



ILLINOIS JUVENILE JUSTICE COMMISSION

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Position on Automatic Transfer of Juveniles to Adult Courtⁱ

The Illinois Juvenile Justice Commission serves as the federally mandated State Advisory Group for developing, reviewing, and approving the State's juvenile justice plan for funds granted to Illinois by the United States Office of Juvenile Justice and Delinquency Prevention (OJJDP). As such, it is tasked with making recommendations on matters of juvenile policy to the Governor, General Assembly and the Illinois Department of Human Services (DHS).

As emphasized in the Commission's 2013 report, *Raising the Age of Juvenile Jurisdiction*, juvenile court should be the default jurisdiction for all youth who are arrested, regardless of offense. Juvenile courts are designed to be rehabilitative and address youth needs individually, in a developmentally appropriate manner.

It is crucial that youth are only transferred from juvenile court jurisdiction to adult criminal court in a way that advances public safety while remaining procedurally just. The Commission's report noted extensive research concerning the significantly higher recidivism rates of youth who are transferred to adult criminal court compared to their peers with equal offenses and histories who are held accountable in juvenile court. As a result, the Commission specifically recommended "[e]valuating the transfer statutes under which youth are transferred into adult court for consistency with public safety, youth rehabilitation, and fairness... [T]he effects of sending minors to the adult system, particularly higher recidivism rates, indicate that Illinois should ensure that its transfer laws are adequately tailored to reduce violence."

Recent U.S. Supreme Court decisions – *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012) – have identified additional constitutional protections for youth based on their developmental status. In short, the Supreme Court has rejected automatic and categorical sentencing approaches for youth, who should be addressed individually. Illinois' current automatic transfer statute bases the decision to transfer a juvenile to adult court on the offense, rather than an individualized assessment of risk and needs. In this way, it is similar to those categorical and mandatory practices struck down by the Supreme Court.

The Supreme Court of Illinois in *People v. Patterson*, urged the General Assembly to review the automatic transfer statute in Illinois, stating that "[w]hile modern research has recognized the effect that the unique qualities and characteristics of youth may have on juveniles' judgment and actions, the automatic transfer provision does not." The decision emphasizes the importance of judicial discretion. The Supreme Court highlighted this case in its February 2015 annual report to the Illinois General Assembly, again urging legislators to review automatic transfer law.

Illinois has an existing process that allows juvenile court judges to transfer a juvenile to adult court for any offense following a hearing. Making these decisions on a case-by-case, individualized basis through a court hearing better ensures fair, constitutional, and rehabilitative treatment in keeping with the law.

ⁱ This statement was developed by Commission staff and circulated to all Commissioners for approval or comment. Commissioner Brendan Kelly neither supports nor opposes this position because it conflicts with the position of the Illinois State's Attorney's Association, in which he serves as an officer.