

Taking a Broader View

As the preceding sections demonstrate, it is extremely difficult to look through a narrow scope when addressing issues regarding serious juvenile sex offenders. Integrating the information within this report, it is clear that juvenile justice policy decisions are not made in a vacuum, as shown below.

For example, there are states which do not register *any* juvenile adjudicated delinquent of a sex offense. In all of these states, though, a prosecutor has many other options available.

- Alaska: A juvenile is subject to judicial waiver at any age for any criminal offense, and to legislative waiver at age 16 for the most serious sex offenses.
- Connecticut: A juvenile is subject to legislative waiver at age 14 for most serious sex offenses.
- D.C.: A juvenile is subject to judicial waiver at age 15 for any felony offense, and to legislative waiver at age 16 for the most serious sex offense: First Degree Sexual Abuse.
- Georgia: A juvenile is subject to legislative waiver at age 13 for most serious sex offenses.
- Hawaii: A juvenile is subject to judicial waiver at age 14 for the most serious sex offenses.
- Kentucky: A juvenile is subject to judicial waiver at age 14 for the most serious sex offenses.
- Maine: A juvenile is subject to judicial waiver at any age for the most serious sex offenses.
- New York: A juvenile is subject to legislative waiver beginning at age 13 for many serious sex offenses.
- Vermont: A juvenile is subject to judicial waiver at age 10 for serious sex offenses, and to legislative waiver at age 14 for the most serious sex offenses.
- West Virginia: A juvenile is subject to judicial waiver at any age for the most serious sex offense, and to prosecutorial waiver at age 14 for the most serious sex offense: Sexual Assault in the First Degree.

Each of these states has provided a mechanism by which the prosecuting attorney may seek enhanced consequences for a serious juvenile sex offender, not by way of sex offender registration based on a juvenile adjudication, but via prosecution in adult court.

The Developmental Approach

The developmental approach to juvenile justice uses the results of research on both adolescent development and the effectiveness of juvenile justice interventions to advocate for changes in the juvenile justice system. Generally speaking, serious collateral consequences of a juvenile adjudication (such as lifetime sex offender registration) are viewed by developmental approach adherents as “fundamentally at odds” with an effective juvenile justice system. In addition, adherents are in favor of *judicial* waiver, when it is necessary, as opposed to *legislative* or *prosecutorial* waiver.

For additional information about the developmental approach to juvenile justice, please see the Office on Juvenile Justice and Delinquency Prevention’s (OJJDP) newsletter at http://www.ojjdp.gov/newsletter/248243/sf_5.html.

Conclusion

Sex offender registration and public notification for serious juvenile sex offenders is a significant collateral consequence and one that should be part of any larger-scale discussion on how to handle a state’s sex offenders. However, it is but one piece of that puzzle, and cannot be easily isolated from other juvenile justice issues such as the age of adult criminal responsibility, legislative waiver, prosecutorial waiver, and judicial waiver.

The SMART Office hopes that this overview will be a helpful resource for the field. For any questions about SORNA itself, or for more information about the work of the SMART Office, please feel free to contact the SMART Office at asksmart@usdoj.gov or visit our website at www.smart.gov.

Resources

AMERICAN UNIV., WASHINGTON COLL. OF LAW, FIFTY STATE SURVEY OF JUVENILE SEX OFFENDER REGISTRATION REQUIREMENTS, *available at* https://www.wcl.american.edu/endsilence/documents/FiftyStateSurveyonJuvenileSexOffenderRegistrationStatutes_FINALSept2009.pdf.

LISA BERESFORD, *Is Lowering the Age at which Juveniles can be Transferred to Adult Criminal Court the Answer to Juvenile Crime? A State-by-State Assessment*, 37 SAN DIEGO L. REV. 783 (2000).

ERIC FRITSCH & CRAIG HEMMENS, *Juvenile Waiver in the United States 1979-1995: A Comparison and Analysis of State Waiver Statutes*, 46 JUV. & FAM. CT. J. 17 (1995).

PATRICK GRIFFIN ET. AL., OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP), TRYING JUVENILES AS ADULTS: AN ANALYSIS OF STATE TRANSFER LAWS AND REPORTING (September 2011), <https://www.ncjrs.gov/pdffiles1/ojjdp/232434.pdf>.

SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NATIONAL RESEARCH COUNCIL, REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH (Richard J. Bonnie et. al., eds., 2013).

SARAH HOCKENBERRY & CHARLES PUZZANCHERA, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP), DELINQUENCY CASES WAIVED TO CRIMINAL COURT, 2011 (December 2014), *available at* <http://www.ojjdp.gov/pubs/248410.pdf>.

HUMAN RIGHTS WATCH, RAISED ON THE REGISTRY, *available at* http://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

HUMAN RIGHTS WATCH, STATE-BY-STATE SUMMARY OF TRANSFER LAWS, http://www.hrw.org/sites/default/files/related_material/2014_US_StateTransferLawsAppendix.pdf.

NATIONAL CENTER FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2011, <http://www.ojjdp.gov/ojstatbb/njcda/pdf/jcs2011.pdf>.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION, STATE STATUTES: JUVENILE TRANSFER TO ADULT COURT, <http://www.ndaa.org/pdf/Juvenile%20Transfer%202011.pdf>.

NICOLE PITTMAN & QUYEN NGUYEN, A SNAPSHOT OF JUVENILE SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: A SURVEY OF THE UNITED STATES, *available at* http://www.njjn.org/uploads/digital-library/SNAPSHOT_web10-28.pdf.

OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART OFFICE), JUVENILE OFFENDERS AND SORNA, http://www.smart.gov/juvenile_offenders.htm.

OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART OFFICE), SEX OFFENDER MANAGEMENT ASSESSMENT AND PLANNING INITIATIVE, JUVENILE SECTION, <http://www.smart.gov/SOMAPI/contents.html>.

M. SICKMUND ET. AL., NATIONAL CENTER FOR JUVENILE JUSTICE, EASY ACCESS TO JUVENILE COURT STATISTICS: 1985-2011 (2014), <http://www.ojjdp/ojstatbb/ezajcs>.

Appendix One: Legislative Waiver

State	Minimum Age	Charges
Alabama	16	Any Class A Felony; includes First Degree Rape, First Degree Sodomy, Sexual Torture, Traveling and/or Facilitating Travel to Meet a Child for an Unlawful Sexual Act
Alaska	16	Any Unclassified or Class A Felony; includes Sexual Assault in the First Degree and Sexual Abuse of a Minor in the First Degree
Arizona	15	Forcible Sexual Assault
Connecticut	14	Any Class A or B felony, including most serious sex offenses
D.C.	16	First Degree Sexual Abuse
Delaware	No min.	Rape in the First Degree, Rape in the Second Degree, Unlawful Sexual Intercourse in the First Degree
Georgia	13	Rape, Aggravated Sodomy, Aggravated Child Molestation, Aggravated Sexual Battery
Illinois	15	Aggravated Criminal Sexual Assault
Indiana	16	Rape
Iowa	16	Sexual Abuse
Louisiana	15	Aggravated Rape
Maryland	14	Rape in the First Degree, Sexual Offense in the First Degree
	16	Rape in the Second Degree, Sexual Offense in the Second Degree, Rape in the Third Degree
Mississippi	13	Forcible Rape
Montana	17	Sexual Intercourse without Consent
New York	13	Any "Sexually Motivated Felony"
	14	Rape in the First Degree, Criminal Sexual Act in the First Degree, Aggravated Sexual Abuse in the First Degree
North Dakota	14	Gross Sexual Imposition
Oklahoma	16	Rape in the First Degree, Rape by Instrumentation, Sodomy
Oregon	15	Rape, Sodomy, Object Sexual Penetration, Sexual Abuse
South Carolina	16	Most serious felony sex offenses
South Dakota	16	Rape
Vermont	14	Sexual Assault; Aggravated Sexual Assault
Washington	16	Rape

Appendix Two: Prosecutorial Waiver

State	Minimum Age	Charges
Arkansas	14	Rape
	16	Any felony
Arizona	14	Serious sex offenses
California	14	Rape, Continuous Sexual Abuse of a Child
	16	Most forcible sexual assaults or contact sexual assaults with a child
Colorado	16	Most serious sexual assaults
Florida	14	Sexual Battery, Aggravated Child Abuse
	16	Any felony
Louisiana	15	Forcible Rape, Simple Rape
Michigan	14	Criminal Sexual Conduct, First Degree
Montana	12	Sexual Intercourse without Consent
	16	Sexual Assault
Nebraska	14	First Degree Sexual Assault, First Degree Sexual Assault of a Child
Nevada	16	Sexual Assault using Force or Violence
New Jersey	16	Aggravated Sexual Assault or Sexual Assault
Vermont	16	Any sex offense
Virginia	14	Rape, Sodomy, Object Sexual Penetration
West Virginia	14	Sexual Assault in the First Degree
Wyoming	14	Sexual Assault; Sexual Abuse of a Minor

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
Alabama	14	Any criminal offense
Alaska	No minimum age	Any criminal offense
Arizona	14	All "Sexual Offenses" in the Arizona Criminal Code
Arkansas	16	Any felony
	14	Rape
California	16	Any criminal offense
	14	Presumptive discretionary transfer; most serious contact sex offenses
Colorado	12	Violent sex offenses
	14	Any felony
Connecticut	14	All other felony sex offenses not covered by automatic transfer provision
Delaware	14	Any criminal offense
D.C.	15	Any felony
	15	Presumptive discretionary transfer if charged with First Degree Sexual Abuse
Florida	14	Any criminal offense
Georgia	15	Any felony
Hawaii	16	Any felony
	14	First Degree Sexual Assault and Continuous Sexual Assault of a Child
Idaho	14	Any crime
	No minimum	Forcible penetration offenses
Illinois	13	Any crime
Indiana	16	Most serious sex offenses
Iowa	14	Any crime
Kansas	12	Any crime
	14	Presumptive discretionary transfer for nearly all felony sex offenses
Kentucky	14	Rape or Sodomy
Louisiana	14	Aggravated Rape, Forcible Rape
Maine	No minimum	Most serious sex offenses

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
Maryland	Under 15	Rape in the First Degree, Sexual Offense in the First Degree
	15	Any crime
Michigan	14	Any felony
Minnesota	14	Any felony
	16	Presumptive discretionary transfer for some serious contact sex offenses
Mississippi	13	Any crime
Missouri	12	Any offense
Nebraska	14	First Degree Sexual Assault, First Degree Sexual Assault of a Child
Nevada	14	Any felony
New Hampshire	No minimum	Any felony
	15	Presumptive Transfer if charged with Aggravated Felony Sexual Assault
New Jersey	14	Aggravated Sexual Assault or Sexual Assault
North Carolina	13	Any felony
North Dakota	14	Any offense involving serious bodily harm
	16	Any offense
Ohio	14	Any felony
Oklahoma	No minimum	Any felony
Oregon	15	Rape, Sodomy, Object Sexual Penetration, Sexual Abuse
Pennsylvania	14	Any felony
Rhode Island	No minimum	First Degree Sexual Assault; First Degree Child Molestation
	16	Any felony
South Carolina	No minimum	Criminal Sexual Conduct
	14	Most serious felony offenses

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
South Dakota	No minimum	Any felony
Tennessee	No minimum	Rape; Aggravated Rape; Rape of a Child; Aggravated Rape of a Child
	16	Any felony
Texas	14	Aggravated Sexual Assault
	15	Indecency with a Child; Sexual Assault
Utah	14	Any crime
	16	Hearing mandated when charged with Ag- gravated Sexual Assault
Vermont	10-13	Sexual Assault; Aggravated Sexual Assault
Virginia	14	Any felony
Washington	No minimum	Any offense
	16	Mandatory Hearing for Rape, Rape of a Child, Indecent Liberties (Class A), Child Molestation (First Degree)
	17	Mandatory Hearing for Indecent Liberties, Child Molestation in the Second Degree
West Virginia	Under 14	Sexual Assault in the First Degree
	14	Any offense involving violence to the person
Wisconsin	14	First or Second Degree Sexual Assault
	15	Any offense
Wyoming	13	Any offense

Appendix Four: Mandatory Registration

State	Minimum Age	Duration	When Eligible for Removal
Alabama	14	Life	After 25 years
Colorado	None	Life	After successful completion of sentence and probation
Delaware	14	Life	After 25 years
Florida	None	Life	After 25 years
Idaho	14	Until Age 21	DA may petition for extension of registration after age 21
Illinois	None	Life	After 5 years
Iowa	14	Life	After 5 years
Kansas	None	Life	n/a
Louisiana	14	Life	After 25 years
Maryland	14	Terminates at end of juvenile court jurisdiction	May be extended in certain circumstances
Michigan	14	Life	After 25 years
Minnesota	None	Life	n/a
Mississippi	14	Life	After 25 years
Missouri	None	Life	n/a
Nevada	14	Life	After 25 years
New Jersey	None	Life	After 15 years
North Dakota	None	Life	n/a
Ohio	16	Varies depending on tier determination	Varies depending on tier determination
Oregon	None	Life	May petition 2 years after juvenile court jurisdiction ends
Pennsylvania	14	Life	After 25 years
Rhode Island	None	15 Years (max)	n/a
South Carolina	None	Life	n/a
South Dakota	14	Life	n/a
Tennessee	14	Life	After 25 years
Washington	None	Life	May petition after 5 years
Wisconsin	None	Life	n/a
Wyoming	None	Life	May petition for removal after 10 years

* These provisions are applicable to the *most serious sex offense(s)* in a state. Adjudications of delinquency for less serious sex offenses may not be subject to mandatory registration.

Appendix Five: Discretionary Registration

State	Minimum Age	Duration	When Eligible for Removal
Arizona	None	All registration ends at age 25	Court may terminate at the successful completion of probation
Arkansas	None	10 years	May petition for removal at age 21 or at any time when juvenile court has jurisdiction
Indiana	14	Life	n/a
Massachusetts	None	20 year maximum	May petition for removal after 10 years
Montana	None	Life	May petition for removal after 10 years or 25 years if risk assessed as level 1 or level 2
New Hampshire	None	Until age 17	May be extended to age 21
North Carolina	11	Until age 18 or end of juvenile court jurisdiction, whichever occurs first	n/a
Ohio	14	Varies depending on tier determination	Varies depending on tier determination
Oklahoma	14	Until Age 21	DA may petition to extend registration requirements past age 21
Texas	None	10 years	May petition for removal at any time
Virginia	13	Life	n/a

* These provisions are applicable to the *most serious sex offense(s)* in a state. Adjudications of delinquency for less serious sex offenses may not be subject to registration.

Appendix Six: Statutory References

State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Alabama	Ala. Code § 12-15-204		Ala. Code § 12-15-203	Ala. Code § 15-20A-3(c) <i>et. seq.</i>	Ala. Code § 15-20A-8
Alaska	Alaska Stat. § 47.12.030		Alaska Stat. § 47.12.100; Alaska Court Delinquency Rules, Part VI, Rule 20		
Arizona	Ariz. Rev. Stat. § 13-501(A)	Ariz. Rev. Stat. § 13-501(B)	Ariz. Rev. Stat. § 8-327	Ariz. Rev. Stat. § 13-3821(D)	Ariz. Rev. Stat. § 13-3825(K)
Arkansas		Ark. Code Ann. § 9-27-318	Ark. Code Ann. § 9-27-318	Ark. Code Ann. § 9-27-356	
California		Cal. Welf. & Inst. Code § 707(d)	Cal. Welf. & Inst. Code § 707(a)	Cal. Penal Code § 290.008(a)	Cal. Penal Code § 290.46
Colorado		Colo. Rev. Stat. § 19-2-518	Colo. Rev. Stat. § 19-2-518	Colo. Rev. Stat. § 16-22-102(3)	
Connecticut	Conn. Gen. Stat. § 46b-127		Conn. Gen. Stat. § 46b-127		
D.C.	D.C. Code § 16-2301		D.C. Code § 16-2307		
Delaware	Del. Code, tit. 10, § 921		Del. Code, tit. 10, §§ 921 & 1010	Del. Code, tit. 11, § 4123	Del. Code, tit. 11, § 4123
Florida		Fla. Stat. § 985.557	Fla. Stat. § 985.556, Fla. Rules of Juv. Proc. 8.105	Fla. Stat. § 943.0435(a)(1)(d)	Fla. Stat. § 943.043
Georgia	Ga. Code Ann. § 15-11-560(b)	Ga. Code Ann. § 15-11-560(a)	Ga. Code Ann. § 15-11-561		
Hawaii			Haw. Rev. Stat. § 571-22		
Idaho			Idaho Code Ann. § 20-508	Idaho Code Ann. § 18-8403 <i>et. seq.</i>	

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State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Illinois	705 ILCS 405/5-130		705 ILCS 405/5-805(3)	730 ILCS 150/2(A)(5) & 150/3-5	
Indiana	Ind. Code Ann. § 31-30-1-4	Ind. Code Ann. § 31-30-3-5	Ind. Code Ann. § 31-30-3-3	Ind. Code Ann. § 11-8-8-4.5(b)	Ind. Code Ann. § 36-2-13-5.5
Iowa	Iowa Code § 232.8		Iowa Code § 232.45	Iowa Code § 692A.103(4)	Iowa Code § 692A.121
Kansas			Kan. Stat. Ann. § 38-2347	Kan. Stat. Ann. § 22-4906(h)	Kan. Stat. Ann. § 22-4909
Kentucky			Kent. Rev. Stat. § 635.020		
Louisiana	La. Child Code Ann. art. 305	La. Child Code Ann. art. 305	La. Child Code Ann. art. 857	La. Rev. Stat. § 15:542(A)(3)	La. Rev. Stat. § 15:542.1.5
Maine			Me. Rev. Stat. tit. 15, § 3101(4)		
Maryland	Md. Cts. & Jud. Proc. Code Ann. § 3-8A-03		Md. Cts. & Jud. Proc. Code Ann. § 3-8A-06	Md. Code Ann., Crim. Proc. § 11-704.1	
Massachusetts				ALM GL c.6 § 178(e)	ALM GL c.6 § 178K
Michigan		MCLS § 712A.2	MCLS § 712A.4	MLCS § 28.722(b)	
Minnesota			Minn. Stat. § 260B.125	Minn. Stat. § 243.166(1b)	
Mississippi	Miss. Code Ann. § 43-21-151		Miss. Code Ann. § 43-21-157	Miss. Code Ann. § 45-33-47(g)	Miss. Code Ann. § 45-33- 39(4)(b)(i)
Missouri			R.S. Mo. § 211.070	R.S. Mo. § 589.400	R.S. Mo. § 589.402
Montana	MCA § 41-5-206	MCA § 41-5-206		MCA §§ 46-23-502(10) & 41-5-153(1)(d)	MCA § 46-23-508
Nebraska		Neb. R.R.S. § 29-1816	Neb. R.R.S. § 43-274	*	*
Nevada			NRS § 62B.390	NRS § 179D.095	NRS § 179B.250
New Hampshire			N.H. RSA § 169-B:24	N.H. RSA § 169-B:19	N.H. RSA § 651-B:7

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State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
New Jersey		NJ Stat. § 2A:4A-26	NJ Stat. § 2A:4A-26	NJ Stat. § 2C:7-2(a)(1)	NJ Stat. § 2C:7-13
New Mexico				N.M. Stat. § 29-11A-5.1	
New York	NY CLS CPL § 1.20(42)				
North Carolina			NC Gen. Stat. § 7B-2200	NC Gen. Stat. §§ 7B-2509 & 14-208.26	NC Gen. Stat. § 14-208.29
North Dakota	ND Cent. Code. § 27-20-34		ND Cent. Code. § 27-20-34	ND Cent. Code § 12.1-32-15	ND Cent. Code § 12.1-32-15
Ohio			ORC § 2152.12	ORC § 2152.86	ORC § 2152.86
Oklahoma	10A Okla. St. § 2-5-101		10A Okla. Stat. § 2-2-403	10 Okla. Stat. § 2-8-102	
Oregon	ORS § 137.707		ORS § 419C.349 (superseded)	ORS § 181.809	ORS § 181.835
Pennsylvania			42 Pa.C.S. § 6355	Pa.C.S. § 9799.12	
Rhode Island	RI Gen. Laws § 14-1-3		RI Gen. Laws § 14-1-7	RI Gen. Laws § 11-37.1-2	
South Carolina	SC Code Ann. § 63-19-20		SC Code Ann. § 63-19-1210	SC Code Ann. § 23-3-340	SC Code Ann. § 23-3-490
South Dakota	SD Cod. Laws § 26-11-3.1		SD Cod. Laws § 26-11-4	SD Cod. Laws § 22-24B-2	SD Cod. Laws § 22-24B-21
Tennessee			Tenn. Code Ann. § 37-1-134	Tenn. Code Ann. § 40-39-202(27)	
Texas			Tex. Fam. Code § 54.02	Tex. Code Crim. Proc. §§ 62.001(5) & 62.352	
Utah			Utah Code Ann. §§ 78A-6-702 & -703	Utah Code Ann. §§ 77-41-102(9)(f) & (16)(f)	
Vermont	33 VSA § 5201	33 VSA § 5203(c)	33 VSA § 5204		

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State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Virginia		Va. Code Ann. § 16.1-269.1	Va. Code Ann. § 16.1-269.1	Va. Code Ann. § 9.1-902(G)	Va. Code Ann. § 9.1-913
Washington	Rev. Code Wash. § 13.04.030		Rev. Code Wash. § 13.30.110	Rev. Code Wash. § 9A.44.128(2)	Rev. Code Wash. § 4.24.550(5)
West Virginia		W. Va. Code § 49-5-10	W. Va. Code § 49-5-10		
Wisconsin			Wis. Stat. § 938.18	Wis. Stat. § 301.45(1g)(a)	
Wyoming		Wyo. Code § 14-6-203	Wyo. Code § 14-6-237	Wyo. Code § 7-19-301(a)(iii)	

* Nebraska will only register a juvenile if they required to register by another jurisdiction within the United States. See <https://sor.nebraska.gov/FAQ>.