Over the past several years, new research on adolescent brain development has sparked a movement toward more developmentally sensitive criminal justice policies. These legislative initiatives reflect a trend toward holding youth accountable in developmentally appropriate ways while also facilitating rehabilitation and addressing underlying problems. Over the past decade, several holdout states have passed “raise the age” legislation to raise the age of adult court jurisdiction to 18, rendering those under age 18 eligible for juvenile court rehabilitative services rather than adult prisons. The recent passage of raise the age legislation in New York and North Carolina will mark the first time in American history that none of the 50 states will automatically prosecute 16-year-olds as adults. Legislators in Connecticut, Illinois, and Massachusetts are now proposing a further expansion of juvenile court jurisdiction to age 21. However, at present, no state has successfully raised the age of juvenile court jurisdiction beyond 18, and five states—Georgia, Michigan, Missouri, Texas, and Wisconsin—continue to automatically prosecute 17-year-olds as adults.

This article will explore developmentally tailored justice and raise the age legislative initiatives. The article will begin with a brief overview of juvenile crime and a discussion of the implications of placing youth in adult criminal justice systems. Next, a review of scholarly advances in adolescent brain development and relevant Supreme Court decisions will be discussed. Lastly, raise the age legislative successes in Massachusetts, Connecticut, Illinois, and North Carolina will be explored, followed by legislative “flops” in Texas, Michigan, Georgia, Missouri, and Wisconsin.

**JUVENILE CRIME**

The raise the age legislative movement is, in part, informed by the reality that most children and adolescents who engage in criminal behavior commit relatively minor crimes. Nevertheless, it is indisputable that the magnitude of juvenile crime is substantial. According to research by the Bureau of Justice Statistics, in 2015, police arrested an estimated 921,600 youth under the age of 18, with juveniles comprising 9 percent of all arrests. (OJJDP Statistical Briefing Book: Law Enforcement & Juvenile Crime: Related FAQs, Off. Juv. Just. & Delinquency Prevention (2015), https://tinyurl.com/ybp3xhxf [hereinafter OJJDP Statistics].) Property crimes and miscellaneous offenses such as resisting arrest were the most common offenses, with violent crimes representing a small minority of arrests. (Id.)

In comparison to adults, youth are disproportionally arrested for certain crimes, such as arson, vandalism, and robbery. (Id.) For other crimes, however, they are far less likely than adults to face arrest. These crimes include fraud, prostitution, public intoxication, and driving under the influence. (Id.) Notably, even youth convicted of serious violent felonies do not go on to become adult career criminals. (Edward P. Mulvey, Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders, OJJDP Juv. Just. Fact Sheet (Mar. 2011), https://tinyurl.com/ycf89d59.)
### ESTIMATED NUMBER OF JUVENILE ARRESTS, OJJDP STATISTICS, 2015

<table>
<thead>
<tr>
<th>Offense</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Juvenile Arrests</strong></td>
<td>921,600</td>
</tr>
<tr>
<td><strong>Violent Crime Index</strong></td>
<td></td>
</tr>
<tr>
<td>Murder and nonnegligent manslaughter</td>
<td>800</td>
</tr>
<tr>
<td>Robbery</td>
<td>18,500</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>28,600</td>
</tr>
<tr>
<td><strong>Property Crime Index</strong></td>
<td>208,800</td>
</tr>
<tr>
<td>Burglary</td>
<td>35,600</td>
</tr>
<tr>
<td>Larceny-theft</td>
<td>156,000</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>14,600</td>
</tr>
<tr>
<td>Arson</td>
<td>2,700</td>
</tr>
<tr>
<td><strong>Nonindex</strong></td>
<td></td>
</tr>
<tr>
<td>Other assaults</td>
<td>131,300</td>
</tr>
<tr>
<td>Forgery and counterfeiting</td>
<td>1,000</td>
</tr>
<tr>
<td>Fraud</td>
<td>4,500</td>
</tr>
<tr>
<td>Embezzlement</td>
<td>600</td>
</tr>
<tr>
<td>Stolen property (buying, receiving, possessing)</td>
<td>10,400</td>
</tr>
<tr>
<td>Vandalism</td>
<td>41,700</td>
</tr>
<tr>
<td>Weapons (carrying, possessing, etc.)</td>
<td>19,300</td>
</tr>
<tr>
<td>Prostitution and commercialized vice</td>
<td>600</td>
</tr>
<tr>
<td>Drug abuse violations</td>
<td>99,100</td>
</tr>
<tr>
<td>Gambling</td>
<td>500</td>
</tr>
<tr>
<td>Offenses against the family and children</td>
<td>3,400</td>
</tr>
<tr>
<td>Driving under the influence</td>
<td>6,600</td>
</tr>
<tr>
<td>Liquor law violations</td>
<td>43,100</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>5,500</td>
</tr>
<tr>
<td>Disorderly conduct</td>
<td>71,300</td>
</tr>
<tr>
<td>All other offenses (except traffic)</td>
<td>167,700</td>
</tr>
<tr>
<td>Curfew and loitering</td>
<td>44,800</td>
</tr>
</tbody>
</table>

### JUVENILE PROPORTION OF ARRESTS BY OFFENSE, OJJDP STATISTICS, 2015

<table>
<thead>
<tr>
<th>Offense</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Arrests</td>
<td>9%</td>
</tr>
<tr>
<td>Arson</td>
<td>31%</td>
</tr>
<tr>
<td>Vandalism</td>
<td>22%</td>
</tr>
<tr>
<td>Robbery</td>
<td>19%</td>
</tr>
<tr>
<td>Motor vehicle theft</td>
<td>19%</td>
</tr>
<tr>
<td>Disorderly conduct</td>
<td>18%</td>
</tr>
<tr>
<td>Burglary</td>
<td>16%</td>
</tr>
<tr>
<td>Liquor laws</td>
<td>16%</td>
</tr>
<tr>
<td>Larceny-theft</td>
<td>13%</td>
</tr>
<tr>
<td>Weapons</td>
<td>13%</td>
</tr>
<tr>
<td>Other assaults</td>
<td>12%</td>
</tr>
<tr>
<td>Stolen property</td>
<td>12%</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>8%</td>
</tr>
<tr>
<td>Murder</td>
<td>7%</td>
</tr>
<tr>
<td>Drug abuse violations</td>
<td>7%</td>
</tr>
<tr>
<td>Offenses against the family</td>
<td>4%</td>
</tr>
<tr>
<td>Fraud</td>
<td>3%</td>
</tr>
<tr>
<td>Prostitution</td>
<td>1%</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>1%</td>
</tr>
<tr>
<td>DUI</td>
<td>1%</td>
</tr>
</tbody>
</table>

[Note: In 2013, the FBI changed the definition of rape, impeding data collection.]

### JUVENILES IN ADULT SYSTEMS

The “tough on crime” era of the 1980s and 1990s led to an
increasing number of youth rendered eligible for transfer to adult criminal court. (See generally Patrick Griffin et al.,
many states, youth who commit certain crimes can be held in adult facilities pending trial. Other adolescents are transferred to
adult facilities post-conviction. In 2014, approximately
4,200 youth were held in adult jails on any given day, and over 1,000 youth were held in adult state prisons. (OJJDP
Statistical Briefing Book: Juveniles in Corrections: Number
of Inmates Age 17 or Younger in Custody of State Prison
Institutions, 2000–2015, OFF. JUV. JUST. & DELINQUENCY
PREVENTION (June 1, 2017), https://tinyurl.com/y8eztryr6;
OJJDP Statistical Briefing Book: Juveniles in Corrections:
Jail Inmates Younger Than 18, 1990–2014, OFF. JUV. JUST.
com/yaogbyre.) Processing youth through the adult penal
system, however, can have serious consequences, including
physical and sexual assault, the solidification of a criminal
justice identity, lack of access to age-appropriate education, and steep financial costs.

**Physical and sexual assault.** Juveniles in the adult
criminal justice system face unique challenges. Their age
and immaturity can lead to adjustment difficulties and exploitation, endangering their safety. The dangerous
conditions of adult facilities can lead youth to experience
near constant fear. Research reflects that juveniles in adult
jails and prisons are also more likely to be physically and
sexually victimized than adult inmates. (National Prison Rape
y7q96fcs [hereinafter PREA 2009 Report].) While the federal
government has passed legislation to encourage the separation
of youth from adults, some states have opted to forfeit federal
dollars and continue to house adults and juveniles together.
(See Juvenile Justice and Delinquency Prevention Act, 42
§§ 15601–15609.) Despite minorities encompassing less than
1 percent of jail inmates, 2005 and 2006 Bureau of Justice
Statistics studies found that youth were 21 percent and 13
percent, respectively, of sexual assault victims for inmate-
on-inmate sexual assaults in jails. (PREA 2009 Report, supra, at 42; Allen J. Beck & Paige M. Harrison, Sexual
Violence Reported by Correctional Authorities, 2006, BUREAU
y8s93kr8.) Sexually exploited youth are at times placed in
solitary confinement, leading to elevated rates of depression
and suicide attempts. Juveniles held in adult jails face
suicide rates 36 times higher than juveniles held in juvenile
facilities. (Campaign for Youth Just., Jailing Juveniles: The
Dangers of Incarcerating Youth in Adult Jails in America
4, 10 (2007), https://tinyurl.com/y8rlphjz.) The trauma of
physical and sexual assault can also have long-term effects
on adolescents, including future adjustment difficulties and
mental health issues.

**Criminal justice identity.** Along with threats to physical
safety, given their vulnerable developmental stage, the
processing of youth through adult criminal justice systems
can promote the entrenchment of a criminal justice identity
that would have not otherwise solidified. Rather than identify
as a law-abiding citizen, these youth can come to identify with
the label of “criminal” or “inmate.” During a critical period
in life, the youth’s peer group becomes exclusively comprised
of others who have broken the law. This social environment
can engender a profound shift in what the youth perceives as
honorable, ethical, and moral. This lack of exposure to law-
abiding peers can result in significant repercussions, leading
young who would have naturally desisted from criminal
behavior to continue to maintain contact with the criminal
justice system. The criminal justice environment comes to be a
place where the youth feels most accepted, worthy, and at home.
A lack of access to juvenile rehabilitative programming and
education further severs youth from a broader prosocial world.

**Barriers to education.** Formal high school classes are
essentially absent from adult jails and prisons. (Id. at 7.)
Most youth see a disruption in their educational trajectory
as developmentally appropriate courses are unavailable. The
educational setbacks that youth experience in adult facilities
substantially diminish their opportunities for future success
in law-abiding jobs. This lack of access to schooling is often
compounded for juveniles in adult facilities, as youth involved
with the juvenile justice system are often already performing
below grade level. (Regina M. Foley, *Academic Characteristics
of Incarcerated Youth and Correctional Educational Programs*,
9 J. EMOTIONAL & BEHAV. DISORDERS 248, 248–59 (2001).) Approximatly
75 percent of criminally involved youth have failed one or more classes, and 40–50 percent have been
previously held back at least one grade. (Id.)

**Financial cost.** In addition to the above obstacles faced
by youth incarcerated in adult systems, incarceration is also
costly. While the cost of incarceration in adult facilities
varies from state to state, in all states this cost is a significant
expenditure. Some states, such as California, spend as much
as $70,812 per inmate per year, while other states, such as
Florida, have an annual cost per inmate of $19,577. (See
*How Much Does It Cost to Incarcerate an Inmate*, LEGIS.
ANALYST’S OFF., https://tinyurl.com/m03bxox (last updated
Mar. 2017); *Quick Facts: About the Florida Department of
Corrections*, FLA. DEP’T OF CORRECTIONS, https://tinyurl.com/
cq8z9wy (last revised Apr. 2017).) Notably, for youth facing less serious charges, youth
diversion programs are far less costly and provide youth
with connections to much-needed resources, such as mental
health treatment, educational support, health care, and job
training. For example, in Michigan, the estimated juvenile
diversion cost is, on average, less than $10 per youth per day.
(KRISTEN STALEY & MICHELLE WEEHMHOFF, MICH. COUNCIL ON
CRIME & DELINQUENCY, THERE’S NO PLACE LIKE HOME: MAKING
THE CASE FOR WISE INVESTMENT IN JUVENILE JUSTICE 7 (2013),
https://tinyurl.com/ys3ulw.) In comparison to youth facing
detention and incarceration, youth arrested for similar crimes
who are instead placed in diversion programs face better
outcomes with diminished recidivism rates and higher rates
of educational attainment and employment.
NEUROSCIENCE

In addition to an increased recognition of the above collateral consequences, developments in neuroscience have profoundly impacted the legal system’s understanding of juvenile criminal behavior and how employing an adult approach to youth criminal justice can impede brain development. (Laurence Steinberg, The Influence of Neuroscience on US Supreme Court Decisions about Adolescents’ Criminal Culpability, 14 NATRE REV. NEUROSCIENCE 513, 515–16 (2013).) These research developments have played a central role in emboldening courts and legislators to reevaluate the utility of youth “tough on crime” policies and whether these policies are (1) helpful, given adolescent brain development and maturation; or (2) making youth more dangerous. (Id.) Below is a discussion of adolescent brain development as related to raise the age legislation.

Thanks to developments in neuroscience, we now know that the difficulties many youth experience—impulsivity, risk-taking, reactivity—are in part a product of their developing brains. (Margo Gardner & Laurence Steinberg, Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study, 41 DEVELOPMENTAL PSYCHOL. 625, 626–34 (2005).) Far from “mini-adults,” adolescents in the throes of normative development are emotionally driven, short-sighted, exceedingly reactive, and highly emotionally aroused. (Laurence Steinberg & Elizabeth S. Scott, Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58 AM. PSYCHOLOGIST 1009, 1010–11 (2003).) They are prone to sensation-seeking and, even when raised in optimal conditions, gravitate toward immediate gratification as opposed to superior, delayed rewards. (Laurence Steinberg, A Social Neuroscience Perspective on Adolescent Risk-Taking, 28 DEVELOPMENTAL REV. 78, 99 (2008).) Compared to adults, youth appraise threats at higher levels and are more hypervigilant. (Id.) Each of these characteristics decrease as the brain matures and are, in part, a reflection of an immature prefrontal cortex and limbic system.

Prefrontal cortex and limbic system. Adolescence is a time of dramatic brain change, particularly in the prefrontal cortex. The last region of the brain to develop, the prefrontal cortex is responsible for a wide array of complex cognitive functions including decision making, long-term planning, inhibiting impulses, social decision making, and self-awareness. (Beatriz Luna et al., What Has fmMRI Told Us about the Development of Cognitive Control through Adolescence?, 72 BRAIN & COGNITION 101 (2010).) The limbic system—a region home to the processing of emotions such as fear and anger, flight or fight responses, and rewards—also undergoes significant changes. Notably, during adolescence, as the limbic system develops, this region becomes hypersensitive to risk-taking, producing a pleasant surge of neurochemicals when an adolescent takes a risk. (Id.) The real-world impact of this heightened emotional arousal is exacerbated by the fact that the prefrontal cortex—which promotes deliberative problem-solving—is still developing. (Monica Luciana & Paul F. Collins, Incentive Motivation, Cognitive Control, and the Adolescent Brain: Is It Time for a Paradigm Shift?, 6 CHILD DEV. PERSP. 392 (2012).)

In other words, while adolescents’ emotional processing center (the limbic system) is at full throttle at puberty, the “brakes” (the prefrontal cortex) are not fully installed until the mid-20s. Thus, at the same time youth are experiencing a hypersensitivity to emotional content, they are also deprived of the deliberative problem-solving that comes with adulthood, rendering youth emotionally driven and prone to impulsive behavior and poor judgment.

Hot and cold cognition. Brain researchers have also differentiated youth’s ability to engage in problem solving under various conditions, and employ what is known as “hot” and “cold” cognition. Hot cognition is the ability to analyze problems during periods of elevated emotional arousal or intense stress, while cold cognition occurs under circumstances that are less emotionally arousing and intense. Researchers have concluded that in situations of hot cognition, adolescents are less well equipped than adults to reach reasonable, commonsense conclusions. (See, e.g., Sara B. Johnson et al., Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy, 45 J. ADOLESCENT HEALTH 216 (2009).) In other words, in comparison to adults, adolescents perform very poorly under pressure, and in this context are prone to make choices that they would not have made in less stressful conditions. This has practical implications for understanding youth violent crimes, which tend to occur during high-stress, “hot” cognition conditions.

Peer influence. During adolescence, youth are very susceptible to peer influence. While people of all ages experience a fundamental need to belong, this need is much more powerful and intense for adolescents. Youth crave social approval and are far more willing than adults to take drastic measures to secure peer approval. (Gardner & Steinberg, supra, at 626–34.) They experience elevated self-consciousness and are hyperaware of how their actions are perceived by their peer group. Highly attentive to social cues, youth experience profoundly intense negative emotions in the face of social rejection. This renders youth more vulnerable than adults to the effects of a harmful peer group and social environment.

Maturation. While adolescence is a developmental stage that renders one vulnerable to poor choices, as youth move into their 20s, the risk of faulty decision making decreases. Research conducted by Dr. Laurence Steinberg reflects that as youth enter adulthood, they are far less prone to sensation seeking and impulsive behavior, become more oriented toward the future, and spend more time assessing risk and considering the consequences of their actions. (See id.) As compared to persons in their teen years, individuals in their early 20s are more likely to engage in long-term planning and are increasingly resistant to negative peer pressure or peer influence. Perhaps unsurprisingly, as the brain becomes fully developed, adolescents also are at less risk of criminal behavior.

The findings in this section have had a profound impact on how courts—including the Supreme Court—understand juvenile and young adult criminal behavior.

THE SUPREME COURT

As the understanding of adolescent brain development has
evolved, so has case law involving minors. The United States Supreme Court has issued three landmark sentencing decisions over the past 12 years, each standing for the proposition that children and adolescents are different from adults. (See, e.g., Miller v. Alabama, 567 U.S. 460 (2012) (eliminating mandatory life without parole for juveniles).) This case law establishes that the Eighth Amendment cruel and unusual punishment prohibition is implicated when individuals are subjected to harsh sentences for crimes they committed as minors. (See, e.g., Roper v. Simmons, 543 U.S. 551 (2005) (prohibiting execution of defendants for crimes committed as minors).)

The undercurrent of these decisions is that children and adolescent offending is a product of “unfortunate but transient immaturity”—that adolescents are different from adults in important ways. (See id. at 573.) Leaning on advances in brain science, in Roper v. Simmons, the Supreme Court elected to treat juvenile crime as constitutionally different and barred execution of those under the age of 18. (Id.) Next, in Graham v. Florida, the Court went a step further and prohibited youth sentences of life without parole in nonhomicide cases. (560 U.S. 48 (2010).) Most recently, in 2012, in the landmark case Miller v. Alabama, the Supreme Court barred mandatory sentences of life without parole for juveniles convicted of homicide. (567 U.S. 460.)

Citing developments in scientific research, in this triad, the Court noted that adolescents by virtue of their developmental immaturity are prone to impaired decision making, vulnerable to negative peer and familial influence, and often unable to remove themselves from dysfunctional living situations. (See id. at 479.) Moreover, the Supreme Court acknowledged that character development is in flux in adolescents and that youth are more amenable to rehabilitation. In rendering the above decisions, the Court recognized that due to structural differences in their brains, adolescents are substantially different from adults.

**LEGISLATIVE RESPONSES**

While the Supreme Court has taken a raise the age approach of sorts to sentencing for certain juvenile crimes, there has been much more comprehensive activity in state legislatures across the country to more broadly raise the age of juvenile court jurisdiction. At the time of publication, 45 states set the maximum age of juvenile court jurisdiction at 17, while in five states, youth age 16 and older were processed in adult criminal court. (See Juvenile Age of Jurisdiction and Transfer to Adult Court Laws, NAT’L CONF. ST. LEGISLATURES (Apr. 17, 2017), https://tinyurl.com/y79wjts.) While North Carolina was previously the only state to set a maximum age of juvenile court jurisdiction at 15, with 16 – and 17-year-olds automatically prosecuted in adult courts, after the recent passage of raise the age legislation, beginning in December 2019 most North Carolina youth ages 16 and 17 will be processed in juvenile court. Notably, in each of the 50 states, youth who commit certain serious offenses can be transferred to adult criminal court regardless of their age at the time of the offense. Qualifying waiver crimes vary by state, but generally include murder and other violent felonies. (See Analysis of Transfer Laws, supra.) Below is an analysis of raise the age legislative developments, followed by a look at states that have failed to enact raise the age legislation.

**Massachusetts.** In the past several years, Massachusetts has been a hotbed for activity in the raise the age legislative movement. While Massachusetts elected to increase the age of juvenile court jurisdiction four years ago, the state is now considering further expansion to age 21.

In 2013, Massachusetts passed and enacted House Bill 1432 to increase the age of juvenile court jurisdiction to 18. (H.R. 1432, 188th Gen. Ct. (Mass. 2013), https://tinyurl.com/99xba3sk.) At the time of the bill’s passage, it was estimated that processing 17-year-olds through juvenile court would cost the state an additional $24,570,000. Included in this estimate was money to hire and pay new probation officers and mental health clinicians and fund approximately 200 new beds. Following the passage of the bill, the juvenile justice department was allocated substantially less funding, totaling $15,600,000. (See JUSTICE POLICY INST., RAISE THE AGE: SHIFTING TO A SAFER AND MORE EFFECTIVE JUVENILE JUSTICE SYSTEM: EXECUTIVE SUMMARY 8 (2017), https://tinyurl.com/y895pd4f [hereinafter JPI EXECUTIVE SUMMARY].) The estimated cost of raise the age and associated changes was 37 percent less than anticipated. Some costs did not materialize due to a decline in juvenile court arraignments and juvenile delinquency caseloads. (Id.) Two years after the passage of raise the age legislation, youthful arrests continued to decrease in tandem with national trends. The state saw a 35 percent decrease in arrest rates for youth under the age of 18. (Shira Schoenberg, Massachusetts Lawmakers to Consider Raising Juvenile Court Age from 18 to 21, MASS LIVE (Feb. 6, 2017), https://tinyurl.com/yvcbhzb9.)

The Massachusetts legislature is now considering Senate Bill 947, which would raise the age of delinquency jurisdiction to 21 to more closely reflect understandings of brain development. (S. 947, 190th Gen. Ct. (Mass. 2017), https://tinyurl.com/yaogysam.) If enacted, Massachusetts would become the first state in the country to raise juvenile court jurisdiction past age 18.

**Connecticut.** Connecticut passed raise the age legislation in 2007 through an appropriations bill, increasing the age of juvenile court involvement from 16 to 18. (S. 1500, 2007 Gen. Assemb., Spec. Sess. (Conn. 2007), https://tinyurl.com/ycykjnlf.) At the time the bill passed, there was significant concern about the cost of implementation, with $100,000,000 in projected costs but also long-term savings. (John Roman, The Economic Impact of Raising the Age of Juvenile Jurisdiction in Connecticut: Remarks before the Judiciary and Appropriations Committee, Connecticut General Assembly, URBIAN INST. (Feb. 21, 2006), https://tinyurl.com/ybb45f4t; see also JPI EXECUTIVE SUMMARY, supra, at 6.) Rather than resulting in an increase in spending, the juvenile justice system in Connecticut ended up spending less compared to a decade ago. This is attributed, in part, to an aggressive pretrial diversion program that resulted in a decrease in judicial intervention and fewer juveniles in expensive confinement. Like Massachusetts, Connecticut has also seen a drop in juvenile arrests consistent with national trends. Also notable is a decrease in the number of young adults ages 18–20 in prison. Connecticut Governor Malloy stated:

> Here’s the reality: Raise the Age resulted in a significant decrease in the number of cases, and today I am proud to report that we now have the lowest number of juveniles in pre-trial detention. We now have the lowest ever population at the Connecticut Juvenile Training School. The number
of inmates under the age of 18 at Manson Youth Institute is also at its lowest ever . . .”

(JPI EXECUTIVE SUMMARY, supra, at 5.)

After raising the age of juvenile court jurisdiction to 18, Connecticut is also considering juvenile court jurisdiction expansion to age 21. This policy has the enthusiastic support of the governor, who, following a failed attempt in 2016, is again promoting raise the age legislative initiatives. On March 1, 2017, Governor Malloy submitted a raise the age legislative proposal to the Connecticut legislature. (Governor’s H. 7045, 2017 Gen. Assemb. (Conn. 2017), https://tinyurl.com/y8h7c5tp.) If the governor is successful, Connecticut would become the first state in the country to take this step.

Illinois. Unlike Massachusetts and Connecticut, Illinois’s enactment of raise the age legislation occurred as a two-step legislative process that spanned four years. Prior to the passage of raise the age bills, several concerns were identified by stakeholders, including that the bill was an “unfunded mandate,” that the bill’s requirements would lead to overcapacity in juvenile facilities and public safety concerns, and that the bill would result in wasting rehabilitative resources on individuals incapable of change. (See JPI EXECUTIVE SUMMARY, supra.) Amid this controversy, in 2009, Illinois passed compromise legislation Public Act 95-1031 and raised the age of juvenile court jurisdiction from 17 to 18 only for juvenile misdemeanors. At the time, there was bipartisan agreement to revisit raising the age of juvenile court jurisdiction for juvenile felonies. In February 2013, three years after Public Act 95-1031 was enacted, a report issued by the Illinois Juvenile Justice Commission (IJJC) relayed that “none of the predicted negative consequences on the juvenile court system occurred.” (ILL. JUVENILE JUSTICE COMM’N, RAISING THE AGE OF JUVENILE COURT JURISDICTION: THE FUTURE OF 17-YEAR-OLDS IN ILLINOIS’ JUSTICE SYSTEM (2013), https://tinyurl.com/y9gs6587.) The IJJC noted that there was a “sharp decline” in youth crime after passage of raise the age legislation, resulting in the closure of one detention center and two state prisons. (Id.) The IJJC concluded that in part due to the bifurcated jurisdiction system for misdemeanors and felonies, some 17-year-olds charged with misdemeanors were being unnecessarily held in adult facilities. While the IJJC acknowledged that resources to address the rehabilitative needs of more serious offenders would come at heightened costs, it argued that the juvenile justice system could absorb the costs due to an overall reduction in the juvenile crime rate. The IJJC stated: “To promote a juvenile justice system focused on public safety, youth rehabilitation, fairness, and fiscal responsibility, Illinois should immediately adopt legislation expanding the age of juvenile court jurisdiction to include 17-year-olds charged with felonies.” (Id.) Less than six months later, in July 2013, Illinois Governor Pat Quinn signed House Bill 2404 into law, expanding juvenile court jurisdiction in Illinois to include 17-year-olds charged with felonies. (H.R. 2404, 98th Gen. Assemb. (Ill. 2013), https://tinyurl.com/y9ayjtvh.) As was the case in Massachusetts and Connecticut, the expected surge in 17-year-olds processed through the juvenile court has not occurred, as juvenile arrest rates continue to drop.

North Carolina. North Carolina was the last state in the country where 16-year-olds were automatically prosecuted as adults. Democratic Representative Marcia Morey stated in support of raise the age legislation, “In almost every other aspect of our laws, if you’re under 18, you’re a minor. You can’t get a contract, you can’t vote, you can’t drink, you can’t get a library card without your parent’s permission.” (Melissa Boughton, MAJORITY OF HOUSE LAWMAKERS PASS RAISE THE AGE BILL AFTER DEBATE ABOUT MONEY, CRIMES INCLUDED, PROGRESSIVE PULSE (May 17, 2017), https://tinyurl.com/yd3xkc9m.) There was broad bipartisan support to increase the age of juvenile court jurisdiction. Regarding this strong consensus, North Carolina Republican Representative Chuck McGrady remarked, “You don’t often see the ACLU and the (conservative) John Locke Foundation join together.” (Colin Campbell, “RAISE THE AGE” BILL TO KEEP TEENS OUT OF ADULT COURT PASSES NC HOUSE 104–8, NEWS & OBSERVER (May 17, 2017), https://tinyurl.com/ycs7p3oc.) Amid widespread bipartisan support in the North Carolina legislature and support of the chief justice of the North Carolina Supreme Court and the governor, raise the age legislation passed the North Carolina House of Representatives by a margin of 104–8 with limited opposition related to funding and scope. (H.R. 280, Gen. Assemb. (N.C. 2017), https://tinyurl.com/y76kzh7.) On June 28, 2017, as part of an appropriations bill, the North Carolina legislature successfully passed raise the age legislation, overriding the governor’s veto. (Id.) On July 28, 2017, Governor Roy Cooper signed a proclamation “In Recognition of Raising the Age of Juvenile Jurisdiction.” This proclamation included references to juvenile brain development, rehabilitation, and protecting juveniles from incarcerated adults:

WHEREAS, studies indicate that most young people who commit criminal acts will mature beyond such behavior; scientific research on brain development shows that the frontal cortex, which helps with impulse control, does not fully develop in young adults until their early twenties; and WHEREAS, in response to research which suggests that both youthful offenders and society benefit when persons under 18 are treated in the juvenile justice system, every state has raised the age of juvenile jurisdiction to include 16 and 17-year-old children . . . .

(Gov. Cooper Declares July 28, 2017 a Day in Recognition of Raising the Age of Juvenile Jurisdiction, OFF. OF GOV. ROY COOPER (July 28, 2017).)

Implementation of the North Carolina raise the age law is scheduled for December 2019.

Raise the age flops: Texas, Michigan, Georgia, Missouri, and Wisconsin. Other states have been less successful at raising the age of juvenile court jurisdiction to 18. Legislative movements to raise the age have stalled in the five states where 17-year-olds continue to be automatically processed through adult criminal court: Texas, Michigan, Georgia, Missouri, and Wisconsin. In Texas, House Bill 122 endeavored to raise the age of criminal responsibility to 18. (H.R. 122, 85th Leg. (Tex. 2017), https://tinyurl.com/y72axs8w.) While in 2017 the bill passed the Texas House of Representatives with a vote of 92–52, it failed to garner enough support to move into the Senate. A vocal critic of the bill, Senator John Whitmire (D-Houston), citing
concerns of safety and funding, stated, “[T]here was no plan on how to change the juvenile system to successfully accommodate the additional population of 17-year-olds.” (Mike Ward, “Raise the Age” Legislation Pronounced Dead for This Year, HOUS. CHRON., May 9, 2017, https://tinyurl.com/y7yg9qrp.). A similar raise the age legislative trajectory occurred in Michigan, where House Bill 4948, which would have raised the age of criminal responsibility to 18, passed the Michigan House of Representatives in 2016 with a vote of 92–16 but failed to make it to a vote in the Senate. (H.R. 4948, 98th Leg. (Mich. 2015), https://tinyurl.com/y88tg1ef.) Similar legislation was introduced in the Michigan House in May 2017 and has stalled in committee. (H.R. 4659, 99th Leg. (Mich. 2017), https://tinyurl.com/yb2cdvoz.)

Georgia and Missouri have fared even worse. In Georgia, despite three republican cosponsors, raise the age legislation has failed to make it to a vote in either the Georgia House of Representatives or the Georgia Senate. (See H.R. 53, Gen. Assemb. (Ga. 2017), https://tinyurl.com/yctyr8nb.) Similarly, in Missouri, raise the age legislation was introduced earlier this year but did not make it to a vote. (S. 40, 99th Gen. Assemb. (Mo. 2017), https://tinyurl.com/yde8muve.) In Wisconsin, while there have been several raise the age bills filed over the past several years—some with bipartisan support—all have failed to advance. (See S. 280, 2015–2016 Leg. (Wis. 2015), https://tinyurl.com/y896kr5s.)

Federal legislation. In the federal sphere, the bipartisan REDEEM Act provided for grant incentives to raise the age of juvenile court jurisdiction to 18. Widely promoted by cosponsors Senator Rand Paul (R-Ky.) and Senator Cory Booker (D-N.J.), the Record Expungement Designed to Enhance Employment Act (REDEEM Act) was introduced in 2013, 2015, and 2017. (See S. 2567, 113th Cong., 2d Sess. (2013), https://tinyurl.com/j82k2ny.) Both the Senate and House versions of the 2017 companion bills offered states grant priority through Community Oriented Policing Services (COPS) upon enactment of laws that “establish[] that an adult criminal court may not have original jurisdiction over an individual who was less than 18 years of age when the individual committed an offense.” (S. 827, 115th Cong., 1st Sess. (2017), https://tinyurl.com/yb8tx6d3; H.R. 1906, 115th Cong., 1st Sess. (2017), https://tinyurl.com/ye8ykgz.) The bill provides for a nonautomatic transfer process, meaning states would not lose access to COPS grant funding for the nonmandatory transfer of juveniles to adult court. Although the legislation has gained the support of prominent conservative politicians, including Newt Gingrich, at the time of publication the bill had not yet made it out of committee.

CONCLUSION
A bipartisan movement toward developmentally appropriate justice has gained traction. In the past decade, many states have changed how they process 16–17-year-olds who commit crimes. This shift was sparked in part by recognition that (1) juveniles by virtue of their development are at heightened risk of making poor decisions, and (2) most youth who commit crimes naturally desist from criminal behavior as they mature. The vast majority of states now process most children and adolescents under the age of 18 in juvenile court rather than adult court. Moreover, some states, such as Massachusetts, Connecticut, and Illinois, are actively considering further expansion of juvenile court jurisdiction to age 21 to more closely mirror our modern understanding of adolescent brain development. As legislatures across the country continue to seek balanced solutions for addressing juvenile crime, it remains to be seen how far policymakers are willing to go to ensure developmentally appropriate justice.