



COLUMBIA UNIVERSITY | JUSTICE LAB

Neuroscience and Criminal Law: The Post-Jones Landscape for Late Adolescents and Emerging Adults

The Petrie-Flom Center at Harvard Law School
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U.S. Supreme Court Cases

Roper v. Simmons (2005)

Death penalty for crime committed < 18th birthday unconstitutional

Graham v. Florida (2010)

JLWOP for a non-homicide unconstitutional

Miller v. Alabama (2012)

Automatic JLWOP for homicide cases also unconstitutional

Montgomery v. Louisiana (2016)

Miller decision applies retroactively; indicates that JLWOP should be reserved for “the rarest of juvenile offenders, those whose crimes reflect *permanent incorrigibility*.”

Jones v. Mississippi (2021)

Washington State Supreme Court Case

*In the Matter of the Personal Restraint of
KURTIS WILLIAM MONSCHKE and
DWAYNE EARL BARTHOLOMEW
(March 11, 2021)*

*"NO MEANINGFUL DEVELOPMENTAL DIFFERENCE EXISTS BETWEEN
THE BRAIN OF A 17-YEAR-OLD AND THE BRAIN OF AN 18-YEAR-OLD"*

LEGISLATION

- *SPECIALIZED PAROLE/RE-SENTENCING*
- *HYBRID/YOUTHFUL OFFENDER PROVISIONS*
- *EXPUNGEMENT*
- *RAISE THE AGE (18+)*

History of the upper age of juvenile jurisdiction in the U.S.A.

- **1899**: First juvenile court established in the U.S.; contributes to creation of legal definition of adolescence
 - US states chose **ages 16 - 18** based on norms of the times without any hard evidence



Comparison of MA's Juvenile & Adult Justice Systems

	Juvenile Delinquency	Adult Criminal
Seeks to hold individuals accountable	Yes	Yes
Rehabilitation an explicit goal	Yes	No
Positive Youth Development framework adopted	Yes	No
Judge has authority to divert case before arraignment	Yes	No
Specialized indigent defenders apply Youth Development Approach	Yes	No
Proceedings are confidential (except for "youthful offender" cases)	Yes	No
Adjudications (<u>not</u> convictions)	Yes	No

	Juvenile Delinquency	Adult Criminal
Focus on individualized assessments and treatment plans	Yes	No
Developmentally tailored mental and behavioral health services	Yes	No
Classroom instruction (or vocational training) required during confinement	Yes	No
Special education teachers available and utilized in correctional settings	Yes	No
Outreach made to families to strengthen connections, and in-person visits encouraged	Yes	No
Solitary confinement prohibited	Yes	No
Developmentally appropriate disciplinary measures used	Yes	No
Requirements to identify and address racial disparities	Yes	No
Model regulations to protect LGBTQ in confinement	Yes	No

Raising the upper age of the JJ system OVER the 18th birthday



Enacted in Vermont

Proposed in CA, CO, CT, IL, MA, NE, VA & WA



“Raising the Age” in other U.S. laws/policies

21 (or older) is becoming the new 18

- Extension of juvenile corrections/supervision (up to age 25 in OR and WA)
- Trend to expand child welfare services > 18
- Pediatric care guidelines established to age 21 or beyond
- Legalization of marijuana set at age 21+, alcohol at 21
- Youth can stay on private parental health insurance until age 26