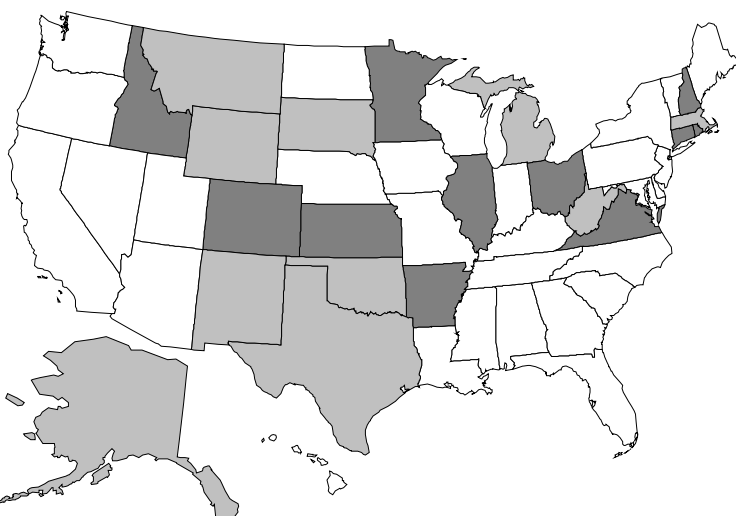


Juvenile Delinquents' Right to a Jury Trial

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□ No right to a jury trial	(30)
■ Right to a jury trial	(10)
■ Jury trial under special circumstances	(11)

As of the end of the 2001 legislative session, either statute or case law in the following 30 jurisdictions specifically states that a juvenile delinquent has no right to a jury trial, under any circumstances in juvenile court: Alabama, Arizona, California, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Washington, and Wisconsin.

In most states, when juvenile delinquents are tried in juvenile court, they are not

given the full scope of rights adult defendants receive in criminal court, such as a trial by jury. In 1971, the United States Supreme Court held that jury trials are not constitutionally required in juvenile court hearings. *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

Most recently, in the case of *State in the Interest of D.J.*, 817 So.2d 26 (2002), the Louisiana Supreme Court reversed the Juvenile Court, which had found the statute excluding the right to jury trial from those constitutional rights guaranteed to accused delinquents unconstitutional. The Louisiana Supreme Court held that juveniles were not entitled to trial by jury.

However, 10 states allow jury trials for juveniles as a right: Alaska, Massachusetts, Michigan, Montana, New Mexico, Oklahoma, South Dakota, Texas, West Virginia and Wyoming.

An additional 11 states provide jury trials for juveniles in juvenile court only under limited special circumstances: Arkansas, Colorado, Connecticut, Idaho, Illinois, Kansas, Minnesota, New Hampshire, Ohio, Rhode Island, and Virginia. These special circumstances include such things as: juveniles tried under extended juvenile jurisdiction prosecution procedures; juveniles who may be subject to sentencing in an adult correctional facility; serious violent offenders; and repeat juvenile offenders.

For example, in New Hampshire, juvenile courts do not provide the right to a jury trial. However, under certain circumstances, the juvenile court in New Hampshire is authorized to commit juveniles to adult correctional facilities. The state constitution extends the right to a jury trial to anyone who faces the possibility of incarceration. Reasoning that imprisonment in an adult facility fundamentally changes the nature of the underlying proceedings, the New Hampshire Supreme Court in 2001 held that a juvenile was entitled to a trial by jury prior to his commitment to an adult criminal facility. *In re Jeffrey C.*, 781 A.2d 4 (2001).

Five of the 11 states that permit or require jury trials in juvenile courts under special circumstances do so under state extended juvenile jurisdiction prosecution procedures: Arkansas, Illinois, Kansas, Minnesota, and Ohio.

Under such procedures, any juvenile who meets the age/offense requirements and whose extended juvenile jurisdiction prosecution results in a guilty plea runs the risk of facing an adult criminal sentence, if he or she violates the provisions of the juvenile court disposition order or commits a new offense. Thus, such a juvenile is given the added protection of a jury trial at the juvenile court level.

As juveniles increasingly face the risk of adult criminal sentencing or confinement in adult correctional facilities, one should expect to see increasing protections, such as jury trials, in juvenile courts.

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