

Background: Involvement with the juvenile or criminal justice system, even at a young age, can be deeply detrimental to youth. The youngest Texans should be kept out of the juvenile justice system altogether; raising the minimum age for prosecution from 10 to 13 would get Texas closer to the international standard of 14.¹ Additionally, Texas should ensure that when youth act out and commit status offenses their behavior is dealt with in the least disruptive way possible instead of through the juvenile justice system.

The state has many alternatives to better support youth than the juvenile or criminal justice system. The Family and Youth Success Program (FAYS), a Prevention and Early Intervention (PEI) program funded through the Department of Family Protective Services (DFPS), is one of the

most consistently successful DFPS prevention programs. It works to address family conflict and youth behavioral challenges including runaway and skipping school. On average over the last 10 years, 94.8% of youth served by the FAYS program remain out of the juvenile justice system.²

For the youngest who enter the juvenile justice system due to serious behavioral or mental health challenges, a community response is more appropriate: Community Resource Coordinating Groups (CRCGs) can refer these youth to community-based mental health providers or, in more serious cases, place them in residential treatment centers or State Hospitals.

Raise the Lower Age of Juvenile Court Jurisdiction to 13 So That 10-12-Year-Olds Cannot Be Arrested.

Background: While 14 is commonly the minimum age of criminal responsibility in other countries, Texas and many other states prosecute children as young as 10 years old. When children act out, their communities (such as family members, teachers, and neighbors) are best positioned to address the root cause of their behavior in a developmentally-appropriate way, rather than detention facilities. The juvenile justice system is harmful to children’s health and development, with devastating consequences on their futures, including making them 12 times more likely to be arrested as adults than those not put on probation as a juvenile.³

TNOYS Recommends raising the minimum age of prosecuting minors from 10 years old to 13. Also, we recommend supporting prevention and early intervention measures in families, schools, and communities that deal with the underlying causes of children acting out in ways that are less disruptive to their lives and do not risk traumatizing them.

Snapshot: Referrals of 10-12 year-olds to Juvenile Probation

- In 2021 there were 2744 referrals of 10-12-year-olds to juvenile probation.
- Of those, 61% were for a misdemeanor offense, such as school fights, underage possession or substance abuse, or misdemeanor theft.
- It is rare for youth to be referred to the juvenile justice system for homicide or other capital crimes; in 2021, 2 youth under 13 were referred for homicide. It is unclear if some or all of those cases were dismissed, adjudicated, and/or part of a law of parties case.⁴
- At least 46% of referrals are for school-based misbehavior.⁵
- Over \$10M would be saved over a biennium by raising the lower age to 13.⁶

Decriminalize Youth Running Away from Home

Background: When youth run away, law enforcement has the discretion to return them to their parent/guardian or to detain them. While most are detained for hours, some youth stay locked up for days or even weeks. Youth running away may be responding to problems or unsafe situations at home, as well other issues which need to be addressed, not punished.

Snapshot: Juvenile Runaways

- 1,454 youth were referred to juvenile probation for running away in 2021.
- In 2021, 559 youth were detained for running away.
- Of those, 86 youth were detained for more than 2 days.⁷

TNOYS Recommends decriminalizing the status offense of youth running away from home, including eliminating the Valid Court Order* exception.

Snapshot: Curfew Criminalization

- Curfews do not reduce crime and victimization. Meanwhile, cities in Texas that have eliminated their curfew ordinances have seen no rise in juvenile crime or victimization.¹¹
- Experiencing contact with criminal court makes it less likely that a youth will succeed in school and more likely that they will have interactions with the court and police in the future.¹²
- Youth of color are overrepresented in receiving tickets for violating curfew.¹³

Eliminate Curfew Ordinances; Do Not Criminalize Youth Experiencing Homelessness or Working Late at Night

Background: In Texas, 10-17-year-olds can end up with a criminal record for breaking curfew. The “offense” of staying out late or during the school day can earn a youth a Class C Misdemeanor, processed in adult criminal court without an attorney, and even fines up to \$500.⁹

Young people staying out late may have good reasons to do so: some work late-night jobs to provide for themselves or their family; some are homeless because they ran away from an unsafe home or were kicked out of their home and have no other place to be safely. Social services or simple guidance are more effective responses than tickets, fines, or a criminal record.¹⁰

TNOYS Recommends eliminating curfew ordinances to ensure young people are not criminalized for staying out late. Instead, address behavioral challenges by improving access to prevention and intervention measures in families, schools, and communities.

1. National Juvenile Justice Network, Raising the Minimum Age for Trying Children in Juvenile Court (2021), available at https://www.njjn.org/uploads/digital-library/NJJN%20Policy%20Platform_RaiseTheMinimumAge_UPDATEDFebruary%202021_1.pdf 2. Texas DFPS, PEI Outcomes, available at https://www.dfps.state.tx.us/About_DFPS/Data_Book/Prevention_and_Early_Intervention/Outcomes_Outputs_Efficiencies.asp. 3. NJJN, Raising the Minimum 4. TJJJD, The State of Juvenile Probation Activity in Texas (2021), available at <https://www.tjjd.texas.gov/index.php/doc-library/category/334-state-of-juvenile-probation-activity>. For explanation of “Law of Parties” see Texas Penal Code, Section 7.01 available at <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.7.htm> 5. The most recent data available on school-based referrals is from 2015. Texas Appleseed, “Dangerous Discipline”, available at <https://report.texasappleseed.org/dangerous-discipline-executive-summary/> 6. Cost savings projection in the Fiscal Note for HB 1783 (87R), available at <https://capitol.texas.gov/tlodocs/87R/fiscalnotes/html/HB01783I.htm> 7. TJJJD, The State 8. Tex. Fam. Code § 54.011 for definition of “Valid Court Order”. Available at: <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.54.htm> 9. Sec. 23-19 of Fort Worth City Code, available at https://codelibrary.amlegal.com/codes/ftworth/latest/ftworth_tx/0-0-0-25569. 10. Vera Institute of Justice, Just Kids: When Misbehaving is a Crime, 2017. 11. See Juvenile Curfews are not effective in reducing crime and victimization, The Campbell Collaboration, 2016; see also The Curfew Myth, The Marshall Project. 12. Texas Appleseed & Texans Care for Children, Dangerous Discipline, 2016, available at <https://report.texasappleseed.org/dangerous-discipline/> 13. Data from Austin, San Antonio, and Dallas all show that young people of color are disproportionately given curfew citations.