toward youth in confession cases parallels its stance in other areas of criminal procedure. For example, the Court has emphasized the juvenile court's core principles of individualized rehabilitation and treatment, noting that youth, because they are still malleable and in development, are more amenable to such rehabilitative interventions than adults. *See McKeiver v Pennsylvania*, 403 U.S. 528, 540 (1971); *Gault*, 387 U.S. at 15-16.

Elsewhere in criminal procedure, the Court's recognition of the differences between youth and adults has led it to uphold practices directed at youth that it would not countenance if directed at adults. For instance, this Court has repeatedly held that the Fourth Amendment strictures may be relaxed when dealing with youth in public schools because youth as a class are in need of adult guidance and control. Accordingly, the Court has sustained the constitutionality of warrantless searches by school officials of students' belongings upon reasonable suspicion that a student has violated school rules or the law, *New Jersey v.T.L.O.*, 469 U.S. 325, 341-42 (1985). In the same vein, in two important post-*Stanford* decisions, the Court has upheld random, suspicionless drug testing of student athletes, *Vernonia Sch. Dist. v. Acton*, 515 U.S. 646, 664-65 (1995), and random, suspicionless drug testing of students engaged in extracurricular activities, *Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls*, 536 U.S. 822, 838 (2002).

To support these Fourth Amendment rulings, the Court has observed that "[t]raditionally at common law, and still today, unemancipated minors lack some of the most fundamental rights of self-determination – including even the right of liberty in its narrow sense, i.e., the right to come and go at will. They are subject, even as to their physical freedom, to the control of their parents or

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[21] *Yarborough v. Alvarado*, 124 S.Ct. 2140 (2004) is not to the contrary. There, the Court held only that youth was not a vital consideration when determining whether an individual is in custody for purposes of triggering *Miranda* warnings prior to interrogation. But *Alvarado* did not disturb this Court's prior precedents that youth is an important factor in assessing the voluntariness of a confession under the due process clause. Moreover, *Alvarado* reached the Court by way of a habeas petition; and pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), the Court, therefore, only analyzed whether the state court's interpretation of the law in *Alvarado* was reasonable, not whether it was correct. 124 S.Ct. at 2149.

guardians." *Vernonia*, 515 U.S. at 654 (citation omitted). This echoes the Court's earlier declaration in *Schall v. Martin*, 467 U.S. 253, 265 (1984), in explaining the rejection of a constitutional challenge to the preventive detention of juveniles charged with delinquent acts, that "*juveniles, unlike adults, are always in some form of custody. Children, by definition, are not assumed to have the capacity to care for themselves.* They are assumed to be subject to the control of their parents, and if parental control falters, the State must play its part as *parens patriae*..." (emphasis added) (citations omitted). *Cf. Vernonia*, 513 U.S. at 655 (when parents place their children in school they delegate custodial power to the latter, permitting the school a degree of supervision and control over their children that could not be exercised over free adults); *T.L.O.*, 469 U.S. at 339 (same).

The Court has endorsed constitutional distinctions between minors and adults outside the context of criminal procedure. In a series of cases involving state restrictions on minors' reproductive choices, the Court has said that "during the formative years of childhood and adolescence, *minors often lack the experience, perspective, and judgment to avoid choices that could be detrimental to them*," *Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (emphasis added), *as well as "the ability to make fully informed choices that take account of both immediate and long-range consequences.*" *Id.* at 640 (emphasis added); *see also Hodgson v. Minnesota*, 497 U.S. 417, 444 (1990) ("The State has a strong and legitimate interest in the welfare of its young citizens, whose *immaturity, inexperience, and lack of judgment* may sometimes impair their ability to exercise their rights wisely.") (emphasis added). For this reason, the Court has held that states may choose to require that minors consult with their parents before obtaining an abortion. *See Hodgson*, 497 U.S. at 458 (O'Connor, J., concurring in part) (the liberty interest of a minor deciding to bear a child can be limited by parental notice requirement, given that immature minors often lack ability to make fully informed decisions); *Bellotti*, 443 U.S. at 640 (because minors often lack capacity to make fully informed choices, the state may reasonably determine that parental consent is desirable).

The Court also has curtailed the liberty interests of minors in other settings. Particularly illustrative is *Parham v. J.R.*, 442 U.S. 584 (1979), where the Court rejected a constitutional challenge to Georgia's civil commitment scheme that authorized parents and

other third parties to involuntarily commit minors under the age of 18. In so doing, the Court stressed that "[m]ost children, *even in adolescence, simply are not able to make sound judgments concerning many decisions*...." *Id*. at 603 (emphasis added).

This Court has distinguished youth from adults under the First Amendment. In *Ashcroft v. American Civil Liberties Union*, 124 S.Ct. 2783 (2004), the Court was unanimous that protecting minors from harmful images on the Internet, due to their immaturity, is a compelling government interest. *Id.* at 2792; *id.* at 2801 (Breyer, J., dissenting).[22] And in *Ginsburg v. New York*, 390 U.S. 629, 637 (1968), the Court upheld a state statute restricting the sale of obscene material to minors. Such a restriction was permissible for youth, as compared to adults, because "*a child – like someone in a captive audience – is not possessed of that full capacity for individual choice* which is the presupposition of First Amendment guarantees." *Id.* at 649-50 (Stewart, J., concurring) (footnotes omitted) (emphasis added). *See also Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988) (holding that public school authorities may censor school-sponsored publications).[23]

These themes are echoed in the Court's post-*Stanford* public school prayer decisions. In holding that prayers delivered by clergy at public high school graduation ceremonies violate the Establishment Clause of the First Amendment, the Court in *Lee v. Weisman*, 505 U.S. 577 (1992), placed great emphasis on the "public pressure, as well as peer pressure," that such state-sanctioned religious practices impose on impressionable students.

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[22] The Court split only on whether the Child Online Protection Act used the least restrictive means, consistent with adults' First Amendment freedoms, for achieving that end. *Id.* at 2795; *id.* at 2797 (Stevens, J., concurring); *id.* at 2797 (Scalia, J., dissenting); *id.* at 2798 (Breyer, J., dissenting).

[23] Similarly, the Court has upheld a state's right to restrict when a minor can work, on the premise that "[t]he state's authority over children's activities is broader than over like actions of adults." *Prince v. Massachusetts*, 321 U.S. 158, 168 (1944). Although this Court has never ruled on the issue, lower courts also have upheld legislative restrictions on minors' liberty in the form of juvenile curfews. In upholding the constitutionality of juvenile curfews, courts have again relied on this Court's consistent refrain that minors' "immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely," *Qutb v. Strauss*, 11 F.3d 488, 492 (5th Cir. 1993) (quoting *Hodgson*, 497 U.S. at 444), and that juveniles lack the fundamental right in free movement. *Hutchins v. District of Columbia*, 188 F.3d 531, 538-39 (D.C. Cir. 1999) (en banc) (citing, *inter alia*, *Vernonia*, 515 U.S. at 654 and *Schall*, 467 U.S. at 265) and *Schleifer v. City of Charlottesville*, 159 F.3d 843, 847 (4th Cir. 1998) (citing, *inter alia*, *Vernonia*, 515 U.S. at 654).

*Id*. at 593. The Court admonished that "[f]inding no violation under these circumstances would place objectors in the dilemma of participating [in the prayer], with all that implies, or protesting." *Id*. Of particular relevance to this case, the Court stated it was not addressing whether the government could put citizens to such a choice when those "affected . . . are mature adults," rather than "primary and secondary school children," who are "often susceptible to pressure from their peers towards conformity . . . in matters of social convention." *Id*. Similarly, in *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000), the Court held that prayers authorized by a vote of the student body and delivered by a student prior to the start of public high school football games violated the Establishment Clause. The Court stressed "the immense social pressure" on students "to be involved in the extracurricular event that is American high school football." *Id*. at 311. As the Court described it, "the choice between attending these games and avoiding personally offensive religious rituals is in no practical sense an easy one," *id*. at 312, and, in the high school setting, "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id*. By contrast, the Court has upheld against an Establishment Clause challenge the delivery of prayers at the start of legislative sessions, where the audience that is present invariably is made up almost exclusively of adults. *Marsh v. Chambers*, 463 U.S. 783 (1983). *See Lee*, 505 U.S. at 597 (distinguishing between "atmosphere" at legislative sessions and public high schools).

In sum, in an unbroken line of decisions, involving a range of constitutional provisions, this Court has drawn firm distinctions between minors and adults, based on well-documented and universally accepted differences in their emotional, cognitive and developmental abilities in the critical realms of judgment and decision-making. The importance of these distinctions for purposes of the death penalty for juveniles is unmistakable. They signal the Court's

> endorse[ment of] the proposition that less culpability should attach to a crime committed by a juvenile to a comparable crime committed by an adult...The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not

as morally reprehensible as that of an adult.

*Thompson*, 487 U.S. at 835 (plurality opinion) (footnotes omitted).

These words, previously applied to youth under 16, today must be extended to embrace 16 and 17 year olds. Advances in science since *Stanford;* expanded legislative and judicial restrictions on youths' autonomy; and this Court's thoughtful analysis in *Atkins* articulating the legal consequences of the impairments of mental retardation, have stripped away any principled distinction between older and younger minors for the purposes of imposing the most severe penalty allowable under our system of law – a sentence of death.

## II. AS IN *ATKINS,* THE LEGISLATIVE TREND TO ABOLISH THE JUVENILE DEATH PENALTY IS A COMPELLING STATEMENT OF SOCIETY'S ATTITUDES TOWARD EXECUTING YOUTHFUL OFFENDERS, ESPECIALLY GIVEN THE WIDESPREAD ADOPTION OF LAWS ALLOWING JUVENILES TO BE TRIED IN ADULT COURT DURING THIS SAME TIME PERIOD

In *Atkins*, this Court noted that the trend in state statutes prohibiting the execution of the mentally retarded was particularly significant given that "anti-crime legislation...[has been] far more popular than legislation providing protections for persons guilty of violent crime..." *Atkins*, 536 U.S. at 315. The legislative trend since *Stanford* to eliminate the juvenile death penalty – eight more states have changed their laws to prohibit the execution of individuals for crimes committed when they were under the age of 18[24] – is equally remarkable. During this same time period, virtually all states passed laws to allow more juveniles to be tried in adult court. Patrick Griffin, National Center for Juvenile Justice and U.S. Department of Justice, *Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws* 12 (October 2003); Franklin E. Zimring, AMERICAN YOUTH VIOLENCE 13-14 (1998) [hereinafter Zimring, AMERICAN YOUTH VIOLENCE]. Yet, as discussed below, these juvenile transfer laws were motivated by concerns for public safety and the inability of juvenile courts to hold

[24] *See* Brief of Respondent

offenders accountable beyond the ages of 18-21[25] – not by legislative views on the maturity or blameworthiness of adolescent offenders. While states may have grown frustrated with the jurisdictional limits of the juvenile justice system, the juvenile death penalty gained *less*, not more, favor during this same period.

*Amici* further submit that the trend line of anti-juvenile death penalty legislation is even more persuasive than the parallel development noted in *Atkins*, in light of an "anti-crime" phenomenon that has no counterpart in the mental retardation arena – i.e., the concept of the juvenile "super-predator." Sociologists, criminologists and the media began using the term "super-predator" in the 1990s. *See, e.g.*, Note, Lara. A. Bazelon, *Exploding the Superpredator Myth: Why Infancy is the Preadolescent's Best Defense in Juvenile Court*, 75 N.Y.U. L. REV. 159, 177 (2000); William J. Bennett, John J. DiIulio, Jr., & John P. Walters, BODY COUNT: MORAL POVERTY -- AND HOW TO WIN AMERICA'S WAR AGAINST CRIME AND DRUGS 27 (1996).

A recurrent theme in the labeling of juveniles as super-predators was the erroneous[26] "belief that current young offenders . .

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[25] Juvenile court jurisdiction ends in almost all states between the ages of 18 and 21. While California extends jurisdiction to age 25, CAL. WELF. & INST. CODE § 607, and some states have experimented with "blended jurisdiction," *see, e.g,* Connecticut, CONN. GEN. STAT. § 46b-133c; Kansas, KAN. STAT. ANN. § 38-1636; and New Mexico, N.M. STAT. ANN. § 32A-2-20, the transfer laws of the 1990's were designed to incapacitate youth for longer periods of time than possible under juvenile court jurisdiction. *See, e.g.*, Martin L. Forst & Martha-Elin Blomquist, *Cracking Down on Juveniles: The Changing Ideology of Youth Corrections*, 5 NOTRE DAME L. J. ETHICS & PUB. POL'Y 323, 361 (1991) (noting that "the 'get-tough' approach [manifested in part by transfer provisions] is designed to incapacitate selected juvenile offenders for limited periods so that they are unable to victimize the community.")

[26] The "super-predator" concept caught the public imagination at a time immediately following sharp increases in the rate of violent offending by juveniles. Bazelon at 176-77; Philip J. Cook & John H. Laub, *After the Epidemic: Recent Trends in Youth Violence in the United States*, 29 CRIME & JUST. 1, 2-3 (2002). But just as the "super-predator" label was being touted, juvenile crime ironically began to decline. Lower rates of juvenile crime from 1994 to 2000, despite simultaneous increases in the juvenile population, led many who originally supported the "super-predator" theory to back away from their predictions. *See* David S. Tanenhaus & Steven A. Drizin, *"Owing to the Extreme Youth of the Accused": The Changing Legal Response to Juvenile Homicide*, 92 J. CRIM. L. & CRIMINOLOGY 641, 642-643 (2002); Cook & Laub at 2. It also led the Surgeon General of the United States to release a report in 2001 stating that there was "no evidence that the young people involved in crime during the peak years of the early 1990s were more frequent or more vicious offenders than youth in earlier

. [were] *qualitatively* different from young persons who had violated the law in previous times. It . . . [was] not only the number of crimes committed that...[had] increased but also the degree of viciousness displayed by the generation of serious offenders." Zimring, AMERICAN YOUTH VIOLENCE at 6. As a constant drum-beat intended to demonize youth, the later discredited "super-predator" mythology played "a dominant role in the ... public discourse and formulation of policy concerning juvenile crime." Bazelon at 165–167 & n.32, citing, *inter alia*, 2 Myron Moskovitz & Jane Grill, CRIMINAL LAW DEFENSES § 175(a) (Supp. 1999) (listing states that have amended transfer statutes to lower age at which juveniles may be waived into adult court), and David Firestone, *Arkansas Tempers a Law on Violence by Children*, N.Y. TIMES, April 11, 1999, at A20 (reporting that "over the last seven years, almost every state has made it easier for juveniles to be tried as adults") (other citations and footnotes omitted). *See also* U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin: *Challenging the Myths* (February 2000), at http://www.ncjrs.org/html/ojjdp/jjbul2000_02_2/contents.html.

Yet while the "super-predator" myth played a major role in the wave of legislation that today facilitates the prosecution of more youth as adults, *Amici* submit that this transfer legislation was motivated not by any emerging view about the maturity or blameworthiness of youthful offenders, but rather by public safety considerations and the desire for greater periods of incapacitation to promote public safety. As is evident from the text of the new laws, these legislative changes were offense-, rather than offender-based[27] – in other words, while state legislatures moved broadly to make particular serious offenses committed by youth under 18 eligible for prosecution and subject to the longer sentencing options in adult criminal court, no comparable trend to lower the maximum age of juvenile court jurisdiction to less than 18 emerged. This is of course consistent with the parallel legislative trend during this same period

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years." YOUTH VIOLENCE: A REPORT OF THE SURGEON GENERAL 5 (2001).

[27] Examples of offense (rather than offender) based transfer laws passed in the 1990's can be found in Arizona, ARIZ. CONST., art. 4, part 2 § 22 (added in 1996 to exclude violent felonies from juvenile court jurisdiction); Indiana, IND. CODE § 31-30-1-4 (amended in 1997 to remove certain felonies from the jurisdiction of juvenile court); and Massachusetts, MASS. GEN. LAWS. Ch. 119 § 74 (amended in 1996 to exclude murder from jurisdiction of juvenile court).

to increase, not decrease, the number of laws restricting minors' participation in activities left open only to adults. *See Part I of brief*. Indeed, as one scholar has noted,

> The lack of consistent momentum toward lower jurisdictional age limits in the United States shows us that the shift toward punitive responses to serious youth crime is not grounded in a conception that adult levels of responsibility are acquired either earlier or more easily than in past generations. The political conflict in the United States is not about adolescent maturity but about the relevance of *immaturity* to the proper punishment of young offenders.

Franklin E. Zimring, *The Punitive Necessity of Waiver in* THE CHANGING BORDERS OF JUVENILE JUSTICE: TRANSFER OF ADOLESCENTS TO THE CRIMINAL COURT 214 (Jeffrey Fagan and Franklin E. Zimring, eds.) (2000) (emphasis added).

That no state moved to introduce a juvenile death penalty during this time of public alarm and the wholesale demonization of youthful offenders – and, in fact, eight states have gone in the opposite direction since 1989 to prohibit execution – is a strong indicator that the American public regards as excessive the execution of youthful offenders. Certainly, in light of the fear produced by the super-predator phenomena, this development carries even more weight than the parallel trend described in *Atkins* with regard to the execution of the mentally retarded.

## III. RESEARCH SINCE *STANFORD* DEMONSTRATES THAT THE DETERRENT RATIONALE FOR CAPITAL PUNISHMENT IS NOT MET BY IMPOSING IT ON YOUTH UNDER 18

Youth, compared to adults, are much less capable of controlling their criminal behavior and, consequently, they are less deterrable than adults.[28] As recent social science research has

[28] *Amici* refer herein to the concept of 'general deterrence' – that is, inhibition from committing crime in advance by threat or example of consequence. *See* Herbert Packer, LIMITS OF THE CRIMINAL SANCTION 39-40 (1968).

shown, there are four empirically verified reasons why youth are less deterrable than adults: 1) impaired risk perception and greater risk preference; 2) foreshortened temporal perspective; 3) greater susceptibility to peer influence; and 4) a reduced "stake-in-life." *See* Christopher Slobogin *et al.*, *A Prevention Model of Juvenile Justice: The Promise of Kansas v. Hendricks for Children*, 1999 WIS. L. REV. 185, 196-200 (1999). Together, this evidence indicates that the average adolescent, typically defined as a youth up to eighteen, differs from the average adult in ways that diminish their willingness to pay attention to developments in the criminal law.

Common stereotypes about adolescents portray them as risk takers – more willing to take risks than adults and more likely to believe that they will avoid the negative consequences of risky behavior. Developmental psychology research supports this perception. Not only do adolescents prefer to engage in risky or sensation-seeking behavior, but, perhaps just as important, they may have different perceptions of risk itself. *See* Laurence Steinberg & Elizabeth Cauffman, *Maturity of Judgment in Adolescence: Psychosocial Factors in Adolescent Decision Making*, 20 LAW & HUM. BEHAV. 249, 260 (1996) ("The few extant comparisons of adults and adolescents suggest that thrill seeking and disinhibition [as assessed via measures of sensation seeking] may be higher during adolescence than adulthood."). For example, adolescents appear to be unaware of some risks of which adults are aware, and to calculate the probability of positive and negative consequences differently than adults.

The theoretical implications of these differences in risk perception for deterrence policies are relatively clear. Deterrence is premised on the ability of the individual to assess the benefits of engaging in criminal behavior versus the expected costs of punishment. Adolescents calculate the risks of getting caught and punished differently than adults; that is, they do not assess the certainty of punishment in the same way adults would, or indeed as they themselves would once they become adults. Adolescents are risk-takers who are more resistant to social control and less susceptible to deterrence. *See* Carl Keane et al., *Deterrence and Amplification of Juvenile Delinquency by Police Contact: The Importance of Gender and Risk-Orientation*, 29 BRIT. J. CRIMINOLOGY 336, 338 (1989) ("We suggest that those adolescents who are risk-takers will be more resistant to familial and formal control ...."). If adolescents as a class are more likely than

adults to be risk-takers, then this assessment applies to the entire age group.

Issues of risk perception are closely related to those of temporal perspective, sometimes described as future orientation. Generally, adolescents tend to focus more on short-term consequences and less on the long-term impact of a decision or behavior. *See* Elizabeth S. Scott et al., *Evaluating Adolescent Decision Making in Legal Contexts*, 19 LAW & HUM. BEHAV. 221, 231 (1995) ("In general, adolescents seem to discount the future more than adults and to weigh more heavily the short-term consequences of decisions--both risks and benefits--a response that in some settings contributes to risky behavior.") (citation omitted). This focus on the immediate makes some intuitive sense: adolescents have had less experience with long-term consequences due to their age and they may be uncertain about what the future holds for them. But this foreshortened time perspective may lead adolescents to discount the severity of punishment in a deterrence framework, particularly if it is linked to extended time periods of social control or incarceration. Capital punishment, therefore, may not trigger the same cost-benefit analysis in a 16 or 17 year old as it does in a twenty-four year-old.

Peer influence can also affect deterrability. Adolescence is usually described as a period in which childhood reliance on parents lessens as reliance on the peer group increases regarding issues of identity and acceptance. As a result, adolescents are more likely than adults to be influenced by others, both in terms of how they evaluate their own behavior and in the sense of conforming to what peers are doing. *See* Thomas J. Berndt, *Developmental Changes in Conformity to Peers and Parents*, 15 DEVELOPMENTAL PSYCHOL. 608, 615 (1979) (showing peak peer conformity at grade 9 between grades 3 and 12); Scott at 230. Because a majority of delinquent adolescent behavior occurs in groups, *see* Franklin E. Zimring, *Kids, Groups and Crime: Some Implications of a Well-Known Secret*, 72 J. CRIM. L. & CRIMINOLOGY 867, 867 (1981),[29] peer pressure may exert a powerful counterweight to the societal commands of the criminal law. Furthermore, peer involvement affects perceptions of the certainty and severity of sanctions. *See* Mark C. Stafford & Mark Warr, *A Reconceptualization of General and Specific Deterrence*, 30 J. RES. CRIME & DELINQ. 123, 132 (1993) ("[A]n intelligent offender

[29] "The 'well-known secret' is this: adolescents commit crimes, as they live their lives, in groups." *Id.*

might be tempted to draw stronger conclusions about the certainty and severity of punishment from the cumulative experiences of friends than from his or her own relatively narrow life experiences.").

A final consideration in gauging relative deterrability of youth as compared to adults is that an adolescent's position in society is different from that of an adult, as reflected in legislation and case law cited in Part I of this brief. Adolescent autonomy is more restricted than that of adults, and minors are less integrated into the pro-social responsibilities, roles, and relationships of adulthood. Developmental psychologists have documented this reduced "stake in life." *See* Slobogin at 199. Like adolescents' attitude toward risk and their foreshortened temporal perspective, this deficit may lead adolescents to underestimate the real costs of antisocial conduct. If adolescents have less stake in the future and in relationships than adults, with fewer formal social roles to risk, then the deterrent effects of these collateral costs of law-breaking are diminished. Stated another way, adolescents have had less exposure to the external constraints that create internal controls.

## IV. JUVENILES, LIKE THE MENTALLY RETARDED, ARE MORE PRONE TO CONFESSING TO CRIMES THEY DID NOT COMMIT

In invalidating the death penalty as applied to the mentally retarded, this Court in *Atkins* relied on the fact that the diminished capacities of the mentally retarded increased the risk that they would falsely confess to crimes they did not commit. *Atkins*, 536 U.S. at 320-321 & n. 25. Juveniles possess many of these very same deficits and thus, like the mentally retarded, may be more prone to give false confessions when subjected to today's sophisticated psychological interrogation techniques.

Studies have shown that juveniles do not understand the words of the *Miranda* warnings as well as adults, and do not appreciate the significance and function of *Miranda* rights. *See, e.g.*, Thomas Grisso, *Juveniles' Capacities to Waive Miranda Warnings: An Empirical Analysis*, 68 Calif. L. Rev. 1134-1166 (1980). Their low social status *vis-a-vis* their adult interrogators, societal expectations that they respect authority, and their naivete in believing that police officers would not deceive them, also may make them more likely to comply with the demands of their

interrogators. *See* Barry C. Feld, *Competence, Culpability, and Punishment: Implications of Atkins for Executing and Sentencing Adolescents,* 32 Hofstra L. Rev. 463 (Spring 2004, in press); *see also* Gerald Robin, *Juvenile Interrogation and Confessions*, 10 J. Pol. Sci. & Admin. 224, 225 (1982). Moreover, their immature decision-making abilities, as well as their limited time perspective, emphasis on short-term benefits versus long-term benefits, and willingness to take risks, *see* Thomas Grisso and Laurence Steinberg et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents and Adults' Capacities as Trial Defendants*, 27 LAW & HUMAN BEH. 333, 353- 356 (2003), make them particularly ill-suited to engage in the high stakes risk-benefits analysis that is called for in the modern psychological interrogation. [30]

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[30] According to the "Decision-Making Model of Confession," *see* GISLI H. GUDJONSSON, THE PSYCHOLOGY OF INTERROGATIONS AND CONFESSIONS: A HANDBOOK at 120-122 (2003), a widely accepted psychological paradigm of police interrogations and confessions which draws heavily on rational choice theory, a suspect's decision-making during an interrogation is shaped by: 1) how the social influence techniques of the interrogation cause him to perceive his available courses of action, 2) the suspect's subjective perception of the probability that each course of action will actually occur, and 3) the utility values or gains as well as the harms that are attached to each course of action. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World,* 82 N.C.L.Rev. 891, 913 (2004). As scholars have written:

> Psychologically-based interrogation works effectively by controlling the alternatives a person considers and by influencing how these alternatives are understood. The techniques interrogators use have been selected to limit a person's attention to certain issues, to manipulate his perceptions of his present situation, and to bias his evaluations of the choices before him. The techniques used to accomplish these manipulations are so effective that if misused, they can result in decisions to confess to the guilty and innocent alike.

Richard S. Ofshe and Richard A. Leo, *The Decision to Confess Falsely, Rational Choice and Irrational Action,* 74 DENV. U. L. REV. 979, 985 (1997) (footnote omitted). The limited decision-making skills of juveniles and their compliance to adult authority figures may make them more vulnerable to such manipulation and more likely to falsely confess.

Although research suggests that disabilities in these areas are less pronounced in 16 and 17 year olds than in younger adolescents, these studies have been conducted in pristine laboratory conditions, far removed from the stressful environment of the interrogation room where it is expected that older youths would perform less capably. *See, e.g., Taylor v. Maddox*, 366 F.3d 992, 1013 (9th Cir. 2004)("Commencing the interrogation of a [16 year old] teenager after midnight,

There are no scientific studies proving definitively that juveniles are more likely to falsely confess than adults when subjected to psychological interrogation techniques. This is because it would be highly unethical to subject juvenile subjects to such stressful conditions for research purposes. Allison D. Redlich & Gail S. Goodman, *Taking Responsibility for an Act Not Committed: The Influence of Age and Suggestibility,* 27 LAW & HUMAN BEHAVIOR 141, 142 (April 2003). One recent study, however, which subjected juveniles to far less coercive circumstances than are at play in interrogations, found that juveniles were significantly more likely to accept responsibility for an act they did not commit than are adults, and that confronting juvenile subjects with false evidence of their guilt[31] only increased the likelihood that they would do so. *Id.* at 151-52.

Perhaps even more dramatic are recent studies of wrongful convictions, which demonstrate that juveniles falsely confess with some regularity. A study of 328 exonerations since the advent of DNA testing in 1989 found that fifty-one of the exonerations involved false confessions, fourteen of which involved defendants who were under 18 at the time of the crime. Samuel Gross *et al.*, *Exonerations in the United States, 1989 Through 2003* (April 19, 2004) at http://www.law.umich.edu/NewsAndInfo/exonerations-in-us.pdf. A second study by Professors Richard A. Leo and Steven A. Drizin documented 125 proven false confessions, 101 or 81 percent of which were false confessions to murder. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World,* 82 N.C.L.Rev. 891, 947 (2004). Forty false confessors were juveniles, many of whom were juveniles aged 16 or older who confessed to murders. *Id.* at 945.[32] That juveniles may be more

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and pressing it past 3:00 a.m. … creates far too great a risk that a false confession will be extracted, leading to the unjust conviction of an innocent person").

[31] This is a legally permissible interrogation tactic. *See Frazier v. Cupp,* 394 U.S. 731, 739 (1969).

[32] To assist the Court in reaching its decision in the instant case, *Amici* have attached at Appendix F a summary of ten juvenile false confession cases in which 16- and 17-year-olds confessed to murders they did not commit. (This list does not include any of the five teenage defendants who falsely confessed to the attempted murder and rape of the female victim who came to be known as "the Central Park jogger." *See* Drizin & Leo at 891. ) The evidence in the list is weightier than the evidence from the single case of a false confession on which the Court relied in *Miranda v. Arizona,* 384 U.S. 436, 456 n.24 (1966). Indeed, it is stronger than the evidence in *Atkins,* which also relied on one anecdotal case of a false confession. *Atkins,* 536 U.S. at 320-321, n. 25.

vulnerable to falsely confessing has also recently been accepted by John E. Reid and Associates, Inc., one of the nation's leading trainers of law enforcement in psychological interrogation techniques. In a recent memo sent to graduates of its training, Reid analyzed documented false confession cases and noted that the fact that a suspect is a juvenile "appear[s] with some regularity in false confession cases." John Reid & Associates, *False Confession—The Issues*, Monthly Investigator's Tips (April 2004), available at http://www.reid.com/investigatortips.html?serial=1080839438473936. To safeguard against false confessions, Reid instructed interrogators to "exercise extreme caution and care when interviewing or interrogating a juvenile..." *Id.* Specifically, Reid advised interrogators

> when a juvenile … confesses, the investigator should exercise extreme diligence in establishing the accuracy of such a statement through subsequent corroboration. In these situations it is imperative that interrogators do not reveal details of the crime so that they can use the disclosure of such information by the suspect as verification of the confession's authenticity.

*Id.*

In addition to the risk of wrongful execution, there is substantial evidence showing that a large proportion of the juvenile offenders who have been executed since 1973 and who currently sit on death row have suffered serious brain injuries, significant neurological deficits and serious psychiatric illnesses. In addition, the overwhelming majority have suffered from extreme childhood physical and/or sexual abuse. Dorothy Otnow Lewis *et al.*, *Neuropsychiatric, Psychoeducational, and Family Characteristics of 14 Juveniles Condemned to Death in the United States*, 145 Am. J. Psychiatry 584-589 (1988), found that twelve of fourteen subjects "had been brutally physically abused and five had been sodomized by relatives... nine had major neurological impairment, seven suffered from psychotic disorders antedating incarceration, seven evidenced significant organic dysfunction...." *Id* at 584. *See also* Chris Mallett, *Socio-Historical Analysis of Juvenile Offenders on Death Row*, 39 Criminal Law Bulletin, No. 4, at 445-468 (July-August 2003). Juvenile offenders on death row experienced "traumatic life determinant factors during their childhood or adolescence." *Id. at* 455-456. Factors included psychiatric illness,

brain damage, severe abuse, and mental retardation. (A subsequent and confirmatory study by Dr. Lewis *et al.*, *Neuropsychiatric, Neuropsychological, Educational, and Family Characteristics of 18 Juvenile Offenders Awaiting Execution in Texas: Adolescents in Transition* [not yet peer reviewed, but accepted and scheduled for presentation at the April 1, 2005 symposium at Yale University's Institution for Social and Policy Studies Interdisciplinary Bioethics Project and submitted for publication to the Journal of American Academy of Psychiatry and the Law], involving a study of 18 of 26 juvenile offenders on Texas's Death Row was conducted by a board certified psychiatrist, a board certified neurologist, a research psychologist, and a certified speech pathologist/special educator. All available medical, psychological, educational, social, and family data were reviewed. Six of the offenders began life with potentially compromised central nervous system function (e.g. prematurity, respiratory distress syndrome). All but one experienced serious head traumas in childhood and adolescence. All subjects evaluated neurologically and neuropsychologically had signs of prefrontal cortical dysfunction. Fifteen (83%) met diagnostic criteria for bipolar spectrum, schizoaffective spectrum or hypomanic disorders. Two subjects were intellectually limited and one suffered from parasomnias and dissociation. All but one came from extremely violent and/or abusive families in which mental illness was prevalent in multiple generations.) *See also* A. Bechara, D. Tranel, and H. Damasio, *Characterization of the decision-making deficit of patients with ventromedial prefrontal cortex lesions*, 123 Brain 2189-2202 (2000); M. DeBellis & D. Keshavan, *Sex differences in brain maturation in maltreatment related pediatric posttraumatic stress disorder,* 27 Neuroscience and Behavioral Reviews 103-117 (2003). These impairments are known to undermine further adolescent development and compromise already immature adolescent decision-making capacities and behavior.

That juveniles face special risks for wrongful conviction, and are vulnerable in other respects, mandates that this Court hold that executing individuals for crimes committed when they were 16 or 17 years of age is prohibited by the Eighth Amendment.

## CONCLUSION

For the foregoing reasons, *Amici Curiae* Juvenile Law Center *et al.*, respectfully request that the judgment of the Supreme Court of Missouri be affirmed.

Respectfully submitted,


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DATED: July 19, 2004

## APPENDIX A

## IDENTITY OF *AMICI CURIAE*

**National Organizations**

**Juvenile Law Center** (JLC) is one of the oldest legal service firms for children in the United States, founded in 1975 to advance the rights and well being of children in jeopardy. JLC pays particular attention to the needs of children who come within the purview of public agencies – for example, abused or neglected children placed in foster homes, delinquent youth sent to residential treatment facilities or adult prisons, or children in placement with specialized services needs. JLC works to ensure children are treated fairly by systems that are supposed to help them, and that children receive the treatment and services that these systems are supposed to provide. We believe the juvenile justice and child welfare systems should be used only when necessary, and work to ensure that the children and families served by those systems receive adequate education, and physical and mental health care. JLC is a non-profit public interest firm. Legal services are provided at no cost to our clients.

The **Child Welfare League of America (CWLA)** is an 84-year-old association of more than 1000 public and private child and family-service agencies that collectively serve more than 3 million abused, neglected and vulnerable children and youth every year. Since its inception in 1920, CWLA has been a leader in the development of quality programming, practices and policies in all areas of child welfare and child well-being. In our work with children and youth impacted by the juvenile and criminal justice systems, we have grown increasingly concerned about the link between child maltreatment and juvenile delinquency. CWLA advocates for policies and practices that seek to interrupt the path to criminal offending that is frequently the outcome for victims of child abuse and neglect. Because we know that children and adolescents have less capacity than adults to take care of themselves and make good decisions, we also advocate for policies and practices that recognize these fundamental differences and provide children and adolescents with the supports they need to negotiate the path to adulthood. In all of our work, we strive to ensure that every

child and young person is protected from harm, injustice and discrimination and is provided with the opportunity to achieve his or her full potential.

**Children's Defense Fund** provides a strong and effective voice for all the children in America who cannot vote, lobby, or speak out for themselves. We pay particular attention to the needs of poor, minority, and disabled children. Our goal is to educate the nation about the needs of children and encourage preventive investment in children before they get sick, drop out of school, suffer family breakdown, or get into trouble. We are a private nonprofit organization supported solely by donations from foundations, corporations, and individuals. Since 1973, CDF has been working to create a nation in which the web of family, community, private sector, and government supports for children are so tightly woven that no child can slip through. Our mission is to Leave No Child Behind® and to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start*, and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF believes that children should be treated as children and that the purpose of the juvenile justice system is to hold children accountable for their actions while providing effective, collaborative, comprehensive and rehabilitative services that will allow them to return to productive lives in their communities. We strongly support the abolition of the death penalty for individuals whose crimes were committed as juveniles.

The **Northwestern University School of Law's Bluhm Legal Clinic** has represented poor children in juvenile and criminal proceedings since the Clinic's founding in 1969. The **Children and Family Justice Center** (CFJC) was established in 1992 at the Clinic as a legal service provider for children, youth and families and a research and policy center. Six clinical staff attorneys currently work at the CFJC, providing legal representation and advocacy for children in a wide variety of matters, including in the areas of juvenile delinquency, criminal justice, special education, school suspension and expulsion, immigration and political asylum, and appeals. CFJC staff attorneys are also law school faculty members who supervise second- and third-year law students in the legal and advocacy work; they are assisted in this work by the CFJC's social worker and social work students.

The **Center on Children and Families** (CCF) at University of Florida's Fredric G. Levin College of Law was established in 2001, to coordinate the classroom, research and clinical programs relating to children at Florida's oldest and largest law school. CCF's mission is to promote the highest quality teaching, research and advocacy for children and their families. CCF's directors and associate directors are experts in children's law, constitutional law, criminal law, family law, and juvenile justice, as well as related areas such as psychology and psychiatry. CCF supports interdisciplinary research in areas of importance to children, youth and families, and promotes child-centered, evidence-based policies and practices in dependency and juvenile justice systems. Its faculty has many decades of experience in advocacy for children and youth in a variety of settings, including the Child Welfare Clinic and Gator TeamChild juvenile law clinic. We believe that children as a class are different from adults in significant ways, and that decisions affecting them must be informed by high quality research in child development, neurology and psychology.

The **Criminal Justice Institute** (CJI) is a curriculum-based clinical program in criminal law at Harvard Law School. Four clinical instructors supervise third-year law students, who represent indigent children and youth in delinquency proceedings and indigent defendants in district court criminal proceedings. CJI also sponsors national conferences on criminal and juvenile justice issues and is active in legislative and policy reform in areas affecting disadvantaged youth and adults.

The **Federation of Families for Children's Mental Health** is the nation's family-driven voice for children's mental health. The Federation emerged in 1989 from the grassroots efforts of many individual family members and supportive professionals committed to improving services and supports for children and youth with emotional, behavioral, or mental disorders and their families. Today, the Federation is at the hub of a powerful, culturally diverse, network driven by the committed passion of thousands of members and more than 150 chapters and State organizations who use their collective voices to shape policies, practices, and services that support and foster healthy emotional development for all children and youth. We work in partnership with others to ensure that each child or youth, including those involved with the juvenile justice

system, is viewed as a whole and complex individual and that they receive the services and supports they need to be physically and mentally healthy, to be successful in school, and participate safely in community life.

Since its inception in 2000, **the Health and Justice for Youth project (HJY) at Physicians for Human Rights** provided a medical voice to local and national campaigns and engaged in research that advances the protection of health and human rights of youth in the criminal justice system. Health professionals have a central role to play in public dialogue and decision-making on youth justice issues. Health professionals who work closely with children and adolescents, particularly pediatricians and family physicians, child and adolescent psychiatrists and psychologists, and neurologists, best understand that wise public policy must address young people's health and development. In their capacity they are able to provide valuable testimony on adolescent development and its significance to the juvenile death penalty, as well as juvenile detention facility conditions and mental health needs, among other issues. The work of the Health and Justice for Youth project includes investigating youth facilities, engaging health professionals to advocate against the juvenile death penalty based on research and science, working with the medical community to provide support to local youth justice campaigns, participating in national and state efforts for stronger legislation to protect the health and human rights of youth and research on the mental health needs of detained youth.

The **National Association of Counsel for Children** (NACC) is an IRC 501 (c) (3) not-for-profit child advocacy and professional membership association. The NACC was founded in 1977 out of the Kempe Children's Center as part of its mission to combat child maltreatment. The mission of the NACC is to improve the condition of America's court-involved children. NACC programs include professional training and technical assistance, programs to establish the practice of law for children as a legal specialty, and policy advocacy. NACC focuses on child welfare, juvenile justice, and private custody proceedings. NACC's approximate 2000 members, representing all 50 states and the District of Columbia, include primarily attorneys and judges but also other professionals involved with children and families in the legal system. The NACC runs an *Amicus Curiae* Program through which

the organization participates in appellate cases of particular importance to children and families. The NACC has appeared as *amicus curiae* in many state and federal appellate courts and the Supreme Court of the United States. The NACC enters a case only after a careful review process by the NACC *Amicus Curiae* Committee and its Board of Directors. The NACC is the recipient of the Meritorious Service to the Children of America Award presented by the National Council of Juvenile and Family Court Judges and NACC staff has received the ABA National Child Advocacy Award and the Kempe Award. NACC programs have received the support of the U.S. Dept. of HHS Children's Bureau, the ABA, the American Academy of Pediatrics, and the Child Welfare League of America.

**Youth Law Center** (YLC) is a national public interest law firm that has worked since 1978 on behalf of children in juvenile justice and child welfare systems. YLC has worked with judges, prosecutors, defense counsel, probation departments, corrections officials, sheriffs, police, legislators, community groups, parents, attorneys, and other child advocates throughout the country, providing public education, training, technical assistance, legislative and administrative advocacy, and litigation to protect children from violation of their civil and constitutional rights. YLC has worked for more than two decades to promote individualized treatment and rehabilitative goals in the juvenile justice system, accountability of youth for their behavior, effective programs and services for youth at risk and in trouble, consideration of the developmental differences between children and adults, and racial fairness in the justice system. With those concerns in mind, YLC opposes the imposition of the death penalty on individuals who were juveniles at the time of the offense.

The **National Center for Youth Law** (NCYL) is a private, non-profit legal organization devoted to improving the lives of poor children in the United States. For more than 30 years, NCYL has provided support services to child advocates nationwide and direct representation in cases involving child welfare, public benefits for children and their families, legal issues involving child and adolescent health, fair housing for families with children, and juvenile justice. In particular, NCYL has participated in litigation focused on the needs of youth in the juvenile justice system

throughout the country. Over the past three decades, NCYL has brought class action litigation that has led to reductions in the number of youth requiring incarceration and improved conditions and treatment for incarcerated youth. NCYL also engages in policy analysis, and administrative and legislative advocacy, on both state and national levels.

The **National Network for Youth** (NNY) is a national non-profit membership and advocacy organization committed to ensuring that young people can be safe and lead healthy and productive lives. NNY's membership includes over 600 community-based organizations nationwide. Our members provide emergency shelter, transitional living programs, counseling, and social, health, educational and job-related services for youth—operating out of school classrooms, community centers, houses, storefronts, and on the street. For the past 30 years, NNY has been dedicated to ensuring that young people have opportunities for growth and development, especially those who face greater odds because of abuse, neglect, family conflicts, and disconnection from family, lack of resources, community prejudice, differing abilities and other life challenges. The National Network for Youth's Guiding Principles and Policy Statements include advocating for the abolition of the juvenile death penalty, which is aligned to our goal of "protecting and enhancing the value of youth."

**The Sentencing Project** was founded in 1986 as an independent non-profit organization working for a fair and effective criminal justice system by promoting alternatives to incarceration, reforms in sentencing laws and practices, and more effective use of community-based and public services to achieve reductions in crime. To these ends, The Sentencing Project contributes research, analysis and observations of the criminal justice system to the public debate on crime and punishment. Since 1999, The Sentencing Project has observed the trend toward prosecuting and sentencing increased numbers of juveniles in adult criminal court at the behest of the prosecution or under operation of law without benefit of judicial review. The Sentencing Project has published recommendations for defense counsel and other professionals who represent juveniles in adult court and articles analyzing the disadvantages faced by juveniles in adult court when compared to adults prosecuted for the same crimes. For these reasons and those

set forth in this brief, The Sentencing Project opposes the prosecution and sentence of any juvenile to capital punishment.

**Voices for America's Children** is a national organization committed to working at the state and local levels to improve the well-being of children. Founded in 1984 by a small group of child advocates, Voices is the only nationwide network of state and local multi-issue child advocacy organizations that speak out on behalf of children. With member organizations in almost every state, the District of Columbia, and many cities and counties, Voices provides a voice for the voiceless - children - in city halls and state capitals across the country. Voices and its members are working to create a society that recognizes and protects the right of every child, including those involved with the juvenile justice system. Voices and its members have a long track record of working to improve the juvenile system and to foster the safety and well-being of children in its care.

The **W. Haywood Burns Institute for Juvenile Justice Fairness and Equity** works to protect and improve the lives of youth of color, poor children and their communities by ensuring fairness and equity throughout all public and private youth serving systems. The death penalty is not implemented fairly and is disproportionately imposed on people of color resulting in state sanctioned killing without appropriate processes. We join in calling for the abolition of the death penalty for minors and thereby joining the overwhelming majority of nations that have banned this barbaric practice.

**Youth Advocate Program International** (YAP International) works to promote and protect the rights and well-being of the world's youth, giving particular attention to children victimized by conflict, exploitation, and state and personal violence. We provide voice and visibility for vulnerable children. In this effort, we strongly protest the execution of youth whose crimes were committed before they have reached the age of 18. In addition to our work over the past decade, for more than 20 years our parent organization, the National Youth Advocate Program (NYAP), has run treatment and rehabilitation programs for troubled youth. On many occasions, youth who were serious offenders have become conscientious and productive adults. The foster parents, advocates,

and the case workers who work for the NYAP network believe that rehabilitation is possible for troubled youth; the execution of youthful offenders for actions taken during childhood is antithetical to rehabilitation.

**Center for Youth as Resources (CYAR)** is a national nonprofit organization, governed by a board of youth and adults who work with staff to promote the Youth as Resources (YAR) philosophy and program model. CYAR recognizes youth as valuable community resources and engages them as partners with adults in bringing about positive community change. Youth as Resources (YAR) adapted to the juvenile justice community demonstrates that young people in these settings have remarkable potential to become problem-solvers and contribute positively to their communities. Through advocacy we act as a strong and independent voice for youth in the juvenile justice system.

**State and Regional Organizations**

The **Bar Association of San Francisco** (BASF) is a voluntary association of more than 8,000 attorneys. The majority of its members live and work in the City and County of San Francisco, California. Through its board of directors, its committees, and its volunteer legal services programs, BASF has worked actively to improve the criminal justice and juvenile justice systems for many years. BASF's many projects related to juvenile justice include administering a court appointment program for indigents, administering and providing attorneys for the representation of parties in child dependency matters, assisting non-parent caretakers to be appointed as legal guardians of children, working with victims of domestic violence to protect their children, and administering a program for responsible parenting.

The **Barton Child Law and Policy Clinic** (Barton Clinic) believes that policies affecting children should be based on sound research. The Barton Clinic was established in March 2000 to address the need in Georgia for an organization dedicated to effecting systemic policy and process changes for the benefit of the children in Georgia's child welfare system. The Barton Clinic helps Georgia serve neglected and abused children by providing multi-disciplinary, child-focused research, training, and support for

practitioners and policymakers charged with protecting Georgia's children. The Clinic believes that children must be viewed in the context of their individual situation, their family, and their community and they should not be labeled or categorized for the convenience of systems working with them. Services should be individualized and based on child and adolescent development research.

**California Women Lawyers** (CWL) is a non-profit, umbrella organization for women's bar associations throughout the state of California. Chartered in 1974, CWL serves as a network that permits California's women attorneys, judges, law professors and law students to work together to achieve common goals, including the protection of civil rights of all individuals. CWL actively engages in the public policy debate concerning the rights of women and children and prepares or joins others in presenting amicus briefs in cases affecting constitutional rights, especially those having a special impact on women and children.

**Carolina Legal Assistance** (CLA) is a private, non-profit legal services program, which has exclusively represented clients with mental disabilities since 1978. It is CLA's mission to promote for its clients freedom of choice and quality services in the least restrictive setting. Serving children and youth with special needs is a priority for CLA, and in recent years the legal staff has assisted hundreds of individual families in their quest for an appropriate education. CLA also develops special projects intended to improve services for individuals with disabilities. One such project, The Special Education Juvenile Justice Project promotes special education advocacy as a strategy for keeping juveniles with disabilities in school and out of prison. Another project, trains legal and law enforcement professionals about disabilities in an effort to promote accessibility to the criminal justice system on behalf of cognitively impaired defendants, victims and witnesses.

The **Central Juvenile Defender Center**, a training, technical assistance and resource development project, is housed at the Children's Law Center, Inc. In this context, it provides assistance on indigent juvenile defense issues in Ohio, Kentucky, Tennessee, Indiana, Arkansas, Missouri, and Kansas.

**Children's Action Alliance** (CAA) is a nonprofit, nonpartisan research, education and advocacy organization dedicated to promoting the well being of all of Arizona's children and families. Through research, publications, media campaigns, and advocacy we act as a strong and independent voice for children. CAA educates policy makers and the public about the needs of children and families and promotes effective strategies to improve the lives of children. We highlight the link between state budget and tax policy and the quality of life for children and families. We build community networks around specific issues, including health, child care, child welfare, and juvenile justice. Children's Action Alliance staff includes expertise in health policy, child development, child welfare and juvenile justice, government and fiscal administration, and law.

The **Children's Law Center, Inc.** in Covington, Kentucky has been a legal service center for children's rights since 1989, protecting the rights of youth through direct representation, research and policy development and training and education. The Center provides services in Kentucky and Ohio, and has been a leading force on issues such as access to and quality of representation for children, conditions of confinement, special education and zero tolerance issues within schools, and child protection issues. It has produced several major publications on children's rights, and utilizes these to train attorneys, judges and other professionals working with children.

**Children's Law Center of Los Angeles** (CLC) is a nonprofit, public interest law corporation created over a decade ago and funded by the Los Angeles Superior Court to serve as appointed counsel for abused and neglected youth in one of the largest foster care systems in the nation. CLC's dedicated 180-person attorneys and staff serve as the "voice" in the foster care system for the vast majority of the 30,000 children under the jurisdiction of the Los Angeles County dependency court and advocate for the critical services and support these children so desperately need. On a broader organizational level, CLC strives to identify areas where systemic reforms are needed and has worked effectively locally and statewide to bring about those more far-reaching changes. Given our organization's status as the largest representative of foster youth in California, if not the nation, we are uniquely positioned to help

propel important changes in the foster care system.

The recently created **Children's Law Center of the University of Richmond School of Law** serves as the umbrella organization for the law school's long established clinical programs. These clinics have represented children, at no cost, in juvenile court and special education proceedings since 1979. Recognizing that the practice of children's law requires knowledge of the intersection of many disciplines including psychology, education, social work, and child development, law students who are supervised by full time clinical faculty members work collaboratively with professionals in other fields to address the legal needs of their clients. The CLC-UR also exposes law students to the legislative process in Virginia and is currently following and supporting legislative efforts there to abolish the death penalty for offenders who were under the age of eighteen at the time of the offense.

The **Children & Youth Law Clinic** (CYLC) is an in-house legal clinic staffed by faculty and students of the University of Miami School of Law established in 1995. The CYLC serves the legal needs of children and adolescents in abuse and neglect, delinquency, criminal justice, health care, mental health, disability, independent living, education, immigration and general civil legal matters. In addition to providing legal services for clients, the CYLC has an intensive curricular component that educates law students on substantive children's law, lawyering skills, and professional ethics. The CYLC participates in interdisciplinary research, provides training and technical assistance for lawyers, judges, and other professionals, and produces legal scholarship and practice materials on the legal needs of children.

The mission of the **State of Connecticut Office of the Child Advocate** (OCA) is to oversee the protection and care of children and to advocate for their well-being. The OCA monitors and evaluates public and private agencies that are charged with the protection of children and reviews state agency policies and procedures to ensure they protect children's rights and promote their best interest. OCA helps to advocate for children at risk; address public policy issues concerning juvenile justice, child care, foster care, and treatment; review facilities and procedures of public or private institutions or residences where juveniles are placed; and

review individual cases and investigate complaints.

**Florida's Children First!, Inc.**, ("FCF!) is a non-profit organization established in 2002 to address the serious unmet legal needs of children who require legal representation in the various legal forums that affect their lives. The mission of FCF! is to advance children's legal rights consistent with their medical, educational and social needs. Litigation, legislative and policy advocacy, executive branch monitoring, training and technical assistance to lawyers and law students, and public awareness are all tools in FCF!'s advocacy arsenal.

The **Florida Public Defender Association** represents the 20 elected Public Defenders of Florida, their 1000 appointed Assistant Public Defenders, and their statewide support staff. The Association is concerned with matters affecting the fair administration of justice for adults and juveniles in the justice system. The Association has long advocated against laws that fail to recognize the cognitive differences between adults and juveniles in ascribing criminal culpability.

The **Georgetown Law Center Juvenile Justice Clinic** is one of the oldest clinical legal education programs focusing on the needs of children. Since our founding in 1973, we have provide legal representation to children in all types of cases. Clinic staff have also testified before Congressional and state legislative committees and before numerous boards and commissions studying the needs of youth. They have also conducted research and written extensively on these issues. Currently, two full time faculty and two graduate students serve as counsel for children in delinquency and criminal cases. Staff attorneys are supplemented each year by fourteen law students who also provide representation in delinquency cases.

**JustChildren** provides advocacy for children with different vulnerabilities, including mental health problems, learning disabilities, and the after-effects of crime. JustChildren is a program of the Legal Aid Justice Center, which provides civil legal representation to low income people in central Virginia. JustChildren counsels children and represents them at special education and public benefits hearings. JustChildren also conducts a Child Advocacy Clinic, established in partnership with the University of Virginia

School of Law. JustChildren believes that children are developmentally different than adults and should be treated accordingly in the manner most likely to nurture their personal and educational growth into self-sustaining adults.

The **Juvenile Justice Initiative** (JJI) of Illinois is a non-profit, non-partisan, inclusive statewide coalition of state and local organizations, advocacy groups, legal educators, practitioners, community service providers, and child advocates supported by private donations from foundations, individuals, and legal firms. JJI as a coalition establishes or joins broad-based collaborations developed around specific initiatives to act together to achieve concrete improvements and lasting changes for youth in the justice system, consistent with the JJI mission statement. Our initiatives seek to create a constituency for youth in the justice system with an emphasis on promoting intervention strategies, ensuring fairness for youth in the justice system, and building community resources for comprehensive continuums of services and sanctions to reduce reliance on confinement. Our collaborations work in concert with other organizations, advocacy groups, concerned people, and state and local government entities throughout Illinois to ensure that fairness and competency development are public and private priorities for youth in the justice system.

Founded in 1997, the **Juvenile Justice Project of Louisiana** (JJPL) has established itself as a partner in efforts to reform Louisiana's juvenile justice system and to improve outcomes for at risk children and youth nationwide. We have dedicated ourselves to advocating not only for more effective less expensive alternatives to incarceration, but also for the zealous and effective representation of children in the juvenile and criminal justice systems. JJPL was founded on the recognition that children and adolescents are fundamentally different from adults and, as such, require developmentally appropriate interventions and advocacy. The manner in which the judicial system responds to young people in crisis has been a central focus of JJPL. We believe that children must be afforded essential due process protections and that such protections necessarily include a consideration of their developmental capacities and limitations. Through its work, JJPL is confronted daily with the reality that poverty, mental deficiencies, and childhood neglect or abuse, exacerbate the special vulnerabilities

of youth. As such, JJPL recognizes that justice for children requires resources for competent education and rehabilitation, safety from physical and psychological violence, and meaningful accountability. JJPL joins the *Amici curiae* in opposing the imposition of the death penalty on a youth under 18 years old.

**Legal Services for Children** (LSC) was founded in 1975 as the first non-profit law firm established to provide free direct legal and social services to children and youth. LSC represents youth in dependency, guardianship, school expulsion, immigration and other cases. LSC uses attorney-social worker teams to assist at-risk youth in the Bay Area who need to access the legal system to stabilize or improve their lives. LSC's mission is to empower youth by increasing their active participation in making decisions about their own lives. LSC works directly with youth involved in, or at risk of involvement in the juvenile justice system.

The **Mid-Atlantic Juvenile Defender Center** (MAJDC) is a multi-faceted juvenile defense resource center that has served the District of Columbia, Maryland, Puerto Rico, Virginia and West Virginia since 2000. We are committed to working within communities to ensure excellence in juvenile defense and promote justice for all children. MAJDC promotes research and policy development throughout the region by conducting state-based assessments of juvenile indigent defense delivery systems. Following the assessment, MAJDC staff work to ensure the report is used to educate the public about issues related to the delivery of indigent defense services for juveniles and assists the public defender systems in responding to assessment recommendations. MAJDC also responds to the needs of juvenile defenders by coordinating training programs, providing technical assistance and maintaining a list-serve of juvenile defenders to respond to defender questions. MAJDC is a 501 ©(3) non-profit organization.

The **Midwest Juvenile Defender Center** provides assistance and support to attorneys, judges, social workers, and others who work with children who are involved in the delinquency and / or criminal court systems. Forms of assistance include hosting and coordinating training sessions, providing research support on juvenile related issues, participating in state assessments of indigent defense, and keeping members abreast of developing law, social scientific and

other research relating to juveniles. The Midwest Region includes the states of Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin.

The **New England Juvenile Defender Center, Inc.** was created in 2000 to ensure excellence in juvenile defense and promote justice for children in the juvenile justice systems of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The Center focuses primarily on supporting defenders to provide the best possible services to court-involved children and to ensure that the juvenile justice systems in New England treat children like children and provide them with real opportunities for care and treatment where appropriate. The Center has also created a Juvenile Impact Litigation Fund to support solo practitioners and organized groups of attorneys to challenge conditions of confinement in the region. The NEJDC is a non-profit public interest organization.

The **New Mexico Women's Justice Project**, located in Albuquerque, New Mexico, is a non-profit organization that seeks to eliminate a broad range of systemic barriers to social, economic and political justice faced by women, girls and their families in New Mexico. The New Mexico Women's Justice Project focuses on women and girls whose lives are affected by the criminal justice, delinquency and child welfare systems. The Project has recently authored a study regarding state gender-specific programming and has testified on a number of incarcerated women's-oriented legislative initiatives. The Project is dedicated to providing policy and educational leadership for change that enhances lives while maintaining families and protecting our communities.

The **Northeast Regional Juvenile Defender Center** (NRJDC) is dedicated to increasing access to justice for and the quality of representation afforded to children caught up in the juvenile and criminal justice systems. Housed jointly at Rutgers Law School - Newark and the Defender Association of Philadelphia, the NRJDC provides training, support, and technical assistance to juvenile defenders in Pennsylvania, New Jersey, New York, and Delaware. The NJRDC also works to promote effective and rational public policy in the areas of juvenile detention and incarceration reform, disproportionate confinement of minority children, juvenile competency and mental health, and the special needs of girls in the

juvenile justice system.

The **Northwest Juvenile Defender Center** is housed at the Defender Association in Seattle, Washington. In this context, it provides assistance on indigent juvenile defense issues in Alaska, Idaho, Montana, Nevada, Oregon, Washington, and Wyoming.

The independent **Office of the Child Advocate in New Jersey** was created by statute in September 2003. The Office of the Child Advocate investigates, reviews, monitors and evaluates State agencies responsible for serving children, and makes recommendations for systemic and comprehensive reform through investigation, policy and practice innovation, public reporting, hearings, litigation and other strategies. The Office of the Child Advocate's jurisdiction extends to all public and private settings in which a child has been placed by a State or county agency or department, including but not limited to, juvenile detention centers, group homes, foster homes, residential treatment centers and shelters. In furtherance of its investigative function, the Office of the Child Advocate has subpoena power, the power to sue state government, may conduct public hearings and is deemed a child protective agency.

The **Office of the Juvenile Defender in Vermont** is a division of the Office of the Defender General. It was established over twenty-five years ago to provide ongoing legal representation to all children and youth who were represented in initial juvenile court proceedings by Public Defenders and as a result of those proceedings were ordered into the custody of the Commissioner of the state's child welfare agency. It also is involved in the formulation of state juvenile justice policy and legislative advocacy in the areas of juvenile justice and child abuse and neglect. The office also monitors the population of the state's juvenile detention center and provides legal representation to detained youth, monitors the out-of-state placement of adjudicated youth and provides training and legal assistance to public defenders and private attorneys statewide.

The **Office of the Maricopa County Public Defender** has represented indigent people in criminal and juvenile proceedings for almost 40 years. Our office provided representation on more than 44,000 cases in fiscal year 2003 including about 9,000 children

facing delinquency and incorrigibility charges. Our office is committed to providing quality representation to all our clients. We believe that protection of our client's constitutional rights is an essential function of our office. For a child who is adjudicated delinquent or incorrigible, it is our belief that we should present the dispositional alternatives to the court that will provide the needed services for our clients and their families in the least restrictive setting. We recognize the developmental differences in children and adults and therefore recognize the need to individualize each child's circumstances. Recent information from the scientific community regarding the development of the brain, especially in children, emphasizes the need to consider the significant difference between adolescence and adulthood.

The **Pacific Juvenile Defender Center** is housed at Legal Services for Children. The Defender Center provides support, training and technical assistance for juvenile defenders throughout California and Hawaii. It is the mission of the Defender Center to improve the quality of juvenile defense in our region and ensure that juveniles are provided with holistic representation that meets their needs.

Founded in 1802, the 12,000-member **Philadelphia Bar Association** is America's oldest chartered metropolitan bar association. Broadly representative of the profession, the Association is intimately involved with the law-related issues of the day and prides itself on its community outreach, its independence and its public interest commitment. On March 25, 2004, the Association's Board Of Governors adopted a Resolution supporting legislation prohibiting the imposition of capital punishment upon any person for any offense committed while under the age of 18. The Association notes that the United States is the only country in the world that permits, as a matter of law, the execution of persons who were under the age of 18 at the time they committed their crimes. The Philadelphia Bar Association joins with others in support of an amicus brief in the case of Roper v. Simmons and expresses its strong opposition to the use of the death penalty on juveniles.

The **Public Defender Service for the District of Columbia** (PDS) represents indigent criminal defendants, including the vast majority of children tried in the District of Columbia as adults.

Although the District of Columbia discarded the death penalty for children long ago, PDS' experience in non-capital cases strongly corroborates the academic research demonstrating the particular unsuitability of capital punishment for children: Our child clients are much more likely than adults to confess falsely in order to please or influence adult authority figures; our child clients tend to be much more impulsive and immature than adults and thus much less likely to be deterred by increasing the severity of punishments; and our child clients lack the sort of autonomy in their daily lives that is vital to making reasoned choices that account for the consequences of their actions. We believe it is important for the Court to have the benefit of our real world observations as it determines whether the juvenile death penalty has any proper role in modern society.

The **San Francisco Public Defender's Office** provides legal representation per year to approximately 1,400 juveniles, aged 10-18, who are arrested and charged with delinquent offenses. The majority of the juvenile clients represented by the office come from difficult family circumstances and live in dangerous and poverty stricken neighborhoods and are in need of legal and social services. Our juvenile clients are a very vulnerable population with needs that are substantial and involve multi-systems collaborations such as with special education, mental health, dependency and immigration. The goal of the juvenile justice system is very different form the adult system. We recognize the need to treat children going through adolescence very differently than adults.

The **Southern Juvenile Defender Center** (SJDC) works to ensure excellence in juvenile defense and promote justice for all children by enhancing the quality of representation, the capacity of the juvenile defense bar, and by educating society on the issues and processes affecting children with research and policy analysis. SJDC believes that all children should get the opportunity to realize their potential to become productive members of society and each has right to certain constitutional and statutory protections. To this end, SJDC works to ensure that the processes and laws governing the juvenile and criminal justice systems are just, applied fairly, and allow the discretion needed to serve the best interests of children and society.

The **Southwest Regional Juvenile Defender Center**,

housed at the University of Houston Law Center, brings together juvenile defenders, mental health professionals, educators, legislators, and other juvenile justice professionals. Through this collaboration the Center strives to improve advocacy for children. The Center has collaborated with the American Bar Association Juvenile Justice Center, the National Juvenile Defender Center, Texas Appleseed, and other advocacy organizations to complete an assessment of the Texas juvenile justice system. That report, *Selling Justice Short: Juvenile Indigent Defense in Texas*, played an important role in passing the Fair Defense Act, which reformed both juvenile and criminal indigent defense in Texas. The Center provides training and technical support for defense attorneys representing youth. The Center also educates the general public, including citizens and multidisciplinary professionals, to promote justice for children.

The **Virginia Coalition for Juvenile Justice** is a network of parents, service providers, agency staff, advocates, and individuals working to improve juvenile justice in Virginia. The Coalition's members include experts and leaders in the field. The Coalition seeks to insure that the Commonwealth of Virginia's juvenile justice system is fair and just; that young people and their families have a voice in the decision and policy-making process; that enlightened juvenile justice policy is a top priority for state decision-makers and public funding; and that the Commonwealth provides the services and support necessary for children who enter the system to leave in better shape than when they arrived.

The **Wisconsin Council on Children and Families** (WCCF) is a multi-issue, private non-profit organization that does research, policy development, public education and advocacy on state and federal policy changes that will positively affect the lives of children, youth and families. WCCF was founded in the late 1800s and addresses a range of issues, including juvenile justice, child welfare, workforce supports for low-income working families, health care coverage, children's brain development and K-4 through 12 education. We believe that the juvenile justice system should be a rehabilitative system that addresses the needs and competencies of the developing youth. Further, we believe that wherever possible, rehabilitative treatment should take place in the least restrictive setting possible, but, if that is not possible, that institutional treatment

ought to provide treatment that is developmentally appropriate, understanding that youth continue to go through critical brain development through age 25.

## APPENDIX B

***State Age Requirements for Various Activities***
***Reproduced from the Juvenile Law Center Website***
*www.jlc.org/agerequirements*

All 50 states, the District of Columbia and Congress have restricted the ability of youth under the age of 18 to engage in numerous activities, including activities that are constitutionally protected.

Areas of legislation are listed below in alphabetical order.

**Abortion**

39 states prohibit unemancipated youth under the age of 18 from obtaining an abortion without either parental consent or a judicial bypass.[1]

Alabama, ALA. CODE §§ 26-21-1 to -8
Arizona, ARIZ. REV. STAT. § 36-2152
Arkansas, ARK. CODE ANN. §§ 20-16-801 to -808
California, CAL. HEALTH & SAFETY CODE § 123450
Colorado, COLO. REV. STAT. §§ 12-37.5-101 to -108
Florida, FLA. STAT. ANN. §§ 390.01115 - .01116
Georgia, GA. CODE ANN. §§ 15-11-110 to -118
Idaho, IDAHO CODE § 18-609A
Illinois, 750 ILL. COMP. STAT. §§ 70/1 to 70/99
Indiana, IND. CODE § 16-34-2-4
Iowa, IOWA CODE § 135L.3
Kansas, KAN. STAT. ANN. §§ 65-6701, 65-6704 to -6707
Kentucky, KY. REV. STAT. ANN. § 311.732
Louisiana, LA. REV. STAT. ANN. §§ 40:1299.35.5, 40:1299.35.12
Maryland, MD. CODE ANN., HEALTH-GEN. § 20-103
Massachusetts, MASS. GEN. LAWS ch.112, §§ 12Q, 12S
Michigan, MICH. COMP. LAWS ANN. §§ 722.901-.908
Minnesota, MINN. STAT. ANN. § 144.343
Mississippi, MISS. CODE ANN. §§ 41-41-51 to -63

[1] ABIGAIL ENGLISH & KIRSTEN E. KENNEY, STATE MINOR CONSENT LAWS 3-193 (2d ed. Center for Adolescent Health & the Law 2003).

Missouri, MO. REV. STAT. § 188.028
Montana, MONT. CODE ANN. §§ 50-20-203 to -215
Nebraska, NEB. REV. STAT. §§ 71-6901 to -6909
Nevada, NEV. REV. STAT. 442.255, 442.2555
New Jersey, N.J. STAT. ANN. §§ 9:17A-1.1 to :17A-1.12
New Mexico, N.M. STAT. ANN. § 30-5-1
North Carolina, N.C. GEN. STAT. §§ 90-21.6 to -21.10
North Dakota, N.D. CENT. CODE § 14-02.1-03, 14-02.1-03.1
Ohio, OHIO REV. CODE ANN. § 2919.121
Oklahoma, OKLA. STAT. ANN. tit. 63, § 1-740[2]
Pennsylvania, 18 PA. CONS. STAT. ANN. § 3206
Rhode Island, R.I. GEN. LAWS §§ 23-4.7-4, 23-4.7-6
South Dakota, S.D. CODIFIED LAWS §§ 26-1-1, 34-23A-1, -7, -7.1, -10.2, -22
Tennessee, TENN. CODE ANN. §§ 37-10-301 to -307
Texas, TEX. FAM. CODE ANN. §§ 33.001-.011
Utah, UTAH CODE ANN. § 76-7-304
Virginia, VA. CODE ANN. § 16.1-241
West Virginia, W. VA. CODE §§ 16-2F-1 to -9
Wisconsin, WIS. STAT. ANN. § 48.375
Wyoming, WYO. STAT. ANN. §§ 35-6-101, -118

**Age of Majority**

In all 50 states and the District of Columbia, the age of majority for most civil purposes is 18 or older. (Alabama and Nebraska set the age of majority at 19; Mississippi and Pennsylvania set the age of majority at 21.)[3]

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[2]Oklahoma's parental consent requirement law was held unconstitutional in *Nova Health Sys. v. Fogarty, No. 01-CV-419K* (N.D. Okla.June 17, 2002), *appeal filed*, No. 02-5094 (10th Cir. June 28, 2002), and is not being enforced.

[3]At least seven states (Alabama, Florida, Idaho, Iowa, Kansas, Nebraska, and Utah) maintain exceptions to the disabilities of minority for married youth. Alabama, ALA.CODE §§ 30-4-15, -16 (married youth age 18 and older are no longer minors); Florida, FLA. STAT. ANN. § 743.01(married youth under age 18 are no longer minors); Idaho, IDAHO CODE § 32-101 (married youth under 18 have capacity to enter contracts and sue or be sued); Iowa, IOWA CODE § 599.1 (married youth under age 18 are no longer minors); Kansas, KAN. STAT. ANN. § 38-101 (youth age 16 or older who are married are no longer minors for matters relating to contracts, property rights, liabilities and the capacity to sue and be sued); Nebraska, NEB. REV. STAT. § 43-2101 (married youth under 19 who are married are no longer minors); and Utah, UTAH CODE ANN. § 15-2-1 (youth under 18 who are married are no longer minors). Three states (Nevada, Pennsylvania, and

Alabama, ALA. CODE § 26-1-1
Alaska, ALASKA STAT. § 25.20.010
Arizona, ARIZ. REV. STAT. § 1-215
Arkansas, ARK. CODE ANN. § 9-25-101
California, CAL. FAM. CODE § 6500
Colorado, COLO. REV. STAT. § 13-22-101
Connecticut, CONN. GEN. STAT. § 1-1d
Delaware, DEL. CODE ANN. tit. 1, § 701
District of Columbia, D.C. CODE ANN. § 46-101
Florida, FLA. STAT. ANN. § 743.07
Georgia, GA. CODE ANN. § 39-1-1
Hawaii, HAW. REV. STAT. § 577-1
Idaho, IDAHO CODE § 32-101
Illinois, 755 ILL. COMP. STAT. 5/11-1
Indiana, IND. CODE § 1-1-4-5
Iowa, IOWA CODE § 599.1
Kansas, KAN. STAT. ANN. § 38-101
Kentucky, KY. REV. STAT. ANN. § 2.015
Louisiana, LA. CIV. CODE ANN. art. 29
Maine, ME. REV. STAT. ANN. tit. 1, § 73
Maryland, MD. ANN. CODE art. 1, § 24
Massachusetts, MASS. GEN. LAWS ch. 4, § 7, cl. 51; MASS. GEN. LAWS ch. 231, § 85P
Michigan, MICH. COMP. LAWS ANN. § 722.52
Minnesota, MINN. STAT. ANN. §§ 645.45, .451, .452
Mississippi, MISS. CODE. ANN. § 1-3-27
Missouri, MO. REV. STAT. § 431.055[4]
Montana, MONT. CONST. art. II, § 14
Nebraska, NEB. REV. STAT. § 43-2101
Nevada, NEV. REV. STAT. 129.010
New Hampshire, N.H. REV. STAT. ANN. § 21:44
New Jersey, N.J. STAT. ANN. §§ 9:17B-1, -3
New Mexico, N.M. STAT. ANN. § 28-6-1
New York, N.Y. C.P.L.R. 105; N.Y. DOM. REL. LAW § 2; N.Y. GEN. OBLIG. LAW § 1-202

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Wisconsin) make other limited exceptions to their age of majority restrictions. Nevada, NEV. REV. STAT. 129.010 (emancipated youth under the age of 18 are not considered minors); Pennsylvania, 23 PA. CONS. STAT. ANN. § 5101 (the age of majority for the right to contract and to sue and be sued is 18); and Wisconsin, WIS. STAT. ANN. § 990.01 (age of majority for purposes of investigating or prosecuting a person who is alleged to have violated any law is 17).

[4] *See also, Orth v. Orth*, 637 S.W.2d 201, 205 (Mo. Ct. App. 1982).

North Carolina, N.C. GEN. STAT. § 48A-2
North Dakota, N.D. CENT. CODE § 14-10-01
Ohio, OHIO REV. CODE ANN. § 3109.01
Oklahoma, OKLA. STAT. ANN. tit. 15, § 13
Oregon, OR. REV. STAT. § 109.510
Pennsylvania, 1 PA. CONS. STAT. ANN. § 1991; 23 PA. CONS. STAT. ANN. § 5101
Rhode Island, R.I. GEN. LAWS § 15-12-1
South Carolina, S.C. CODE ANN. § 15-1-320
South Dakota, S.D. CODIFIED LAWS § 26-1-1
Tennessee, TENN. CODE ANN. § 1-3-105
Texas, TEX. CIV. PRAC. & REM. CODE ANN. § 129.001
Utah, UTAH CODE ANN. § 15-2-1
Vermont, VT. STAT. ANN. tit. 1, § 173
Virginia, VA. CODE ANN. § 1-13.42
Washington, WASH. REV. CODE § 26.28.010
West Virginia, W. VA. CODE § 2-3-1
Wisconsin, WIS. STAT. ANN. § 990.01
Wyoming, WYO. STAT. ANN. § 14-1-101

**Alcohol**

All 50 states and the District of Columbia prohibit the purchase of alcohol by, or the sale of alcohol to, youth under the age of 21.

Alabama, ALA. CODE § 28-1-5
Alaska, ALASKA STAT. § 04.16.050
Arizona, ARIZ. REV. STAT. § 4-101
Arkansas, ARK. CODE ANN. § 3-3-203
California, CAL. HEALTH & SAFETY CODE § 11999
Colorado, COLO. REV. STAT. § 12-47-901
Connecticut, CONN. GEN. STAT. § 30-86
Delaware, DEL. CODE ANN. tit. 4, § 708
District of Columbia, D.C. CODE. ANN. § 25-1002
Florida, FLA. STAT. ANN. § 562.111
Georgia, GA. CODE ANN. § 3-3-23
Hawaii, HAW. REV. STAT. ANN. § 712-1250.5
Idaho, IDAHO CODE § 23-604
Illinois, 235 ILL. COMP. STAT. 5/6-16
Indiana, IND. CODE § 7.1-5-7-1
Iowa, IOWA CODE § 123.3

Kansas, KAN. STAT. ANN. § 41-727
Kentucky, KY. REV. STAT. ANN. § 244.085
Louisiana, LA. REV. STAT. ANN. § 93.12
Maine, ME. REV. STAT. ANN. tit. 19A, § 652
Maryland, MD. ANN. CODE art. 2B, § 1-201
Massachusetts, MASS. GEN. LAWS ch. 138, § 34C
Michigan, MICH. COMP. LAWS § 436.1703
Minnesota, MINN. STAT. § 340A.503
Mississippi, MISS. CODE ANN. § 67-3-70
Missouri, MO. REV. STAT. § 311.325
Montana, MONT. CODE ANN. § 16-3-301
Nebraska, NEB. REV. STAT. §§ 53-103, -180
Nevada, NEV. REV. STAT. 202.020
New Hampshire, N.H. REV. STAT. ANN. § 179.10
New Jersey, N.J. STAT. ANN. § 9:17B-1
New Mexico, N.M. STAT. ANN. § 60-3A
New York, N.Y. ALCO. BEV. CONT. § 65c
North Carolina, N.C. GEN. STAT. § 18B-302
North Dakota, N.D. CENT. CODE 5-01-08
Oklahoma, OKLA. STAT. tit. 37, § 604
Ohio, OHIO REV. CODE ANN. § 43-01-22
Oregon, OR. REV. STAT. § 471.105
Pennsylvania, 18 PA. CONS. STAT. ANN. § 6308
Rhode Island, R.I. GEN. LAWS § 3-8-6
South Carolina, S.C. CODE ANN. § 61-4-50
South Dakota, S.D. CODIFIED LAWS § 35-4-78
Tennessee, TENN. CODE ANN. § 57-4-20
Texas, TEX. ALCO. BEV. CODE ANN. § 106.01
Utah, UTAH CODE ANN. § 32A-1-105
Vermont, VT. STAT. ANN. tit. 7, § 2
Virginia, VA. CODE ANN. § 4.1-304
Washington, WASH. REV. CODE § 66.44.290
West Virginia, W. VA. CODE § 60-3-22
Wisconsin, WIS. STAT. § 125.02
Wyoming, WYO. STAT. ANN. § 12-6-101

**Body Piercing**

In 33 states, minors under the age of 18 are either absolutely prohibited from getting body piercings or are only allowed to obtain

such if a parent consents.[5]

Alabama, ALA. ADMIN. CODE r. 420-3-23-.03
Alaska, ALASKA STAT. § 08.13.217
Arizona, ARIZ. REV. STAT. § 13-3721
Arkansas, ARK. CODE ANN. § 20-27-1502
California, CAL. PENAL CODE § 652
Connecticut, CONN. GEN. STAT. ANN. § 19a-92g
Delaware, DEL. CODE ANN. tit 11, § 1114
Florida, FLA. STAT. ANN. § 381.0075
Georgia, GA. CODE ANN. § 16-5-71.1
Illinois, 720 ILL. COMP. STAT. 5/12-10.1
Indiana, IND. CODE § 35-42-2-7
Kansas, KAN. STAT. ANN. § 65-1953
Kentucky, KY. REV. STAT. ANN. § 211.760
Louisiana, LA. REV. STAT. ANN. § 14:93.2

[5]Of the 33 states with laws regulating minors' ability to obtain body piercing services, at least 30 states passed their laws since 1989, with at least 19 states passing those laws within the past five years (1999-2004). Alabama, ALA. ADMIN. CODE r. 420-3-23-.03, effective April 19, 2001; Alaska, ALASKA STAT. § 08.13.217, effective September 1, 2000; Arizona, ARIZ. REV. STAT. § 13-3721, added by amendment, 1999; Arkansas, ARK. CODE ANN. § 20-27-1502, effective August 13, 2001; California, CAL. PENAL CODE § 652, added by statute, 1997; Connecticut, CONN. GEN. STAT. ANN. § 19a-92g, effective October 1, 1999; Florida, FLA. STAT. ANN. § 381.0075, effective October 1, 1999; Georgia, GA. CODE ANN. § 16-5-71.1, added by statute, 1996; Illinois, 720 ILL. COMP. STAT. 5/12-10.1, effective September 5, 1999; Indiana, IND. CODE § 35-42-2-7, added by amendment, May 5, 1999; Kansas, KAN. STAT. ANN. § 65-1953, effective 1996; Kentucky, KY. REV. STAT. ANN. § 211.760, added by amendment, April 2, 2002; Louisiana, LA. REV. STAT. ANN. § 14:93.2, added by amendment, July 7, 1997; Maine, ME. REV. STAT. ANN. tit. 32, § 4323, added by statute, 1997; Michigan, MICH. COMP. LAWS ANN. § 333.13102, effective September 1, 1996; Mississippi, MISS. CODE ANN. § 73-61-3, effective July 1, 2000; Missouri, MO. ANN. STAT. § 324.520, effective October 13, 1999; New Hampshire, N.H. REV. STAT. ANN. § 314-A:8, effective January 1, 2003; New Jersey, N.J. STAT. ANN. § 2C:40-21, effective November, 2001; North Carolina, N.C. GEN. STAT. § 14-400, effective December 1, 1998; Ohio, OHIO REV. CODE ANN. § 3730.06, effective October 14, 1997; Oklahoma, OKLA. STAT. ANN. tit. 21, § 842.1, effective November 1, 1998; Oregon, OR. ADMIN. R. 331-220-0080, effective November 1, 2001; South Carolina, S.C. CODE ANN. § 44-32-120, effective October 1, 2000; Texas, TEX. HEALTH & SAFETY CODE ANN. § 146.0125, effective September 1, 1999; Utah, UTAH CODE ANN. § 76-10-2201, effective May 4, 1998; Vermont, VT. STAT. ANN. tit. 26, § 4102, effective June 13, 2002; Virginia, VA. CODE ANN. § 18.2-371.3, added by amendment, March 15, 2001; Wisconsin, WIS. ADMIN. CODE § 173.05, effective August 1, 1998; and Wyoming, WYO. STAT. ANN. § 14-3-107, effective July 1, 2004.

Maine, ME. REV. STAT. ANN. tit. 32, § 4323
Maryland, MD. REGS. CODE tit. 10, § 10.06.01.06
Michigan, MICH. COMP. LAWS ANN. § 333.13102
Mississippi, MISS. CODE ANN. § 73-61-3
Missouri, MO. ANN. STAT. § 324.520
New Hampshire, N.H. REV. STAT. ANN. § 314-A:8
New Jersey, N.J. STAT. ANN. § 2C:40-21
North Carolina, N.C. GEN. STAT. § 14-400
Ohio, OHIO REV. CODE ANN. § 3730.06
Oklahoma, OKLA. STAT. ANN. tit. 21, § 842.1
Oregon, OR. ADMIN. R. 331-220-0080
Rhode Island, R.I. GEN. LAWS § 23-1-39
South Carolina, S.C. CODE ANN. § 44-32-120
Texas, TEX. HEALTH & SAFETY CODE ANN. § 146.0125
Utah, UTAH CODE ANN. § 76-10-2201
Vermont, VT. STAT. ANN. tit. 26, § 4102
Virginia, VA. CODE ANN. § 18.2-371.3
Wisconsin, WIS. ADMIN. CODE § 173.05
Wyoming, WYO. STAT. ANN. § 14-3-107[6]

**Cigarettes**

All 50 states and the District of Columbia prohibit either the possession or purchase of cigarettes by youth under the age of 18. (Alabama, Alaska, and Utah prohibit either the possession or purchase of cigarettes by youth under the age of 19.)

Alabama, ALA. CODE §§ 13A-12-3, 28-11-13
Alaska, ALASKA STAT. §§ 11.76.100, .105
Arizona, ARIZ. REV. STAT. § 13-3622
Arkansas, ARK. CODE ANN. § 5-27-227
California, CAL. PENAL CODE § 308
Colorado, COLO. REV. STAT. ANN. § 18-13-121
Connecticut, CONN. GEN. STAT. ANN. § 53-344
Delaware, DEL. CODE ANN. tit. 11, § 1124
District of Columbia, D.C. CODE ANN. § 22-1320
Florida, FLA. STAT. ANN. § 569.101
Georgia, GA. CODE ANN. § 16-12-171
Hawaii, HAW. REV. STAT. § 709-908
Idaho, IDAHO CODE § 39-5703

[6](amended 2004)

Illinois, 720 ILL. COMP. STAT. 675/1
Indiana, IND. CODE §§ 35-46-1-10, -10.5
Iowa, IOWA CODE ANN. § 453A.2
Kansas, KAN. STAT. ANN. § 79-3321
Kentucky, KY. REV. STAT. ANN. §§ 438.310, .311
Louisiana, LA. REV. STAT. ANN. § 14.91.8
Maine, ME. REV. STAT. ANN. tit. 22, § 1555-B
Maryland, MD. CODE ANN., CRIM. §§ 10-107 to -108
Massachusetts, MASS. GEN. LAWS ANN. ch. 270, § 6
Michigan, MICH. COMP. LAWS ANN. §§ 722.641–.642
Minnesota, MINN. STAT. ANN. § 609.685
Mississippi, MISS. CODE ANN. § 97-32-5
Missouri, MO. ANN. STAT. § 407.933
Montana, MONT. CODE ANN. §§ 16-11-305, 45-5-637
Nebraska, NEB. REV. STAT. §§ 28-1418, -1419, -1427
Nevada, NEV. REV. STAT. 202.2493
New Hampshire, N.H. REV STAT. §§ 126-K:4, :6
New Jersey, N.J. STAT. ANN. § 2A:170-51.4
New Mexico, N.M. STAT. ANN. § 30-49-3
New York, N.Y. PUB. HEALTH LAW § 1399-cc
North Carolina, N.C. GEN. STAT. § 14-313
North Dakota, N.D. CENT. CODE § 12.1-31-03
Ohio, OHIO REV. CODE ANN. §§ 2927.02; 2151.87
Oklahoma, OKLA. STAT. ANN. tit. 37, §§ 600.3–.4
Oregon, OR. REV. STAT. §§163.575, 167.400
Pennsylvania, 18 PA. CONS. STAT. ANN. § 6305
Rhode Island, R.I. Gen. Laws §§ 11-9-13 to -14
South Carolina, S.C. CODE ANN. § 16-17-500
South Dakota, S.D. CODIFIED LAWS § 34-46-2
Tennessee, TENN. CODE ANN. §§ 39-17-1504 to -1505
Texas, TEX. HEALTH & SAFETY CODE ANN. §§ 161.082, .252
Utah, UTAH CODE ANN. §§ 76-10-104 to -105
Vermont, VT. STAT. ANN. tit. 7, §§ 1005, 1007
Virginia, VA. CODE ANN. § 18.2-371.2
Washington, WASH. REV. CODE ANN. §§ 26.28.080, 70.155.080
West Virginia, W. VA. CODE §§ 16-9A-2 to -3
Wisconsin, WIS. STAT. §§ 134.66, 254.92
Wyoming, WYO. STAT. ANN. §§ 14-3-302, -304, -305

**Contracts**

In all 50 states and the District of Columbia, the contract rights of youth under age 18 are restricted and/or infancy of the obligor is a defense to the enforcement of a simple contract.[7]

Alabama, ALA.CODE §§ 7-3-305 (infancy is a defense), 26-1-1 (age of majority is 19)
Alaska, ALASKA STAT. § 45.03.305 (infancy is a defense), 25.20.010 (person over age 18 has rights of citizen of full age), 09.55.590 (minor who has disability removed has capacity to contract)
Arizona, ARIZ. REV. STAT. §§ 47-3305 (infancy is a defense), 44-131 (youth under 18 who are veterans or married to adults are exempted from disability by reason of age and have capacity to contract)
Arkansas, ARK. CODE ANN. §§ 4-3-305 (infancy is a defense), 9-25-101 (age of majority is 18)
California, CAL. COM. CODE § 3305 (infancy is a defense), CAL. FAM. CODE § 6700 (minor cannot make a contract regarding real property or personal property not in minor's possession and minor has power to disaffirm contract), CAL. FAM. CODE § 6710 (minor can disaffirm contract)
Colorado, COLO. REV. STAT. ANN. §§ 4-3-305 (infancy is a defense), 13-22-101 (persons 18 or older have capacity to enter into contracts)
Connecticut, CONN. GEN. STAT. ANN. §§ 42a-3-305 (infancy is a defense), 1-1d (infant defined as person under age 18)
Delaware, DEL. CODE ANN. tit. 6, §§ 3-305 (infancy is a defense), 2705 (persons age 18 or older have full capacity to contract)
District of Columbia, D.C. CODE ANN. §§ 28:3-305 (infancy is a defense), 46-101 (age of majority is 18)
Florida, FLA. STAT. ANN. §§ 673.3051 (infancy is a defense), 743.07 (disabilities of nonage end at age 18) 743.01 (disabilities of nonage dissolved for minor who marries; married minor has right to contract)
Georgia, GA. CODE ANN. §§ 11-3-305 (infancy is a defense), 39-1-1 (age of majority is 18), 13-3-20 (minors' contracts are voidable)
Hawaii, HAW. REV. STAT. §§ 490:3-305 (infancy is a defense), 577-1 (age of majority is 18)
Idaho, IDAHO CODE §§ 28-3-305 (infancy is a defense), 29-101 (minors are incapable of contracting), 32-101 (married minors are competent to contract), 32-103 (minors can disaffirm contracts)
Illinois, 810 ILL. COMP. STAT. 5/3-305 (infancy is a defense), 755 ILL. COMP. STAT. 5/11-1 (minor defined as person under age 18), 750

[7]States typically allow minors to contract for insurance and postsecondary educational loans.

ILL. COMP. STAT. 30/5 (emancipated minors have right to enter into legal contracts)
Indiana, IND. CODE § § 26-1-3.1-305 (infancy is a defense), 1-1-4-5 (defines infant as person under age 18)
Iowa, IOWA CODE ANN. §§ 554.3305 (infancy is a defense), 599.1 (age of majority is 18 or upon marriage), 599.2 (minors can disaffirm contracts)
Kansas, KAN. STAT. ANN. §§ 84-3-305 (infancy is a defense), 38-101 (age of majority is 18, but married minors age 16 and older have capacity to contract)
Kentucky, KY. REV. STAT. ANN. §§ 355.3-305 (infancy is a defense), 2.015 (age of majority is 18)
Louisiana, LA. REV. STAT. ANN. § 10:3-305 (infancy is a defense), LA. CIV. CODE ANN. Art. 1918 (unemancipated minors do not have capacity to contract)
Maine, ME. REV. STAT. ANN. tit. 11, § 3-1305 (infancy is a defense), tit. 33, § 52 (minor's contract must be ratified in writing by person of full age to be actionable)
Maryland, MD. CODE ANN., COM. LAW §§ 3-305 (infancy is a defense), 1-103 (age of majority for capacity to contract is 18)
Massachusetts, MASS. GEN. LAWS ANN. ch. 106, § 3-305 (infancy is a defense), ch. 231, § 850 (persons age 18 and older have capacity to contract)
Michigan, MICH. COMP. LAWS ANN. §§ 440.3305 (infancy is a defense), 722.52 (persons 18 and older have legal capacity of adults)
Minnesota, MINN. STAT. ANN. §§ 336.3-305 (infancy is a defense), 645.45 (minor defined as person under age 18), 645.451 (minor defined as person under age 18), 645.452 (disabilities of minority end at age 18)
Mississippi, MISS. CODE ANN. §§ 75-3-305 (infancy is a defense), 93-19-9 (minors who have disabilities removed have capacity to make contracts)
Missouri, MO. ANN. STAT. §§ 400.3-305 (infancy is a defense), 431.055 (person becomes competent to contract at age 18)
Montana, MONT. CODE ANN. §§ 30-3-305 (infancy is a defense), 28-2-201 (minors are not capable of contracting)
Nebraska, NEB. REV. STAT. §§ 3-305 (infancy is a defense), 43-2101 (age of majority is 19 or upon marriage)
Nevada, NEV. REV. STAT. §§ 104.3305 (infancy is a defense), 129.010 (minors age 18 and older and emancipated minors have capacity to enter into contracts)

New Hampshire, N.H. REV. STAT. ANN. §§ 382-A:3-305 (infancy is a defense), 21:44 (age of majority is 18)
New Jersey, N.J. STAT. ANN. §§ 12A:3-305 (infancy is a defense), 9:17B-1 (persons age 18 and older have right to contract)
New Mexico, N.M. STAT. ANN. §§ 55-3-305 (infancy is a defense), 32A-21-5 (emancipated minor has capacity to contract)
New York, N.Y. U.C.C. LAW § 3-305 (holder in due course takes instrument free from defense of infancy), N.Y. C.P.L.R. 105 (infant defined as person under age 18)
North Carolina, N.C. GEN. STAT. §§ 25-3-305 (infancy is a defense), 48A-2 (minor defined as person under age 18)
North Dakota, N.D. CENT. CODE §§ 41-03-31 (infancy is a defense), 9-02-01 (minors do not have capacity to contract), 14-10-11 (minor can disaffirm contract)
Ohio, OHIO REV. CODE ANN. §§ 1303.35 (infancy is a defense), 3109.01 (persons 18 or older have capacity to contract)
Oklahoma, OKLA. STAT. ANN. tit. 12A, § 3-305 (infancy is a defense), tit. 15 §§ 11 (minors do not have capacity to contract), 17 (minor cannot make a contract regarding real property or personal property not in his control)
Oregon, OR. REV. STAT. §§ 73.0305 (infancy is a defense), 109.510 (persons 18 and older have rights of citizen of full age)
Pennsylvania, 13 PA. CONS. STAT. ANN. § 3305 (infancy is a defense), 23 PA. CONS. STAT. ANN. § 5101 (persons over age 18 can enter into binding contracts)
Rhode Island, R.I. GEN. LAWS §§ 6A-3-305 (infancy is a defense), 15-12-1 (age for assumption of legal rights is 18)
South Carolina, S.C. CODE ANN. §§ 36-3-305 (infancy is a defense), 15-1-320 (minors defined as persons under age 18), 20-7-250 (contracts made in writing by infants must be ratified in writing by person of full age to be actionable)
South Dakota, S.D. CODIFIED LAWS §§ 57A-3-305 (infancy is a defense), 26-2-1 (minor cannot make a contract regarding real property or personal property not in his control), 26-2-3 (minors may disaffirm contracts)
Tennessee, TENN. CODE ANN. § 47-3-305 (infancy is a defense), 29-31-105 (minor who has disabilities removed is empowered to contract)
Texas, TEX. BUS. & COM. CODE ANN. § 3.305 (infancy is a defense), TEX. FAM. CODE ANN. § 31.006 (minor who has disabilities removed has capacity to contract)

Utah, UTAH CODE ANN. §§ 70A-3-305 (infancy is a defense), 15-2-2 (minor bound by contracts unless he disaffirms them)
Vermont, VT. STAT. ANN. tit. 9A, § 3-305 (infancy is a defense), tit. 1, § 173 (minors are persons under age 18)
Virginia, VA. CODE ANN. §§ 8.3A-305 (infancy is a defense), 1-13.42 (defines infant as person under age 18)
Washington, WASH. REV. CODE ANN. § § 62A.3-305 (infancy is a defense), 26-28-030 (minor bound by contracts unless he disaffirms them)
West Virginia, W. VA. CODE §§ 46-3-305 (infancy is a defense), 2-3-1 (no person age 18 or older lacks capacity by reason of age to enter into contracts)
Wisconsin, WIS. STAT. ANN. §§ 403.305 (infancy is a defense), 990.01 (age of majority is 18)
Wyoming, WYO. STAT. ANN. §§ 34.1-3-305 (infancy is a defense), 14-1-101 (youth age 18 or older can enter into a binding contract)

**Driving**

In 42 states and the District of Columbia, a youth must be 18 years of age or older to be issued a driver's license free of restrictions or prerequisites. (Virginia issues unrestricted driver's licenses only to persons 19 or older and the District of Columbia issues unrestricted driver's licenses only to persons 21 or older.)

Alabama, ALA. CODE § 32-6-7.2
Alaska, ALASKA STAT. § 28.15.031
Arizona, ARIZ. REV. STAT. ANN. § 28-3153
Arkansas, ARK. CODE. ANN. § 27-16-604
California, CAL. VEHICLE CODE § 12512
Connecticut, CONN. GEN. STAT. § 14-36
Delaware, DEL. CODE ANN. tit. 21, § 2707
District of Columbia, D.C. CODE ANN. § 50-1401.01
Florida, FLA. STAT. ANN. § 322.05
Georgia, GA. CODE ANN. § 40-5-22
Hawaii, HAW. REV. STAT. ANN. § 286-104
Illinois, 625 ILL. COMP. STAT. 5/6- 103
Indiana, IND. CODE § 9-24-3-2
Iowa, IOWA CODE § 321.177
Kansas, KAN. STAT. ANN. § 8-237
Kentucky, KY. REV. STAT. ANN. § 186.440

Louisiana, LA. REV. STAT. ANN. § 32:405.1
Maine, ME. REV. STAT. ANN. tit. 29-A, § 1302
Maryland, MD. CODE. ANN., TRANSP. I § 16-103
Massachusetts, MASS. GEN. LAWS. ANN. ch. 90, § 8
Michigan, MICH. COMP. LAWS ANN. § 257.308
Minnesota, MINN. STAT. § 171.04
Missouri, MO. ANN. STAT. § 302.060
Nebraska, NEB. REV. STAT. § 60-480
Nevada, NEV. REV. STAT. 483.250
New Hampshire, N.H. REV. STAT. ANN. § 263:16
New Jersey, N.J. STAT. ANN. § 39:3-10
New Mexico, N.M. STAT. ANN. § 66-5-5
New York, N.Y. VEH. & TRAF. LAW § 502
North Carolina, N.C. GEN. STAT. § 20-9
Ohio, OHIO REV. CODE. ANN. § 4507.07
Oklahoma, OKLA. STAT. tit. 47, § 6-103
Oregon, OR. REV. STAT. § 807.060
Pennsylvania, 75 PA. CONS. STAT. § 1503
Rhode Island, R.I. GEN. LAWS § 31-10-6
South Dakota, S.D. CODIFIED LAWS § 32-12-6
Tennessee, TENN. CODE ANN. § 55-50-312
Texas, TEX. TRANSP. CODE ANN. § 521.204
Utah, UTAH CODE ANN. § 53-3-204
Virginia, VA. CODE ANN. § 46.2-334.01
Vermont, VT. STAT. ANN. tit. 23, § 606
West Virginia, W. VA. CODE § 17B-2-3
Wisconsin, WIS. STAT. § 343.06

**Firearms**

Under Federal law, youth under the age of 18 cannot possess a handgun or handgun ammunition. Neither can any federally licensed importer, manufacturer, dealer, or collector sell or deliver any firearm to a juvenile under the age of 18 or any firearm, other than a shotgun or rifle, to any person under the age of 21. 18 U.S.C.A. § 922.

46 states and the District of Columbia restrict the sale or delivery of certain firearms to youth under the age of 18 and/or prohibit the

possession of certain firearms by youth under the age of 18.[8]

37 states and the District of Columbia either absolutely prohibit the sale or delivery of certain firearms to juveniles under the age of 18, or only allow the sale or delivery with parental consent.
Eight states (Connecticut, Delaware, Hawaii, Iowa, Maryland, Massachusetts, Ohio, and South Carolina) and the District of Columbia prohibit the sale or delivery of certain firearms to youth under the age of 21.[9] New York prohibits the sale or delivery of certain firearms to youth under the age of 19.[10]

Alabama, ALA. CODE §§ 13A-11-57, -76
Alaska, ALASKA STAT. § 11.61.210
Arizona, ARIZ. REV. STAT. ANN. § 13-3109
Arkansas, ARK. CODE ANN. § 5-73-109
Colorado, COLO. REV. STAT. ANN. § 18-12-108.7
Connecticut, CONN. GEN. STAT. ANN. § 29-34
Delaware, DEL. CODE ANN. tit. 24, § 903
District of Columbia, D.C. CODE ANN. § 22-4507
Florida, FLA. STAT. ANN. § 790.18
Georgia, GA. CODE ANN. § 16-11-101.1
Hawaii, HAW. REV. STAT. ANN. § 134-2
Idaho, IDAHO CODE § 18-3302A
Illinois, 720 ILL. COMP. STAT. ANN. 5/24-3
Indiana, IND. CODE ANN. § 35-47-2-7
Iowa, IOWA CODE ANN. § 724.22
Kansas, KAN. STAT. ANN. § 21-4203
Kentucky, KY. REV. STAT. ANN. § 527.110
Louisiana, LA. REV. STAT. ANN. § 14:91
Maine, ME. REV. STAT. ANN. tit. 17-A, § 554-B
Maryland, MD. CODE ANN., PUB. SAFETY § 5-134
Massachusetts, MASS. GEN. LAWS ANN. ch. 140, §§ 129C – 130

[8] In addition, Missouri and Wyoming prohibit youth under the age of 21 from procuring a permit to carry a concealed firearm. Missouri, MO. ANN. STAT. §571.090; Wyoming, WYO. STAT. ANN. § 6-8-104.
[9] Connecticut, CONN. GEN. STAT. ANN. § 29-34; Delaware, DEL. CODE ANN. tit. 24, § 903; District of Columbia, D.C. CODE ANN. § 22-4507; Hawaii, HAW. REV. STAT. ANN. § 134-2; Iowa, IOWA CODE ANN. § 724.22; Maryland, MD. CODE ANN., PUB. SAFETY § 5-134; Massachusetts, MASS. GEN. LAWS ANN. ch. 140, § 130; Ohio, OHIO REV. CODE ANN. § 2923.21; and South Carolina, S.C. CODE ANN. § 16-23-30.
[10] New York, N.Y. PENAL LAW § 265.16.

Michigan, MICH. COMP. LAWS ANN. § 750.223
Minnesota, MINN. STAT. ANN. § 609.66
Nebraska, NEB. REV. STAT. § 28-1204.01
Nevada, NEV. REV. STAT. 202.310
New Hampshire, N.H. REV. STAT. ANN. § 159:12
New York, N.Y. PENAL LAW § 265.16
North Carolina, N.C. GEN. STAT. § 14-315
Ohio, OHIO REV. CODE ANN. § 2923.21
Oklahoma, OKLA. STAT. ANN. tit. 21, § 1273
Oregon, OR. REV. STAT. § 166.470
Pennsylvania, 18 PA. CONS. STAT. ANN. § 6302
South Carolina, S.C. CODE ANN. § 16-23-30
Tennessee, TENN. CODE ANN. § 39-17-1303
Texas, TEX. PENAL CODE ANN. § 46.06
Utah, UTAH CODE ANN. § 76-10-509.5
Virginia, VA. CODE ANN. § 18.2-309
Wisconsin, WIS. STAT. ANN. § 948.60

32 states either absolutely prohibit the possession of certain firearms by youth under the age of 18, or only allow possession with parental consent and/or supervision.[11] Three states (Maryland, New Jersey, and Washington) restrict the possession of certain firearms by youth under the age of 21, and New Mexico prohibits the possession of certain firearms by youth under the age of 19.[12]

Arkansas, ARK. CODE ANN. § 5-73-119
California, CAL. PENAL CODE § 12101
Colorado, COLO. REV. STAT. ANN. § 18-12-108.5
Delaware, DEL. CODE ANN. tit. 11, § 1448
Florida, FLA. STAT. ANN. § 790.22
Georgia, GA. CODE ANN. § 16-11-132
Idaho, IDAHO CODE § 18-3302F
Illinois, 720 ILL. COMP. STAT. ANN. 5/24-3.1
Indiana, IND. CODE ANN. § 35-47-10-5
Iowa, IOWA CODE ANN. § 724.22
Kansas, KAN. STAT. ANN. § 21-4204a

[11]Most statutes enumerate supervised firearm activities, such as hunting and marksmanship, that are excluded from the prohibition.
[12]Maryland, MD. CODE ANN., PUB. SAFETY § 5-133; New Jersey, N.J. STAT. ANN. § 2C:58-6.1; New Mexico, N.M. STAT. ANN. § 30-7-2.2; and Washington, WASH. REV. CODE ANN. §§ 9.41.040, .41.240.

Maryland, MD. CODE ANN., PUB. SAFETY § 5-133
Massachusetts, MASS. GEN. LAWS ANN. ch. 140, § 129B
Michigan, MICH. COMP. LAWS ANN. § 750.234f
Mississippi, MISS. CODE ANN. § 97-37-14
Nebraska, NEB. REV. STAT. § 28-1204
Nevada, NEV. REV. STAT. 202.300
New Jersey, N.J. STAT. ANN. § 2C:58-6.1
New Mexico, N.M. STAT. ANN. § 30-7-2.2
North Carolina, N.C. GEN. STAT. § 14-269.7
North Dakota, N.D. CENT. CODE § 62.1-02-01
Oklahoma, OKLA. STAT. ANN. tit. 21, § 1273
Oregon, OR. REV. STAT. § 166.250
Pennsylvania, 18 PA. CONS. STAT. ANN. § 6110.1
Rhode Island, R.I. GEN. LAWS § 11-47-33
South Dakota, S.D. CODIFIED LAWS § 23-7-44
Tennessee, TENN. CODE ANN. § 39-17-1319
Utah, UTAH CODE ANN. §§ 76-10-509, -509.4
Virginia, VA. CODE ANN. § 18.2-308.7
Washington, WASH. REV. CODE ANN. §§ 9.41.040, .41.240
West Virginia, W. VA. CODE § 61-7-8
Wisconsin, WIS. STAT. ANN. § 948.60

**Foreign Travel**

Youth under the age of 18 cannot obtain a passport for foreign travel if the custodial parent objects. 22 C.F.R. § 51.27.

**Gambling**

In each of the 48 jurisdictions where gambling is legal, youth under the age of 18 are prohibited from participating in certain forms of gambling.[13]

[13]Gambling is outlawed in three states (Hawaii, North Carolina, and Utah). Hawaii, HAW. REV. STAT. § 712-1223; North Carolina, N.C. GEN. STAT. §§ 14-289 to -292, -309.5, *et. seq*. (narrow exception for licensed bingo games operated by non-profit organizations with maximum prize amount of $500); and Utah, UTAH CONST. art. 6, § 27.

Lotteries

41 states prohibit youth under the age of 18 from purchasing lottery tickets.[14] Three states (Arizona, Iowa, and Louisiana) prohibit youth under the age of 21 from purchasing lottery tickets.[15]

Arizona, ARIZ. REV. STAT. ANN. § 5-515
California, CAL. GOV'T CODE § 8880.52
Colorado, COLO. REV. STAT. ANN. § 24-35-214
Connecticut, CONN. GEN. STAT. § 12-813
Delaware, DEL. CONST. art. II, § 17; DEL. CODE ANN. tit 29, § 4810
Florida, FLA. STAT. ANN. § 24.1055
Georgia, GA. CODE ANN. § 50-27-26
Idaho, IDAHO CODE § 67-7415
Illinois, 20 ILL. COMP. STAT. ANN. 1605/15
Indiana, IND. CODE ANN. § 4-30-11-3
Iowa, IOWA CODE ANN. § 99G.30
Kansas, KAN. STAT. ANN. § 74-8718
Kentucky, KY. REV. STAT. ANN. § 154A.990
Louisiana, LA. REV. STAT. ANN. § 47:9025
Maine, ME. REV. STAT. ANN. tit. 8, § 380
Maryland, MD. CODE ANN., STATE GOV'T § 9-124
Massachusetts, MASS. GEN. LAWS ANN. ch. 10, § 29
Michigan, MICH. COMP. LAWS ANN. § 432.29
Minnesota, MINN. STAT. ANN. § 349A.12
Missouri, MO. ANN. STAT. § 313.280
Montana, MONT. CODE ANN. § 23-7-110
Nebraska, NEB. REV. STAT. §§ 9-430, -646
New Hampshire, N.H. REV. STAT. ANN. § 287-F:8
New Jersey, N.J. STAT. ANN. § 5:9-15
New Mexico, N.M. STAT. ANN. § 6-24-15
New York, N.Y. TAX LAW § 1610

[14] Lotteries are illegal in five states (Alabama, Arkansas, Hawaii, North Carolina, and Utah) and the District of Columbia, and Nevada only allows charitable lotteries. Alabama, ALA. CONST. art. IV, § 65; Arkansas, ARK. CONST. art. XIX, § 14A; District of Columbia, D.C. CODE ANN. § 22-1708; Hawaii, HAW. REV. STAT. § 712-1223; Nevada, NEV. REV. STAT. 462.250; North Carolina, N.C. GEN. STAT. §§ 14-289 to -291; and Utah, UTAH CONST. art. VI, § 27. Pending legislation in Mississippi would establish a lottery and prohibit youth under the age of 18 from purchasing tickets. Mississippi, H.B. 1064, 2004 Reg. Sess. (Miss. 2004).

[15] Arizona, ARIZ. REV. STAT. ANN. § 5-515; Iowa, IOWA CODE ANN. § 99G.30; and Louisiana, LA. REV. STAT. ANN. § 47:9025.

North Dakota, N.D. CENT. CODE § 53-12-24
Ohio, OHIO REV. CODE ANN. § 3770.08
Oklahoma, OKLA. STAT. ANN. tit. 3A, § 723
Oregon, OR. REV. STAT. § 462.190
Pennsylvania, PA. STAT. ANN. tit. 72, § 3761-309
Rhode Island, R.I. GEN. LAWS § 42-61-9
South Carolina, S.C. CODE ANN. § 59-150-210
South Dakota, S.D. CODIFIED LAWS § 42-7A-32
Tennessee, TENN. CODE ANN. §§ 39-17-602, -603
Texas, TEX. GOV'T CODE ANN. § 466.3051
Vermont, VT. STAT. ANN. tit. 31, §§ 661, 674
Virginia, VA. CODE ANN. § 58.1-4015
Washington, WASH. REV. CODE § 67.70.120
West Virginia, W. VA. CODE § 29-22-11
Wisconsin, WIS. STAT. § 565.17

Bingo

30 states and the District of Columbia either absolutely prohibit youth under the age of 18 from participating in bingo games, or only allow youth under the age of 18 to participate if a parent consents.[16] Two states (Alabama and Alaska) prohibit youth under the age of 19 from participating in bingo games.[17] Nevada prohibits youth under the age of 21 from participating in bingo games.[18]

Alabama, ALA. CONST. amends. 386, 674
Alaska, ALASKA STAT. § 05.15.180
California, CAL. PENAL CODE § 326.5
Colorado, COLO. REV. STAT. ANN. §§ 12-9-102, -107
District of Columbia, D.C. CODE ANN. § 3-1334
Florida, FLA. STAT. ANN. § 849.0931
Georgia, GA. CODE ANN. § 16-12-58
Idaho, IDAHO CODE § 67-7707
Illinois, 230 ILL. COMP. STAT. ANN. 25/2

[16] Bingo is illegal or unconstitutional in three states (Hawaii, North Carolina, and Utah). Hawaii, HAW. REV. STAT. § 712-1223; North Carolina, N.C. GEN. STAT. §§ 14-292,-309.5 to .12 (narrow exception for licensed bingo games operated by non-profit organizations with maximum prize amount of $500); and Utah, UTAH CONST. art. 6, § 27.
[17] Alabama, ALA. CONST. amends. 386, 387 (applies to named counties only) and Alaska, ALASKA STAT. § 05.15.180.
[18] Nevada, NEV. REV. STAT. 463.350.

Indiana, IND. CODE § 4-32-9-34
Kansas, KAN. STAT. ANN. § 79-4706
Kentucky, KY. REV. STAT. ANN. § 238.545
Minnesota, MINN. STAT. ANN. § 349.2127
Mississippi, MISS. CODE ANN. § 97-33-67
Montana, MONT. CODE ANN. § 23-5-158
Nebraska, NEB. REV. STAT. § 9-241.08
Nevada, NEV. REV. STAT. 463.350
New Hampshire, N.H. REV. STAT. ANN. § 287-E:7
New Jersey, N.J. STAT. ANN. § 5:8-32
New Mexico, N.M. STAT. ANN. § 30-19-7.2
New York, N.Y. GEN. MUN. LAW § 486
North Dakota, N.D. CENT. CODE § 53-06.1-03
Ohio, OHIO REV. CODE ANN. § 2915.09
Oklahoma, OKLA. STAT. ANN. tit. 3A, §§ 402, 418
Pennsylvania, PA. STAT. ANN. tit 10, § 305
Rhode Island, R.I. GEN. LAWS § 11-19-32
Tennessee, TENN. CODE ANN. § 3-17-101
Texas, TEX. OCC. CODE ANN. § 2001.418
Virginia, VA. CODE ANN. § 18.2-340.19
West Virginia, W. VA. CODE § 47-20-4
Wisconsin, WIS STAT. ANN. § 563.51

Pari-mutuel Betting

39 states prohibit youth under the age of 18 from engaging in pari-mutuel betting.[19] Six states (Arizona, Iowa, Mississippi, Nevada, Texas, and Washington) prohibit youth under the age of 21 from placing pari-mutuel bets.[20] Two states (Alabama and Nebraska) prohibit youth under the age of 19 from placing pari-mutuel bets.[21]

Alabama, ALA. CODE § 11-65-44

[19] Pari-mutuel betting is illegal in four states (Georgia, Hawaii, North Carolina, and Utah) and the District of Columbia. Georgia, GA. CONST. art. 1, § 2, ¶VIII; District of Columbia, D.C. CODE ANN. § 22-1708; Hawaii, HAW. REV. STAT. § 712-1223; North Carolina, N.C. GEN. STAT. § 14-292; and Utah, UTAH CONST. art. 6, § 27.

[20] Arizona, ARIZ. REV. STAT. ANN. § 5-112; Iowa, IOWA CODE ANN. § 99D.11; Mississippi, MISS. CODE ANN. § 75-76-155; Nevada, NEV. REV. STAT. 463.350; Texas, TEX. REV. CIV. STAT. ANN. art. 179e; and Washington, WASH. REV. CODE ANN. § 67.16.350.

[21] Alabama, ALA. CODE § 11-65-44; and Nebraska, NEB. REV. STAT. § 2-1207.

Arizona, ARIZ. REV. STAT. ANN. § 5-112
Arkansas, ARK. CODE ANN. § 23-110-405
California, CAL. BUS. & PROF. CODE § 19604
Colorado, COLO. REV. STAT. ANN. § 12-60-601
Connecticut, CONN. GEN. STAT. ANN. § 12-576
Florida, FLA. STAT. ANN. § 550.0425
Idaho, IDAHO CODE § 54-2512
Illinois, 230 ILL. COMP. STAT. ANN. 5/26
Indiana, IND. CODE § 4-31-7-2
Iowa, IOWA CODE ANN. § 99D.11
Kansas, KAN. STAT. ANN. § 74-8810
Louisiana, LA. REV. STAT. ANN. § 4:157
Maine, ME. REV. STAT. ANN. tit. 8 § 278
Massachusetts, MASS. GEN. LAWS ANN. ch. 128A, § 10
Michigan, MICH. COMP. LAWS ANN. § 431.317
Minnesota, MINN. STAT. ANN. § 240.25
Mississippi, MISS. CODE ANN. § 75-76-155
Missouri, MO. ANN. STAT. § 313.670
Montana, MONT. CODE ANN. § 23-4-301
Nebraska, NEB. REV. STAT. § 2-1207
Nevada, NEV. REV. STAT. 463.350
New Hampshire, N.H. REV. STAT. ANN. § 284:33
New Jersey, N.J. STAT. ANN. § 5:5-65
New York, N.Y. RAC. PARI-MUT. WAG. & BREED. LAW § 104
Ohio, OHIO REV. CODE ANN. § 3769.08
Oklahoma, OKLA. STAT. tit. 3A, § 208.4
Oregon, OR. REV. STAT. § 462.190
Pennsylvania, 4 PA. CONST. STAT. ANN. § 325.228
Rhode Island, R.I. GEN. LAWS § 41-11-4
South Dakota, S.D. CODIFIED LAWS § 42-7-76
Tennessee, TENN. CODE ANN. § 4-36-310
Texas, TEX. REV. CIV. STAT. ANN. art. 179e
Vermont, VT. STAT. ANN. tit. 31, § 613
Virginia, VA. CODE ANN. § 59.1-403
Washington, WASH. REV. CODE ANN. § 67.16.350
West Virginia, W. VA. CODE § 29-22-11
Wisconsin, WIS. STAT. ANN. § 562.06
Wyoming, WYO. STAT. ANN. § 11-25-109

**Jury Duty**

All 50 states and the District of Columbia prohibit youth under the age of 18 from serving on juries. (Alabama and Nebraska prohibit youth under the age of 19 from serving on a jury; Mississippi and Missouri prohibit jury service for youth under the age of 21.)

Alabama, ALA. CODE § 12-16-60
Alaska, ALASKA STAT. § 09.20.010
Arizona, ARIZ. REV. STAT. ANN. § 21-301
Arkansas, ARK. CODE ANN. § 16-31-101
California, CAL. CIV. PROC. CODE § 203(a)(2); CAL. PENAL CODE § 893
Colorado, COLO. REV. STAT. ANN. § 13-71-105
Connecticut, CONN. GEN. STAT. § 51-217
Delaware, DEL. CODE. ANN. tit. 10, § 4509
District of Columbia, D.C. CODE ANN. § 11-1906
Florida, FLA. STAT. ANN. § 40.01
Georgia, GA. CODE ANN. § 15-12-163
Hawaii, HAW. REV. STAT. § 612-4
Idaho, IDAHO CODE § 2-209
Illinois, 705 ILL. COMP. STAT. ANN. 305/2
Indiana, IND. CODE § 33-4-5-7
Iowa, IOWA CODE ANN. § 607A.4
Kansas, KAN. STAT. ANN. § 43-156
Kentucky, KY. REV. STAT. ANN. § 29A.080
Louisiana, LA. CODE CRIM. PROC. ANN. art. 401
Maine, ME. REV. STAT. ANN. tit. 14, § 1211
Maryland, MD. CODE. ANN., CTS. & JUD. PROC. § 8-104
Massachusetts, MASS. GEN. LAWS ANN. ch. 234, § 1
Michigan, MICH. COMP. LAWS ANN. § 600.1307a
Minnesota, MINN. GEN. R. PRAC. 808
Mississippi, MISS. CODE ANN. § 13-5-1
Missouri, MO. ANN. STAT. § 494.425
Montana, MONT. CODE ANN. § 3-15-301
Nebraska, NEB. REV. STAT. § 25-1601
Nevada, NEV. REV. STAT. 6.010
New Hampshire, N.H. REV. STAT. ANN. § 500-A:7-a
New Jersey, N.J. STAT. ANN. § 9:17B-1
New Mexico, N.M. STAT. ANN. § 38-5-1
New York, N.Y. JUD. LAW § 510
North Carolina, N.C. GEN. STAT. § 9-3
North Dakota, N.D. CENT. CODE § 27-09.1-08

Ohio, OHIO REV. CODE ANN. § 2313.42
Oklahoma, OKLA. STAT. ANN. tit. 38, § 28
Oregon, OR. REV. STAT. § 10.030
Pennsylvania, 42 PA. CONST. STAT. ANN. § 4502
Rhode Island, R.I. GEN. LAWS § 9-9-1
South Carolina, S.C. CODE ANN. § 14-7-130
South Dakota, S.D. CODIFIED LAWS § 16-13-10
Tennessee, TENN. CODE ANN. § 22-1-101
Texas, TEX. GOV'T CODE ANN. § 62.102
Utah, UTAH CODE ANN. § 78-46-7
Vermont, VT. STAT. ANN. tit. 4, § 962
Virginia, VA. CODE ANN. § 8.01-337
Washington, WASH. REV. CODE ANN. § 2.36.070
West Virginia, W. VA. CODE § 52-1-8
Wisconsin, WIS. STAT. ANN. § 756.02
Wyoming, WYO. STAT. ANN. § 1-11-101

**Labor**

22 states and the District of Columbia limit the number of hours per day or hours per week that youth under the age of 18 may work in non-farm employment.[22]

23 states and the District of Columbia restrict nightwork for youth under age 18.[23]

**Marriage**

36 states and the District of Columbia either absolutely prohibit youth under the age of 18 from marrying, or only allow marriage with parental consent.[24]

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[22]U.S. Dept. of Labor, *Selected State Child Labor Standards Affecting Minors Under 18 in Non-farm Employment as of January 1, 2003, at* http://www.dol.gov/esa/programs/whd/state/nonfarm.htm (2003).

[23]*Id*.

[24]Five of the 36 states (Delaware, Florida, Kentucky, Maryland, and Oklahoma) and the District of Columbia have an exception to this prohibition for youth who were either previously married or are pregnant. Delaware, DEL. CODE ANN. tit. 13, § 123; District of Columbia, D.C. CODE ANN. § 46-411; Florida, FLA. STAT. ANN. § 741.0405; Kentucky, KY. REV. STAT. ANN. § 402.020; Maryland, MD. CODE. ANN., FAM. LAW § 2-301; and Oklahoma, OKLA. STAT. tit. 43, § 3. Virginia makes an exception for emancipated youth. VA. CODE ANN. § 20-49. Seven additional states (Alaska, Illinois, Iowa, Kansas, Louisiana, Minnesota and Texas) require youth

Arizona, ARIZ. REV. STAT. § 25-102
Arkansas, ARK. CODE ANN. § 9-11-102
California, CAL. FAM. CODE § 301
Colorado, COLO. REV. STAT. § 14-2-106
Connecticut, CONN. GEN. STAT. § 46b-30
Delaware, DEL. CODE ANN. tit. 13, § 123
District of Columbia, D.C. CODE ANN. § 46-411
Florida, FLA. STAT. ANN. § 741.0405
Hawaii, HAW. REV. STAT. § 572-2
Idaho, IDAHO CODE § 32-202
Indiana, IND. CODE § 31-11-1-4
Kentucky, KY. REV. STAT. ANN. § 402.020
Maine, ME. REV. STAT. ANN. tit. 19-A, § 652
Maryland, MD. CODE. ANN., FAM. LAW § 2-301
Massachusetts, MASS. GEN. LAWS ch. 207, §§ 7, 24, 25
Missouri, MO. REV. STAT. § 451.090
Montana, MONT. CODE ANN. § 40-1-213
Nebraska, NEB. REV. STAT. § 42-105
Nevada, NEV. REV. STAT. 122.020
New Hampshire, N.H. REV. STAT. ANN. § 457:5
New Jersey, N.J. STAT. ANN. § 37:1-6
New Mexico, N.M. STAT. ANN. § 40-1-5
New York, N.Y. DOM. REL. LAW § 7
North Carolina, N.C. GEN. STAT. §§ 51-2, -2.1
North Dakota, N.D. CENT. CODE § 14-03-02
Ohio, OHIO REV. CODE ANN. § 3101.01.
Oklahoma, OKLA. STAT. tit. 43, § 3
Pennsylvania, 23 PA. CONS. STAT. § 1304
Rhode Island, R.I. GEN. LAWS § 15-2-11
South Dakota, S.D. CODIFIED LAWS § 25-1-9
Tennessee, TENN. CODE ANN. § 36-3-106
Utah, UTAH CODE ANN. § 30-1-9
Vermont, VT. STAT. ANN. tit. 18, § 5142
Virginia, VA. CODE ANN. § 20-49
West Virginia, W. VA. CODE § 48-2-301

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under age 18 to obtain parental consent, but allow for judicial waivers of the consent requirement. Alaska, ALASKA STAT. § 25.05.171; Illinois, 750 ILL. COMP. STAT. 5/203; Iowa, IOWA CODE § 595.2; Kansas, KAN. STAT. ANN. § 23-106; Louisiana, LA. CHILDREN'S CODE ANN. art. 1545; Minnesota, MINN. STAT. § 517.02; and Texas, TEX. FAM. CODE ANN. § 2.003.

Wisconsin, WIS. STAT. § 765.02
Washington, WASH. REV. CODE § 26.04.010

**Military Service**

Federal law prohibits youth under the age of 18 from enlisting in the Regular Army, Regular Marine Corps, Regular Air Force, Regular Navy, or Regular Coast Guard without the written consent of the youth's parent or guardian. 10 U.S.C.A. § 505. Youth under the age of 18 cannot be drafted. 50 APP. U.S.C.A. § 454.

**Pawning Property**

In 37 states, youth under the age of 18 are prohibited from engaging in transactions with pawnbrokers. (Alabama prohibits youth under the age of 19 from engaging in transactions with pawnbrokers.)

Alabama, ALA. CODE § 5-19A-8
Arizona, ARIZ. REV. STAT. § 44-1624
Arkansas, ARK. CODE ANN. § 18-27-204
California, CAL. FIN. CODE § 21207
Colorado, COLO. REV. STAT. ANN. § 12-56-104
Connecticut, CONN. GEN. STAT. ANN. § 21-47
Delaware, DEL. CODE ANN. tit. 24, § 2312
Florida, FLA. STAT. ANN. § 539.001
Georgia, GA. CODE ANN. § 44-12-137
Hawaii, HAW. REV. STAT. § 445-134.13
Illinois, 205 ILL. COMP. STAT. 510/8
Indiana, IND. CODE § 28-7-5-36
Kansas, KAN. STAT. ANN. § 16-717
Kentucky, KY. REV. STAT. ANN. § 226.030
Louisiana, LA. REV. STAT. ANN. § 37:1802
Maryland, MD. CODE ANN., BUS. REG. § 12-213
Michigan, MICH. COMP. LAWS ANN. § 446.214
Minnesota, MINN. STAT. ANN. § 325J.08
Mississippi, MISS. CODE ANN. § 75-67-135
Missouri, MO. ANN. STAT. § 367.040
Montana, MONT. CODE ANN. § 45-5-623
Nebraska, NEB. REV. STAT. § 69-210
Nevada, NEV. REV. STAT. 646.060
New Hampshire, N.H. REV. STAT. ANN. § 398:2

New Mexico, N.M. STAT. ANN. § 56-12-14
New York, N.Y. GEN. BUS. LAW § 47-a
North Carolina, N.C. GEN. STAT. § 91A-10
Ohio, OHIO REV. CODE ANN. § 4727.10
Oklahoma, OKLA. STAT. ANN. tit. 59, § 1511
Oregon, OR. REV. STAT. § 726.270
Pennsylvania, 63 PA. CONST. STAT. § 281-29
Rhode Island, R.I. GEN. LAWS § 19-26-12
Tennessee, TENN. CODE ANN. § 45-6-212
Texas, TEX. FIN. CODE ANN. § 371.176
Vermont, VT. STAT. ANN. tit. 9, § 3870
Washington, WASH. REV. CODE ANN. § 19.60.066
Wisconsin, WIS. STAT. ANN. § 134.71

**Pornography**

47 states either absolutely prohibit the sale or delivery of material that is obscene or harmful to minors to youth under the age of 18, or only allow sale or delivery if a youth's parent consents. (Alabama prohibits the delivery of material harmful to minors to youth under the age of 19.)

Alabama, ALA. CODE § 13A-12-200.5
Arizona, ARIZ. REV. STAT. § 13-3506
Arkansas, ARK. CODE ANN. § 5-68-502
California, CAL. PENAL CODE § 313.1
Colorado, COLO. REV. STAT. § 18-7-502
Delaware, DEL. CODE ANN. tit. 11, § 1365
Florida, FLA. STAT. ANN. § 847.012
Georgia, GA. CODE ANN. § 16-12-103
Hawaii, HAW. REV. STAT. § 712-1215
Idaho, IDAHO CODE § 18-1515
Illinois, 720 ILL. COMP. STAT. 5/11-21
Indiana, IND. CODE ANN. § 35-49-3-3
Iowa, IOWA CODE § 728.2
Kansas, KAN. STAT. ANN. § 21-4301a
Kentucky, KY. REV. STAT. ANN. § 531.030
Maine, ME. REV. STAT. ANN. tit. 17, § 2911
Maryland, MD. CODE ANN., CRIM. § 11-203
Massachusetts, MASS. ANN. LAWS ch. 272, § 28
Michigan, MICH. COMP. LAWS ANN. § 750.142

Minnesota, MINN. STAT. ANN. § 617.293
Mississippi, MISS. CODE ANN. § 97-5-27
Missouri, MO. REV. STAT. § 573.040
Montana, MONT. CODE ANN. § 45-8-201
Nebraska, NEB. REV. STAT. § 28-808
Nevada, NEV. REV. STAT. ANN. 201.265
New Hampshire, N.H. REV. STAT. ANN. § 571-B:2
New Jersey, N.J. STAT. ANN. § 2C:34-3
New Mexico, N.M. STAT. ANN. § 30-37-2
New York, N.Y. PENAL LAW § 235.21
North Carolina, N.C. GEN. STAT. § 19-13
North Dakota, N.D. CENT. CODE § 12.1-27.1-03
Ohio, OHIO REV. CODE ANN. § 2907.31
Oklahoma, OKLA. STAT. ANN. tit. 21, § 1040.76
Oregon, OR. REV. STAT. § 167.065
Pennsylvania, 18 PA. CONS. STAT. ANN. § 5903
Rhode Island, R.I. GEN. LAWS § 11-31-10
South Carolina, S.C. CODE ANN. § 16-15-385
South Dakota, S.D. CODIFIED LAWS § 22-24-28
Tennessee, TENN. CODE ANN. § 39-17-911
Texas, TEX. PENAL CODE ANN. § 43.24
Utah, UTAH CODE ANN. § 76-10-1206
Vermont, VT. STAT. ANN. tit. 13, § 2802
Virginia, VA. CODE ANN. § 18.2-391
Washington, WASH. REV. CODE § 9.68.060
West Virginia, W. VA. CODE § 61-8A-2
Wisconsin, WIS. STAT. ANN. § 944.21
Wyoming, WYO. STAT. ANN. § 6-4-302[25]

**Tanning**

16 states prohibit youth under the age of 18 from using artificial sun tanning facilities without written parental consent.[26]

[25]Disseminating obscene material to any person is a criminal offense; however, the penalty is more severe if the obscene material is disseminated to a youth under the age of 18.

[26]Of the 16 states that prohibit youth under age of 18 from tanning without parental consent, 15 states passed their tanning legislation since *Stanford* was argued. Florida, FLA. STAT. ANN. § 381.89, effective May 28, 2004; Georgia, GA. CODE ANN. § 31-38-8, effective 1991; Illinois, ILL. ADMIN. CODE tit. 77, § 795.190, effective December 7, 1992; Indiana, IND. CODE ANN. § 25-8-15.4-16, effective July 1, 1995; Louisiana, LA. REV. STAT. ANN. § 40:2714, effective July

California, CAL. BUS. & PROF. CODE § 22706
Florida, FLA. STAT. ANN. § 381.89
Georgia, GA. CODE ANN. § 31-38-8
Illinois, ILL. ADMIN. CODE tit. 77, § 795.190
Indiana, IND. CODE ANN. § 25-8-15.4-16
Louisiana, LA. REV. STAT. ANN. § 40:2714
Maine, CODE ME. R. 10-144 Ch. 223, § 12
Massachusetts, MASS. GEN. LAWS ANN. ch. 111, § 211
Michigan, MICH. COMP. LAWS ANN. § 333.13407
North Carolina, N.C. ADMIN. CODE tit. 15A, r. 11.1418
Ohio, OHIO REV. CODE ANN. § 4713.08
Oregon, OR. ADMIN. R. 333-119-0090
Rhode Island, R.I. CODE R. 14 000 023
South Carolina, 61 S.C. CODE ANN. REGS. 106
Tennessee, TENN. CODE ANN. § 68-117-104
Texas, TEX. HEALTH & SAFETY CODE ANN. § 145.008

**Tattoos**

42 states either absolutely prohibit youth under the age of 18 from obtaining a tattoo, or only allow a youth to obtain a tattoo if a parent consents. (Illinois prohibits tattooing of youth under the age of 21.)[27]

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19, 1990; Maine, CODE ME. R. 10-144 Ch. 223, § 12, effective March 1, 1991; Massachusetts, MASS. GEN. LAWS ANN. ch. 111, § 211, effective December 29, 1990; Michigan, MICH. COMP. LAWS ANN. § 333.13407, effective September 1, 1996; North Carolina, N.C. ADMIN. CODE tit. 15A, r. 11.1418, effective June 1, 1989; Ohio, OHIO REV. CODE ANN. § 4713.08, effective April 7, 2003; Oregon, OR. ADMIN. R. 333-119-0090, effective October 1, 1991; Rhode Island, R.I. CODE R. 14 000 023, effective January 18, 1999; South Carolina, 61 S.C. CODE ANN. REGS. 106, effective March 27, 1992; Tennessee, TENN. CODE ANN. § 68-117-104, effective April 10, 1990; and Texas, TEX. HEALTH & SAFETY CODE ANN. § 145.008, effective September 1, 1991. At least two additional states (California and Pennsylvania) have proposed age-based tanning legislation this year. California, A.B. 2193, 2004 Leg., Reg. Sess. (Ca. 2004) (would prohibit youth under age 18 from tanning except on prescription by a physician); Pennsylvania, H.B. 109, 2004 Leg., Reg. Sess. (Pa. 2004) (would add requirement that youth under age 18 obtain parental consent for tanning).

[27] Of the 42 states that have age-based tattoo laws, at least 24 states passed their age-based tattoo restrictions since 1989, with at least seven states passing age-based tattoo restrictions in the past five years (1999-2004). Alabama, ALA. ADMIN. CODE r. 420-3-23-.03, effective April 19, 2001; Alaska, ALASKA STAT. § 08.13.217, effective September 1, 2000; Arizona, ARIZ. REV. STAT. § 13-3721, enacted April 22, 1996; Arkansas, ARK. CODE ANN. § 20-27-1502, effective

Alabama, ALA. ADMIN. CODE r. 420-3-23-.03
Alaska, ALASKA STAT. § 08.13.217
Arizona, ARIZ. REV. STAT. § 13-3721
Arkansas, ARK. CODE ANN. § 20-27-1502
California, CAL. PENAL CODE § 653
Connecticut, CON. GEN. STAT. ANN. § 19a-92a
Delaware, DEL. CODE ANN. tit. 11, § 1114
Florida, FLA. STAT. ANN. § 877.04
Georgia, GA. CODE ANN. § 16-5-71
Hawaii, HAW. ADMIN. CODE § 11-17-7
Iowa, IOWA ADMIN. CODE r. 641-22.3
Illinois, 720 ILL. COMP. STAT. 5/12-10
Indiana, IND. CODE § 35-42-2-7
Kansas, KAN. STAT. ANN. § 65-1953
Kentucky, 902 KY. ADMIN. REGS. 45:065E
Louisiana, LA. REV. STAT. ANN. § 14:93.2
Maine, CODE ME. R. 10-144 ch. 210, § 4
Maryland, MD. REGS. CODE tit. 10, § 10.06.01.06
Massachusetts, MASS. GEN. LAWS ANN. ch. 265, § 34
Michigan, MICH. COMP. LAWS ANN. § 333.13102
Minnesota, MINN. STAT. ANN. § 609.2246
Mississippi, MISS. CODE ANN. § 73-61-1
Missouri, MO. ANN. STAT. § 324.520
Montana, MONT. ADMIN R. 37.112.140
New Hampshire, N.H. REV. STAT. ANN. § 314-A:8
New Jersey, N.J. STAT. ANN. § 2C:40-21

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August 13, 2001; Connecticut, CON. GEN. STAT. ANN. § 19a-92a, effective May 23, 1994; Indiana, IND. CODE § 35-42-2-7, approved May 6, 1997; Iowa, IOWA ADMIN. CODE r. 641-22.3, effective January 1, 1990; Michigan, MICH. COMP. LAWS ANN. § 333.13102, effective September 1, 1996; Minnesota, MINN. STAT. ANN. § 609.2246, effective August 1, 1996; Mississippi, MISS. CODE ANN. § 73-61-1, effective July 1, 1994; Missouri, MO. ANN. STAT. § 324.520, effective October 13, 1999; Montana, MONT. ADMIN R. 37.112.140, effective April 17, 1998; New Hampshire, N.H. REV. STAT. ANN. § 314-A:8, effective January 1, 2003; New Jersey, N.J. STAT. ANN.§ 2C:40-21, effective November, 2001; Ohio, OHIO REV. CODE ANN. § 3730.06, effective October 14, 1997; South Dakota, S.D. ADMIN. R. 44:12:01:13, effective November 3, 1992; Tennessee, TENN. CODE ANN. § 62-38-207 effective October 1, 1996; Texas, TEX. HEALTH & SAFETY CODE ANN. § 146.012, effective September 1, 1993; Utah, UTAH CODE ANN.§ 76-10-2201, effective May 4, 1998; Vermont, VT. STAT. ANN. tit. 26, § 4102, added by statute, 1995; Virginia, VA. CODE ANN. § 18.2-371.3, enacted March 20, 1997; Washington, WASH. REV. CODE ANN. § 26.28.085, effective July 23, 1995; West Virginia, W. VA. CODE § 16-38-3, effective July 1, 2001; and Wisconsin, WIS. STAT. § 948.70, effective January 3, 1992.

New York, N.Y. PENAL LAW § 260.21
North Carolina, N.C. GEN. STAT. § 14-400
Ohio, OHIO REV. CODE ANN. § 3730.06
Oregon, OR. ADMIN. R. 331-575-0010
Pennsylvania, 18 PA. CONS. STAT. ANN. § 6311
Rhode Island, R.I. GEN. LAWS § 11-9-15
South Dakota, S.D. ADMIN. R. 44:12:01:13
Tennessee, TENN. CODE ANN. § 62-38-207
Texas, TEX. HEALTH & SAFETY CODE ANN. § 146.012
Utah, UTAH CODE ANN. § 76-10-2201
Vermont, VT. STAT. ANN. tit. 26, § 4102
Virginia, VA. CODE ANN. § 18.2-371.3
Washington, WASH. REV. CODE ANN. § 26.28.085
West Virginia, W. VA. CODE § 16-38-3
Wisconsin, WIS. STAT. § 948.70
Wyoming, WYO. STAT. ANN. § 14-3-107

**Voting**

In all 50 states and the District of Columbia, youth under the age of 18 are prohibited from voting.

Alabama, ALA. CONST. amend. 223
Alaska, ALASKA CONST. art. V, § 1
Arizona, ARIZ. REV. STAT. §16-121
Arkansas, ARK. CONST. amend. 51, § 6
California, CAL. CONST. art. II, § 2
Colorado, COLO. REV. STAT. § 1-2-101
Connecticut, CONN. GEN. STAT. ANN. § 9-12
Delaware, DEL. CODE ANN. tit. 15, § 1701
District of Columbia, D.C. CODE ANN. § 1-1001.02
Florida, FLA. STAT. ANN. § 97.041
Georgia, GA. CONST. art. II, § 1, ¶ II
Hawaii, HAW. REV. STAT. § 11-12
Idaho, IDAHO CODE § 34-402
Illinois, 10 ILL. COMP. STAT. 5/3-1
Indiana, IND. CODE ANN. § 3-7-13-1
Iowa, IOWA CODE § 48A.5
Kansas, KAN. CONST. art. V, § 1
Kentucky, KY. REV. STAT. ANN. § 145
Louisiana, LA. CONST. art. I, § 10; LA. REV. STAT. ANN. § 18:101

Maine, ME. REV. STAT. ANN. tit. 21-A, § 111
Maryland, MD. CODE ANN. ELEC. art. 33, § 3-4
Massachusetts, MASS. GEN. LAWS ANN. ch. 51, § 1
Michigan, MICH. COMP. LAWS § 168.492
Minnesota, MINN. STAT. § 201.014
Mississippi, MISS. CONST. art. XII, § 241
Missouri, MO. CONST. art. VIII, § 2
Montana, MONT. CONST. art. IV, § 2; MONT. CODE ANN. § 13-1-111
Nebraska, NEB. CONST. art. VI, § 1
Nevada, NEV. REV. STAT. 293.485
New Hampshire, N.H. CONST. pt. 1, art. 11
New Jersey, N.J. CONST. art. II, § 1, ¶ 3
New Mexico, N.M. CONST. Art. VII, § 1
New York, N.Y. ELEC. LAW § 5-102
North Carolina, N.C. GEN. STAT. § 163-55
North Dakota, N.D. CONST. art. II, § 1
Ohio, OHIO REV. CODE ANN. § 3503.01
Oklahoma, OKLA. CONST. art. III, § 1
Oregon, OR. CONST. art. II, § 2
Pennsylvania, PA. STAT. ANN. tit. 25, § 2811
Rhode Island, R.I. GEN. LAWS § 17-1-3
South Carolina, S.C. CODE ANN. § 7-5-610
South Dakota, S.D. CONST. art. VII, § 2; S.D. CODIFIED LAWS § 12-3-1
Tennessee, TENN. CODE ANN. § 2-2-102
Texas, TEX. ELEC. CODE ANN. § 11.002
Utah, UTAH CODE ANN. § 20A-2-101
Vermont, VT. STAT. ANN. tit. 17, § 2121
Virginia, VA. CONST. art. II, § 1
Washington, WASH. CONST. art. VI, § 1, amend. 63
West Virginia, W. VA. CODE § 3-1-3
Wisconsin, WIS. CONST. art. III, § 1; WIS. STAT. §§ 6.02, .05
Wyoming, WYO. STAT. ANN. § 22-1-102

**Wills**

In all 50 states and the District of Columbia, youth under the age of 18 cannot make a valid will.[28]

[28]Seven states (Iowa, Kansas, Missouri, New Hampshire, Oregon, South Carolina, and Texas) allow married youth under the age of 18 to draw up wills. Iowa, IOWA CODE ANN. §§ 633.264, .3; Kansas, KAN. STAT. ANN. §§ 59-601, 38-101;

Alabama, ALA. CODE § 43-8-130
Alaska, ALASKA STAT. § 13.12.501
Arizona, ARIZ. REV. STAT. § 14-2501
Arkansas, ARK. CODE ANN. § 28-25-101
California, CAL. PROB. CODE § 6100
Colorado, COLO. REV. STAT. ANN. § 15-11-501
Connecticut, CONN. GEN. STAT. ANN. § 45a-250
Delaware, DEL. CODE ANN. tit. 12, § 201
District of Columbia, D.C. CODE ANN. § 18-102
Florida, FLA. STAT. ANN. app. 2 § 731.04
Georgia, GA. CODE ANN. § 53-4-10
Hawaii, HAW. REV. STAT. § 560:2-501
Idaho, IDAHO CODE § 15-2-501
Illinois, 755 ILL. COMP. STAT. 5/4-1
Indiana, IND. CODE § 29-1-5-1
Iowa, IOWA CODE ANN. §§ 633.264, .3
Kansas, KAN. STAT. ANN. §§ 59-601, 38-101
Kentucky, KY. REV. STAT. ANN. § 394.030
Louisiana, LA. CIV. CODE ANN. art. 1476
Maine, ME. REV. STAT. ANN. tit. 18-A, § 2-501
Maryland, MD. CODE ANN., EST. & TRUSTS § 4-101
Massachusetts, MASS. GEN. LAWS ANN. ch. 191, § 1
Michigan, MICH. COMP. LAWS ANN. § 700.2501
Minnesota, MINN. STAT. ANN. § 524.2-501
Mississippi, MISS. CODE ANN. § 91-5-1
Missouri, MO. ANN. STAT. § 474.310
Montana, MONT. CODE ANN. § 72-2-521
Nebraska, NEB. REV. STAT. § 30-2326
Nevada, NEV. REV. STAT. 133.020
New Hampshire, N.H. REV. STAT. ANN. § 551:1
New Jersey, N.J. STAT. ANN. § 3B:3-1
New Mexico, N.M. STAT. ANN. § 45-2-501
New York, N.Y. EST. POWERS & TRUSTS LAW § 3-1.1
North Carolina, N.C. GEN. STAT. § 31-1

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Missouri, MO. ANN. STAT. § 474.310; New Hampshire, N.H. REV. STAT. ANN. § 551:1; Oregon, OR. REV. STAT. § 112.225; South Carolina, S.C. CODE ANN. §§ 62-2-501, 62-1-201; and Texas, TEX. PROB. CODE ANN. § 57. A similar exception for youth in the military exists in three states (Indiana, Missouri, and Texas), and for emancipated youth in four states (Idaho, Missouri, South Carolina, and Virginia.) Idaho, IDAHO CODE § 15-2-501; Indiana, IND. CODE § 29-1-5-1; Missouri, MO. ANN. STAT. § 474.310; South Carolina, S.C. CODE ANN. §§ 62-2-501, 62-1-201; Texas, TEX. PROB. CODE ANN. § 57; and Virginia, VA. CODE ANN. § 64.1-47.

North Dakota, N.D. CENT. CODE § 30.1-08-01
Ohio, OHIO REV. CODE ANN. § 2107.02
Oklahoma, OKLA. STAT. ANN. tit. 84, § 41
Oregon, OR. REV. STAT. § 112.225
Pennsylvania, 20 PA. CONS. STAT. ANN. § 2501
Rhode Island, R.I. GEN. LAWS § 33-5-2
South Carolina, S.C. CODE ANN. §§ 62-2-501, 62-1-201
South Dakota, S.D. CODIFIED LAWS § 29A-2-501
Tennessee, TENN. CODE ANN. § 32-1-102
Texas, TEX. PROB. CODE ANN. § 57
Utah, UTAH CODE ANN. § 75-2-501
Vermont, VT. STAT. ANN. tit. 14, § 1
Virginia, VA. CODE ANN. § 64.1-47
Washington, WASH. REV. CODE ANN. § 11.12.010
West Virginia, W. VA. CODE § 41-1-2
Wisconsin, WIS. STAT. ANN. § 853.01
Wyoming, WYO. STAT. ANN. § 2-6-101

## APPENDIX C

## HEALTH PROFESSIONALS' CALL TO ABOLISH THE EXECUTION OF JUVENILE OFFENDERS IN THE UNITED STATES

We, the undersigned health professionals, scientists, medical associations and health organizations, urgently call for the abolition of the juvenile death penalty in the United States.

Our opposition to the execution of juvenile offenders – those younger than eighteen at the time of their crimes – is based on *our medical and scientific knowledge that these young people do not yet possess the maturity and mental capacities required to justify the imposition of the ultimate adult punishment*. We are deeply concerned, therefore, that the execution of juvenile offenders violates both common decency and firmly established principles of international human rights.

In calling for the abolition of the juvenile death penalty we by no means seek to minimize or excuse the offense of murder. While we recognize that justice demands accountability for such actions, we believe that executing young offenders is an inappropriate and unjust response. Our concerns are based on the following:

- **The juvenile death penalty contradicts medical and scientific knowledge of teenagers' development, maturity, and capacities.**

  – **Child and adolescent psychiatrists and psychologists condemn the execution of juvenile offenders.** Citing adolescents' cognitive and emotional immaturity compared to adults, their lesser ability to consider the consequences of their actions, their tendency to be more easily swayed by peers, and the greater likelihood that they will exercise poor judgment, the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry, the American Society for Adolescent Psychiatry, the American Academy of Psychiatry and the Law, and the National

Mental Health Association all vigorously oppose the juvenile death penalty.

- **The juvenile death penalty defies clinical physicians' familiarity with adolescent growth and development.** Pediatricians, family physicians and other clinical medical professionals are intimately familiar with the progress of their young patients' biological, cognitive and emotional development. Clinicians know – through their training and treatment – that their teenage patients lack the maturity and mental capacities of adults.

- **Neuroscience provides physiological evidence of adolescents' under-developed mental capacities.** Established principles and cutting-edge neuroscientific research together demonstrate that adolescent behavior is dominated by the region of the brain associated with impulse and aggression (the amygdala). The prefrontal cortex, which controls such impulse and aggression, and which permits anticipation of consequences, consideration of alternatives, planning, setting long-range goals, and organization of sequential behavior, *does not fully mature until well beyond age eighteen* (possibly as late as age twenty-three). Leading neuroscientists have observed, therefore, that it is unfair and unreasonable to impose expectations of adult-level capacities on the thinking and behavior of minors.

- **Childhood abuse, neglect and mental impairment can further diminish adolescents' lesser cognitive and emotional capacities**. It is not surprising then that young people who have experienced child abuse (including sexual abuse), neglect, neurological impairment, psychotic disorders or intellectual impairment are over represented on death row and among executed juvenile offenders.

- **Medical and scientific expertise merely reaffirms society's long-standing, common knowledge that adolescents are not yet fully mature.** Because of their relative immaturity, children under eighteen have long been denied much of the autonomy and responsibility of adulthood, including the right to vote, serve in

military combat, enter into contracts, serve on juries, drink alcohol or make medical decisions.

- **The juvenile death penalty violates universally accepted principles of international law.** The International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child, among other instruments, expressly prohibit the execution of offenders under eighteen at the time of their offenses.

- **The United States is the only nation that continues to execute juvenile offenders**, with the possible exceptions of Iran and the Democratic Republic of Congo. Nineteen U.S. states currently authorize executions of offenders who were 16 or 17 years old at the time of their offense. Five have prohibited the practice since 1989.

- **Since 1985 the U.S. has executed more juvenile offenders than the rest of the world combined.** Twenty-two juvenile offenders have been executed in the U.S. in the past 18 years.

- **The juvenile death penalty impedes U.S. ratification of the Convention on the Rights of the Child, which offers vital safeguards for the health and well being of children around the world.** The American Medical Association and the American Academy of Pediatrics, among others, urge Congress to ratify the Convention. Yet, the U.S. remains the only U.N. member (other than Somalia) to have failed to do so, in large part because the Convention proscribes the juvenile death penalty.

- **The juvenile death penalty fails to serve the stated purposes of capital punishment: deterrence and retribution.** Both purposes are based on the false premise that an adolescent's physical capacity to commit an adult crime is accompanied by the mental capacity to think and make decisions as an adult. In view of adolescents' lesser capacity to moderate impulsive behavior, however, deterrence is unlikely and "retribution" -- based on the false assumption of adult-level culpability -- is misguided and cruel.

**For these reasons, we urge the legislatures of the nineteen states currently permitting the juvenile death penalty to abolish the**

**practice immediately. We also express the hope that the U.S. Supreme Court will declare the juvenile death penalty unconstitutional under the Eighth Amendment's prohibition of cruel and unusual punishment.**

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## APPENDIX D

### Policy Statement of the American Academy of Pediatrics and the Society for Adolescent Medicine

EXECUTING JUVENILE OFFENDERS: A FUNDAMENTAL FAILURE OF SOCIETY

The Society for Adolescent Medicine (SAM) and the American Academy of Pediatrics (AAP) have the protection of the health and well-being of adolescents as a primary goal. With this joint policy statement SAM and AAP express our strong opposition to the juvenile death penalty and call upon the United States Supreme Court, the federal government, and states to abolish the practice of executing juvenile offenders.

SAM and AAP have previously affirmed the importance of ensuring the health and well-being of young people who are involved in the juvenile and criminal justice systems.[29, 30] It is well established that the vast majority of adolescents involved in these systems suffer from serious psychological and physical health problems and are more likely than the general adolescent population to have been victims of child abuse or neglect and to have experienced school failure or learning disabilities.[31]

For more than a century, the juvenile justice system has been based on the principle that young people who commit crimes should have an opportunity for rehabilitation and treatment. The imposition of the death penalty for juvenile offenders represents the ultimate rejection of that principle. The execution of offenders who were under age 18 at the time of their crime is expressly prohibited by international law in several treaties, such as the United Nations' Convention on the Rights of the Child, the American Convention on Human Rights, the International Covenant on Civil and Political

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[1] Society for Adolescent Medicine. Health care for incarcerated youth: Position paper of the Society for Adolescent Medicine, *Journal of Adolescent Health*, 2000;27(1):73-75.

[2] American Academy of Pediatrics. Policy statement: Health care for children and adolescents in the juvenile correctional care system, *Pediatrics*, 2001;107(4):799-803.

[3] Council on Scientific Affairs, American Medical Association. Health status of detained and incarcerated youths. *JAMA*, 1990; 263(7):987-991.

Rights, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, and numerous resolutions and reports by other international bodies such as the European Union, the United Nations Economic and Social Council, and the United Nations Sub-Commission on Human Rights.[32, 33, 34]

The Society for Adolescent Medicine and the American Academy of Pediatrics add our voices to the emerging national and international consensus opposing the death penalty for juvenile offenders. SAM and the AAP are committed to working with other professionals to address the comprehensive health care needs of young people in the context of their families, schools, and communities. We view the execution of juvenile offenders as the most fundamental failure of society to provide young people with the supports they need to grow up to lead healthy, responsible, and productive lives.

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[4] de la Vega, C. Amici Curiae urge the U.S. Supreme Court to consider international human rights law in juvenile death penalty case, 42 Santa Clara Law Review 1041, 2002.

[5] United Nations Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, available at http://www.unhchr.ch/html/menu3/b/k2crc.htm, visited May 13, 2004.

[6] European Union. EU memorandum on the death penalty, available at http://www.eurunion.org/legislat/DeathPenalty/eumemorandum.htm, visited May 13, 2004.

## APPENDIX E

### State Requirements Regarding the Interrogation of Youth

A number of states mandate that a juvenile's parent/guardian, legal custodian or attorney be present during questioning, or at the very least that the minor be given the opportunity to consult with a parent/guardian or attorney before waiving his rights. *See, e.g.,*

**Colorado**
COLO. REV. STAT. § 19-2-511 (statements by a juvenile resulting from custodial interrogation are inadmissible unless parent/guardian or legal or physical custodian was present at the interrogation and both were advised of the juvenile's rights and both waived the rights in writing; if parent/guardian or custodian not present, statements may be admissible if attorney present).

**Indiana**
IND. CODE § 31-32-5-1 (rights guaranteed to child can be waived by (1) counsel for child if child knowingly and voluntarily joins the waiver; (2) child's parent/guardian or custodian if that person knowingly and voluntarily waives, has no adverse interest, meaningful consultation has occurred between that person and child, and child knowingly and voluntarily joins in waiver; or (3) emancipated child).

**Iowa**
IOWA CODE § 232.11 (child less than 16 years of age cannot waive right to be represented by counsel in custodial interrogation the written consent of the child's parent, guardian or custodian; waiver by child 16 years of age and older is only valid if good faith effort made to notify parent/guardian or custodian of child's location, alleged act, and right to visit and confer with child).

**Maine**
ME. REV. STAT. ANN. tit. 15 § 3203-A(2-A) (when juvenile is arrested, officer may not question juvenile until either: legal custodian is present during questioning; legal custodian gives consent for questioning in his/her absence; or after reasonable effort, officer

cannot contact custodian and officer seeks to question juvenile about continuing or imminent criminal activity).

**Mississippi**
MISS. CODE ANN. § 43-21-303(3) (person taking child into custody shall make continuing reasonable efforts to notify and invite them to be present during questioning), *see also M.A.C. v. Harrison County Family Court*, 566 So.2d 472, 475 (Miss. 1990) (holding that parent has statutory right to be present during interrogation of child)

**New Jersey**
*In the Interest of J.F.*, 668 A.2d 426, 430 (N.J. 1995) (holding that police may interrogate a juvenile without a parent/guardian present "only if juvenile has withheld their names and addresses, a good faith effort to locate them is unsuccessful, or they simply refuse to attend the interrogation".

**Texas**
TEX. FAM. CODE ANN. § 51.09 (child can only waive rights if waiver made in writing by attorney and child).

**Vermont**
*In re E.T.C.*, 449 A.2d 937, 940 (Vt. 1982) (before juvenile can waive rights, he must be given opportunity to consult with an adult (i.e, parent, legal guardian or attorney) who is completely disassociated from the prosecution and is informed of the juvenile's rights).

## APPENDIX F

### Juvenile False Murder Confessions
### 16 year olds and 17 year olds

**16 year olds**

**CHESNET, ALLEN JACOB**
Maryland, 1998. Crime: Chesnet's neighbor was found stabbed to death. Chesnet confessed to murder; charges were dropped. The 16 year old Chesnet was brought in for questioning soon after the body was found. Police were suspicious of Chesnet because he had a fresh cut on his hand and blood on his clothes. Police told Chesnet's parents he was not a suspect, and thus, did not need a lawyer. After 15 hours of interrogation Chesnet confessed, in part because police lied to him, telling him DNA evidence at the crime scene implicated him. In actuality, DNA evidence exonerated Chesnet and implicated the true perpetrator who eventually pled guilty to the crime. However, police and prosecutors failed to release this information for several months; Chesnet spent six months in custody before he was released. Chesnet also claims he was stabbed and raped while in custody. His explanation for falsely confessing: "In my head, I thought if I told them stuff, they would let me go." Todd Richissin, *Held without Proof, Boy Free; He's Jailed 6 Months, Even after DNA Test Debunks Evidence*, BALTIMORE SUN, November 20, 1998; Carl Hamilton, *Convicted Killer Wants to Change Guilty Plea*, THE CECIL WHIG, October 21, 1999; Del Quentin Wilber,"*Teen Tormented by an Erroneous Charge of Murder; Jailed Six Months in Woman's Killing, He Seeks $18 Million*" BALTIMORE SUN, April 23, 2001.

**OLMETTI, DON**
Illinois, 1997. Crime: Sonia Hernandez, a teacher, was robbed and murdered. Olmetti confessed to the robbery and murder; charges were dropped. Police picked up 16-year-old Olmetti for questioning after receiving a tip. Olmetti, who is borderline mentally retarded, was questioned at a police station for 18 hours before confessing to the crime. His parents claim that they were denied access to their son during his questioning, and told he was not present at the station while he was being interrogated in another room. Olmetti claims that police beat him and forced him to sign the written confession.

Olmetti spent two years in the Cook County Jail awaiting trial, despite the fact that attendance records and teacher statements uncovered one month after his arrest showed that at the time of the murder Olmetti was at another school, more than a mile from the scene of the crime. Murder charges were finally dropped against Olmetti in 1999. Annie Sweeney, *Student Charged in Teacher Slaying; Police Say 16-Year-Old Killed to Steal Just $4,* CHI. TRIB., April 4, 1997; Rosalind Rossi and Ernest Tucker, *Suspect in murder of teacher was on school suspension*, CHI. SUN TIMES, April 5, 1997; Diane Struzzi, *Murder Case Dropped, Teen Still Held; Questions Remain 2 Years after Arrest*, CHI. TRIB., May 18, 1999.

**PENNINGTON, DUSTAN**

Illinois, 1988. Crime: Motel clerk Lucille Betz was murdered. Pennington confessed to murder; he was acquitted of charges of murder, arson and burglary (related to the murder). He was 16 at the time he was arrested. After thirteen hours of "grueling interrogation" and threats of life imprisonment, Pennington signed a written confession. Pennington testified at his trial in January 1989 that he was so upset during the interrogation that he did not even read the confession prior to signing it. He had only been given food once during the 13 hours. His attorney claimed, "They worked him hard and long. He was grilled and grilled and grilled and grilled until he was well-done. They kept yelling at him. This is coercion at its worst." Pennington's mother also claimed that police officers told her that her son did not need an attorney. Witnesses placed Pennington elsewhere during the murder, and another man charged with the same murder claimed that Pennington was not at the scene during the crime. Before the trial, Charles Daubman, another suspect, told police that Pennington was not present at the crime. Prosecutors refused to release him, saying there must have been a number of perpetrators, though Pennington's confession said he had acted alone. Pennington was acquitted at trial and two other men (including Charles Daubman) were later charged with the crime. When asked why he confessed to murder, Pennington said, about the detective who interrogated him: "He told me if I didn't tell them I did it he was going to send me to prison for the rest of my life." Robert Kelly, *Murder Suspect Says He Confessed Due to Threats*, ST. LOUIS. POST DISP., January 24, 1989, -Robert Kelly and Safir Ahmed, *Tape Uncovers Pact to Take Murder Rap,* ST. LOUIS. POST DISP., January

26, 1989; Robert Kelly, *Youth Cleared in Slaying,"* ST. LOUIS. POST DISP., January 27, 1989.

**17 year olds**

**BEALE, COREY**
Maryland, 1998. Crime: Beale's friend, Michael Harley, was stabbed to death. Beale confessed to murder; charges were dropped. The 17-year-old with learning disabilities was interrogated for over three days. During this time, he claims that he was slammed against a wall, deprived of sleep, and threatened with execution. Interrogators repeatedly denied Beale's multiple requests to see his mother or lawyer. At one point during the interrogation, Beale signed a "release form" he believed would allow him to go home, but instead it was a release of his Miranda rights. Coerced into confessing, Beale ended up giving four different conflicting statements. He later stated, "I would have said anything to get out of that room." During trial, prosecutors were contacted by police from a neighboring county and presented with evidence that exonerated Beale. Beale was released after spending 10 months in custody. The true perpetrator was later arrested and pled guilty. *Beale's Changing Statements*, WASHINGTON POST, June 4, 2001; April Witt, *FALSE CONFESSIONS: In Pr. George's Homicides, No Rest for the Suspects*, WASHINGTON POST, June 4, 2001; Michael Amon, *Man Pleads Guilty in 1998 Slaying; Detectives had Elicited a False Confession from Another Man*, WASHINGTON POST, July 3, 2002.

**BRADFORD, MARCELLIUS**
Illinois, 1986. Crime: a medical student was raped and murdered. Bradford confessed; he pled guilty to kidnapping and was sentenced to 12 years. Bradford, who was 17 years old at the time, yet 18 when he was arrested, confessed after spending 15 hours in police custody. During his confession Bradford implicated, 14-year-old Calvin Ollins, and two other defendants. Bradford and Ollins both later recanted their confessions and asserted that they were false. During the interrogation, Bradford was told he could go home if he just confessed. Police provided him with a handwritten paper that outlined the crimes, which he was told to study for several hours before the assistant state's attorney took his statement. Bradford claims he was beaten during the interrogation, a claim his family made first, hours after he confessed when they saw him covered in

bruises. In order to get a lesser sentence, Bradford agreed to a plea bargain and testified against one of the other defendants. Bradford was sentenced to 12 years, was paroled after spending six years in custody, and was later sent back to prison on a burglary conviction. At the time of the original trial, the semen found in the victim was that of a secretor—someone whose blood type can be detected from bodily fluids such as sweat and saliva. None of the four boys charged, including Bradford, were secretors, yet they were convicted regardless. In 2001, new DNA tests indicated that semen found on the victim's body could not have come from any of the four defendants. All four defendants filed wrongful imprisonment suits against police and prosecutors. Two new suspects that were connected to the crime through DNA evidence were arrested and charged in 2002; they are currently awaiting trial. Abdon M. Pallasch, *They Endured Rats in Their Cells*, CHICAGO SUN-TIMES, January 20, 2002; Steve Mills & Maurice Possley, *Final Roscetti DNA test clears 4*, CHICAGO TRIBUNE, December 4, 2001; Maurice Possley and Steve Mills, *New Evidence Stirs Doubt over Murder Convictions*; *DNA, Recantations Suggest 4 Inmates Innocent in '86 Case*, CHI. TRIB., May 2, 2001; Steve Mills and Maurice Possley, *Report Alleges Crime Lab Fraud; Scientist is Accused of Providing False Testimony*, CHI. TRIB., January 14, 2001; Maurice Possley and Steve Mills, *Crime Lab Analyst Hit as 3 Seek New Trials; Testimony Disputed in '86 Slaying*, CHI. TRIB., January 27, 2001; *88 Murder Verdict challenged; 'Scientific Fraud' in Analysis of Evidence Charged*, THE STATE JOURNAL-REGISTER, February 9, 200; Janet Rausa Fuller, *Roscetti's Ordeal Retraced*, CHI. SUN-TIMES, February 9, 2002.

**GRAY, PAULA**

Illinois, 1978. Crime: Larry Lionberg and Carol Schmal were taken to a townhouse where Ms. Schmal was raped and both were murdered. Paula Gray confessed to being present during the crimes and named four men -- Kenneth Adams, Verneal Jimerson, Willie Rainge, and Dennis Williams – as the perpetrators. Her confession was the cornerstone of the prosecution of the men referred to as the Ford Heights Four. Police interrogated Gray, a borderline mentally retarded 17 year old, for two nights in motels before she confessed. Soon thereafter Gray recanted her confessions, and was subsequently charged with rape, murder, and perjury. Gray was convicted and sentenced to 50 years in prison for the murders and perjury. While

working for an assignment, Northwestern University journalism students found a police report filed a week after the murder that implicated four other suspects. Police failed to turn this report over to defense attorneys. The report detailed that within a week of the crime, a witness had told the police that they had arrested the wrong men. The witness said he heard shots fired, saw four men run away from the scene, and the next day saw them selling items taken from the robbery of the victims. One of the four men identified by the witness was dead, but the other three eventually confessed. DNA testing corroborated their confessions and conclusively established the innocence of Paula Gray and the Ford Heights Four. William Freivogel, *Lessons from 13 Innocent Men*, ST. LOUIS POST-DISPATCH, April 30, 2000; *The Exonerated: Paula Gray*, Website of Center on Wrongful Convictions, Northwestern University School of Law, available at http://www.law.northwestern.edu/depts/clinic/wrongful/exonerations/Gray.htm.

**GREEN, DENNIS DEONTE**

Maryland, 2000. Crime: a fight between two groups of young men ended in a triple shooting, killing one man and injuring two others. Green, a 17-year-old, confessed to murder; charges were dropped. Green was interrogated at length in a "cold, cramped" interrogation room. He initially waived his right to counsel, though as questioning wore on he asked to call a lawyer. A detective told him "[y]ou are not getting a phone call until I hear what I want to hear." At one point during the interrogation officer wearing a "Forensics" jacket swabbed Green's hands, apparently for evidence of gunpowder residue. The test was bogus, but police told Green there was evidence he fired a gun recently, and the gun he fired was the same caliber as the murder weapon. Green then asked to be given a lie detector test, sure that it would exculpate him. A detective threatened to "kick his ass" if it came back wrong. He never took the test. Finally, Green was told that his friend, in another interrogation room, had just given him up, and an officer who had "befriended" him advised him that he would fare better in court if he confessed and pled self-defense. Green then gave police his third statement of the night, writing out a confession detailing how he shot the three victims. Green later stated "I'd been sitting in that room for hours. When I seen that he still believed whatever was circulating with the rest of the cops, I don't know, I just gave up. I didn't feel like going through no more. I started answering questions the way they wanted.

Because they wouldn't let me make no phone call." Green's interrogation was so lengthy that by the time detectives stopped questioning him, he was too tired to sit up. Ultimately, Green's statement contained factual inconsistencies with crime scene evidence, and forensic evidence proved it was not physically possible for Green to be the shooter. After spending six weeks in custody Green was released, and police labeled Green as a victim in the shootout, not a perpetrator. April Witt, *Allegations of Abuse Mar Murder Cases*, WASHINGTON POST, June 3, 2001; April Witt, *Police Bend, Suspend Rules; Pr. George's Officers Deny Suspects Lawyers, Observers Say,* WASHINGTON POST, June 5, 2001; April Witt and Ruben Castaneda, *FBI to Probe Prince George's Interrogations; 3 Confessions Raise Civil Rights Questions*, WASHINGTON POST, June 8, 2001; April Witt, *Witness Changes Account on Stand; Man Was to Accuse Friend in Slaying*, WASHINGTON POST, August 23, 2001.

**HAYES, MARIO**

Illinois, 1996. Crime: a man was beaten to death by a group of young men. Hayes confessed; a jury acquitted him after his second trial. Investigation into the crime resulted in the arrest of six gang members; one of which was 17-year-old Hayes. Hayes began his pre-dawn interrogation by denying he had anything to do with the beating, but he eventually confessed. Yet, according to police records, Hayes was in jail at the time of the assault. He later testified detectives had coerced him into confessing and fed him details of the crime. At least four of the six suspects claimed that detectives mistreated them during their interrogations. One suspect, Hayes' twin brother Marcus, was allegedly denied water during his interrogation and was given a cup of urine instead. He and the four other suspects implicated Mario Hayes in the beating. Prosecutors took the case to trial on the basis of the confessions, despite that police records placed Hayes in prison at the time of the beating. In Hayes' first trial the jury deadlocked, voting 11-1 for acquittal. When prosecutors retried him the jury only took three hours to acquit him. Hayes spent a total of two and half years in custody. Steve Mills, *'Killer' in Jail When Crime Committed; Teen Accuses Cops of Coercing Him into Admitting Guilt*, CHI. TRIB., April 29, 1998; Steve Mills, *2nd Check Confirms Accused Killer's Story; He was in Jail at Time of Murder*, CHI. TRIB., May 5, 1998; Maurice Possley, *Controversy Still Clouding Murder Case; Eyewitness Changed Story, Lawyer Says*, CHI. TRIB., February 16, 1999; James Hill, *Retrial*

*Begins Same as Original One Did*, CHI. TRIB., June 3, 1999; James Hill, *Evidence in Murder Case Too Flawed to Suit Jury*, CHI. TRIB., June 8, 1999.

**HENLEY, ERIC**

Illinois, 1990. Crime: a homeless man was beaten to death. The 17-year-old Henley confessed; charges were dropped. Five teenagers were arrested, and after being interrogated four of the five confessed. (Rodney Brown, Antwon Coleman, Eric Henley, and Roderick Singleton). The teenagers ranged between 14 and 17 years old. Their defense attorneys hired a private investigator that obtained a confession from one of the actual perpetrators. Prosecutors dismissed first-degree murder charges against all five of the teenagers in exchange for a guilty plea of the crime of stealing the dead man's pickup truck. The youths were sentenced to one year of probation. Michael D. Sorkin *Teens Cleared of Killing Homeless Man in Alton*, ST. LOUIS POST-DISPATCH, July 17, 1990; Robert Kelly, *Probe Continues Into Teens' Confessions* ST. LOUIS POST-DISPATCH, July 31, 1990; Robert Kelly, *Judge Rejects Withdrawal of Guilty Plea*, ST. LOUIS POST-DISPATCH, September 7, 1990.

**KING, CHARLES**

Illinois, 1992. Crime: a 9-year old girl was killed. King confessed to the murder after three days of questioning; King was transferred from prison to a state mental institution and was later released. King was a 17-year-old with an IQ of 57. He worked at the high school where the body was found and was implicated when the girl's young friend described the perpetrator as a black man in a white shirt and jeans. A janitor told police that King fit that description. He was never identified from a line-up. One year later, after two other children were killed, a serial killer confessed to the 9-year-old's murder. King was released after thirteen months of incarceration. Roy Malone & Harry Levins, *Police Say Man Has Confessed To 5 Killings*, ST. LOUIS POST-DISPATCH, August 29, 1993; *Confession of Multiple Child Killer Frees Retarded Man After Year of Confinement*, ST. LOUIS POST- DISPATCH, April 12, 1998.