

Human Rights Watch

Children's Rights

<https://www.hrw.org/news/2014/04/10/us-florida-arbitrarily-prosecuting-children-adults>

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Criminal Records Brand Youth for Life

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(Tallahassee) Every year, the state of Florida arbitrarily and unfairly prosecutes hundreds of children as adults, Human Rights Watch said in a report released today. If convicted, these children suffer the lifelong consequences of an adult felony record for what are often low-level, nonviolent offenses.

The 110-page report, [Branded for Life: Floridas Prosecution of Children as Adults under its 'Direct File' Statute](#), details the harm that results from the states practice of giving prosecutors full discretion to decide which children to prosecute in adult courts. More than 98 percent of the 1,500 cases of children charged as adults between 2012 and 2013 were brought by prosecutors under the direct file statute. The law offers no opportunity for a judge to review or reverse the prosecutors decision, no matter how unsuitable the case is for criminal court.

The children caught up in the direct file law cannot legally vote, drink, or buy cigarettes in the state of Florida, said [Alba Morales](#), a US researcher at Human Rights Watch and the author of the report. Yet they can be tried as adults with no judge evaluating that decision, and branded as felons for life.

While children who commit crimes can and should be held accountable, doing so in adult courts and prisons is both unnecessary and harmful to society and youth, Human Rights Watch said. Rather than enhancing public safety, studies indicate, trying children in the adult criminal justice system produces higher recidivism rates for these offenders than for those who are kept in the juvenile justice system.

Children are less mature in their judgment and self-control than adults, and above all, are still developing and have great potential to change. The juvenile system is intended to rehabilitate and to balance the needs of society and the best interests of the child, while the adult criminal justice system emphasizes punishment over all else. Children prosecuted as adults lose access to age-appropriate education and programming provided under the juvenile court system. Young people describe feeling confused and abandoned in adult court. Many encounter violence in adult jails and prisons.

In adult court, they want to lock us up, one youth, a boy, told Human Rights Watch. In juvenile court they want to help us make better choices.

Floridas Prosecution of Children as Adults under its "Direct File" Statute

Download the full report

For nearly every child charged and convicted in adult court in Florida, the end result is an adult felony record that will harm him or her for life. A few cases result in misdemeanor or other non-felony convictions. Those with felony convictions are barred from many types of employment and suffer many other deprivations, including permanent loss of the right to vote.

Prosecutors may contend that they transfer young offenders to adult court for only the most serious crimes. But of the children tried in adult court in Florida in 2012 and 2013, 60 percent had been accused of nonviolent offenses, according to data Human Rights Watch analyzed.

Human Rights Watch spoke to over 100 youth and family members of youth charged directly in adult court by Floridas prosecutors. Among the cases reviewed were:

The report also includes new statistics developed by Human Rights Watch showing that the overwhelming power Florida has handed to prosecutors is playing out in arbitrary and unjust ways. Floridas judicial circuits send arrested children to adult court and impose harsh adult punishments at vastly different rates, though the differences cannot be explained by the seriousness of offenses, the size of youth

populations in the various circuits, or any other neutral criteria Human Rights Watch examined. In some circuits, evidence suggests that racial bias may affect who is sent for an adult trial.

The same child, accused of the same offense, may receive vastly different treatment based on nothing more than which prosecutor is in charge of their case, Morales said. These decisions should be handled by Floridas juvenile judges, who can ensure fair treatment, not by prosecutors who have a vested interest in getting defendants to plead guilty or in punitive outcomes.

The US Supreme Court, in a series of four recent cases, has underscored what every parent knows that children are developmentally less mature, and more capable of rehabilitation. Their punishment should take into account their diminished culpability and their capacity to change, Human Rights Watch said. Judgments about punishment are best made by the juvenile system, which takes these factors into account.

Florida should stop its widespread practice of saddling children with adult felony records that offer no recognition of their capacity to change, Morales said. Children, including teens, can be held accountable without subjecting them to treatment as harsh as that which the state of Florida is handing out.

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