

MODEL JUVENILE JUSTICE ACT FOR STATES

(Model Juvenile Justice Code for States)

Version: v0.3 – Draft for Expert Review

Date: 08/01/2025

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SECTION 1. GENERAL PROVISIONS (MODULE 1 – CORE FRAMEWORK)

§1-101. Short Title.

This Act may be cited as the "Model Juvenile Justice Act" (hereinafter – "this Act").

§1-102. Purpose and Scope.

1. The purpose of this Act is to establish a unified, evidence-based and humane juvenile justice system that:

1. 1) protects the rights of children in accordance with constitutional standards of the United States;
2. 2) reduces the "school-to-prison pipeline" by prioritizing diversionary and rehabilitative measures;
3. 3) provides uniform age standards for juvenile jurisdiction;
4. 4) introduces transparent and limited mechanisms for transfer of cases to adult criminal court (waiver);
5. 5) implements restorative justice and Family Group Conferences (FGC);
6. 6) establishes a system of data collection and performance evaluation based on empirical evidence.

2. This Act is designed as a modular statute, suitable either for full codification by a state or for phased adoption of individual modules through amendments to existing state law.

3. The provisions of this Act apply to all proceedings involving children and youth subject to juvenile court jurisdiction, except as otherwise expressly provided by law.

§1-103. Guiding Principles.

In interpreting and applying this Act, courts, prosecutors, probation authorities, child protection agencies, schools and other entities shall be guided by the following principles:

7. 1) Best interests of the child – the welfare and future reintegration of the child is a primary consideration;
8. 2) Rehabilitation over punishment – confinement is a measure of last resort;
9. 3) Proportionality – the response must be proportionate to the gravity of the offense and the circumstances of the youth;
10. 4) Minimal criminalization of school behavior – school-based misbehavior should, whenever possible, be handled in the educational setting;
11. 5) Nondiscrimination – no youth shall be discriminated against on the basis of race, ethnicity, gender, disability, immigration status, sexual orientation, gender identity, religion or socioeconomic status;

12. 6) Evidence-based policy – programs and policies shall rely on the best available empirical research.

§1-104. Definitions.

For purposes of this Act:

13. 1) "Child" or "juvenile" means a person who was under 18 years of age at the time of the alleged offense, unless otherwise provided by this Act.
14. 2) "Juvenile offense" means an act that is defined by state law as a crime or misdemeanor and committed by a person subject to juvenile court jurisdiction.
15. 3) "Diversion" means a formal but non-judicial process through which a juvenile case is referred out of formal court processing into programs focused on rehabilitation and repair of harm.
16. 4) "Family Group Conference" or "FGC" means a structured conference involving the juvenile, the family, victim(s) and service representatives, aimed at developing a plan for restoration and reintegration.
17. 5) "Waiver" or "Transfer to Adult Court" means a procedure by which a juvenile case is transferred from juvenile court to a court of general criminal jurisdiction.
18. 6) "Reverse Waiver" means a procedure by which a case previously transferred to adult court may be returned to juvenile court jurisdiction.
19. 7) "Misdemeanor" means an offense classified under state law as a non-felony.
20. 8) "Restorative justice program" means an accredited program that uses mediation, FGC, peacemaking circles or similar processes focused on repairing harm and supporting reintegration.

SECTION 2. JURISDICTION AND AGE (MODULE 2 – AGE & JURISDICTION)

§2-201. Minimum Age for Juvenile Court Jurisdiction.

1. The minimum age at which a person may be subject to juvenile court jurisdiction is fourteen (14) years.
2. Children under the age of fourteen (14) shall not be subject to juvenile or adult criminal court jurisdiction. Reports of harmful conduct by such children shall be referred to child protection or mental health systems, and not to criminal courts.
3. No provision of state law may lower the minimum age of criminal or juvenile responsibility below fourteen (14) years.

§2-202. Upper Age of Juvenile Jurisdiction.

1. The juvenile court has jurisdiction over persons who committed a juvenile offense prior to reaching 18 years of age, regardless of when the case is initiated or concluded.

2. [Optional] A state may provide for extended juvenile jurisdiction up to age twenty-one (21) for the purpose of completing rehabilitative measures, probation or FGC plans, where the offense was committed before age eighteen (18).

§2-203. Exclusive Juvenile Jurisdiction.

1. Except as provided in Section 4 of this Act, all criminal matters involving persons who committed offenses before age eighteen (18) are subject exclusively to juvenile court jurisdiction.

2. State law shall not provide for automatic adult court jurisdiction over any category of juveniles without a prior hearing in juvenile court.

**SECTION 3. DIVERSION AND THE SCHOOL-TO-PRISON PIPELINE
(MODULE 3 – DIVERSION & SCHOOL-BASED OFFENSES)**

§3-101. General Presumption of Diversion.

1. For all juvenile offenses classified as misdemeanors, there is a general presumption in favor of diversion.

2. The prosecutor or other designated authority shall refer the case to a diversion program before filing a petition in juvenile court where:

- 21. 1) there is no substantial risk to the physical safety of others;
- 22. 2) the juvenile has no serious history of violent offenses;
- 23. 3) the victim(s) do not object to participation in a diversionary or restorative program after being fully informed.

3. Any prosecutorial decision to refuse diversion shall be justified in writing, specifying the facts that render diversion inappropriate in the particular case.

4. Such written justification shall be included in the case file and may be challenged by the defense in juvenile court.

§3-102. Limits on Criminalization of School-Based Behavior.

1. Conduct occurring on school property or in connection with school activities shall not be processed through the juvenile justice system where:

- 24. 1) it did not result in serious bodily injury;
- 25. 2) it did not involve the use of a weapon;
- 26. 3) it does not fall within a clearly defined list of serious violent acts established by law.

2. All other school-based disciplinary incidents shall be addressed primarily through internal school procedures or diversionary programs, including school-based mediation or FGC.

3. Memoranda of understanding (MOU) between schools and law enforcement may not expand the circumstances under which criminal justice involvement is permitted beyond those set forth in this Section.

§3-103. Standards for Diversion Programs.

1. The designated state authority shall develop accreditation standards for diversion programs, which shall include:

- 27. 1) evidence-based methodology;
- 28. 2) cultural responsiveness;
- 29. 3) meaningful family and community engagement;
- 30. 4) mechanisms for monitoring outcomes, including recidivism and educational results.

2. Compliance with these standards is a condition for a program to be used as an official diversion option under §3-101.

SECTION 4. TRANSFER TO ADULT COURT (WAIVER & REVERSE WAIVER) (MODULE 4 – LIMITING TRANSFER)

Subchapter 4-1. General Principles and Prohibition of Direct File

§4-101. Purposes and Principles Governing Transfer to Adult Court.

1. This Section establishes comprehensive, procedurally protected rules governing transfer of juvenile cases to a court of general criminal jurisdiction ("adult court").

2. Any transfer of a juvenile case to adult court is an exceptional measure and may be ordered only in accordance with the following principles:

- 31. 1) primacy of juvenile jurisdiction – all juvenile matters are presumed to remain in juvenile court;
- 32. 2) rehabilitative priority – transfer is considered only where juvenile interventions are clearly insufficient to protect public safety;
- 33. 3) individualized assessment – each transfer decision must be based on the specific facts and characteristics of the youth, not on automatic categories;
- 34. 4) procedural fairness – the juvenile is entitled to full procedural safeguards, including counsel, family participation and the right to be heard;

35. 5) minimization of lifelong consequences – the state must consider the long-term impact of an adult criminal record on the juvenile’s life prospects.

§4-102. Prohibition of Prosecutorial Direct File.

1. The prosecutor shall not initiate criminal proceedings against a person who committed an offense before age eighteen (18) directly in adult court without prior proceedings in juvenile court.
2. Any provision of state law that permits filing charges against a juvenile directly in adult court or that automatically places specified juvenile offenses under adult court jurisdiction is repealed upon the effective date of this Act.
3. Any attempt by a prosecutor to file an indictment or information in adult court in violation of this Section shall result in mandatory return of the case to juvenile court upon motion of the defense or on the court’s own motion.

§4-103. Offense Categories Eligible for Waiver.

1. Transfer of a case to adult court may be considered only where all of the following criteria are satisfied:
 36. 1) the offense is classified as a serious violent felony involving intentional infliction of death or serious bodily injury; or
 37. 2) the offense is a specifically defined, particularly serious sexual offense against the person under state criminal law; and
 38. 3) the juvenile was at least sixteen (16) years of age at the time of the offense.
2. Non-violent offenses, including non-violent felonies and misdemeanors, shall not be grounds for transfer to adult court.
3. The existence of prior delinquency adjudications alone is not sufficient grounds for waiver and shall be considered only in combination with other factors.

§4-104. Age Limits and Presumptions Against Transfer.

1. Transfer to adult court is prohibited for juveniles younger than sixteen (16) years of age.
2. For juveniles aged sixteen (16) and seventeen (17), there is a presumption against waiver, which may be overcome only where the prosecution proves:
 39. 1) exceptional seriousness of the offense;
 40. 2) high risk of future violent offending; and
 41. 3) insufficiency of available juvenile interventions to protect public safety.

3. Any doubt as to the adequacy of juvenile interventions shall be resolved in favor of retaining the case in juvenile court.

Subchapter 4-2. Initiation and Conduct of Waiver Proceedings

§4-111. Initiation of a Motion for Transfer.

1. A motion for waiver may be filed only by the prosecutor and only after a petition has been filed in juvenile court.

2. The motion shall be in writing and shall include:

- 42. 1) the precise legal classification of the alleged offense;
- 43. 2) a description of the factual circumstances said to justify transfer;
- 44. 3) reference to the specific factors under §4-112(3) relied upon by the prosecutor; and
- 45. 4) a list of juvenile programs that, in the prosecutor's view, are insufficient in the particular case.

3. A copy of the motion shall be served on the juvenile, the juvenile's legal guardian and counsel not less than fourteen (14) days before the waiver hearing.

§4-112. Waiver Hearing: Procedure and Standard of Proof.

1. A decision to transfer a case to adult court shall be made only by the juvenile court after an evidentiary hearing.

2. At the hearing:

- 46. 1) the juvenile has the right to be present, to be represented by counsel, to present evidence and to cross-examine witnesses;
- 47. 2) parents or legal guardians shall be invited to participate unless the court finds that their participation is contrary to the juvenile's best interests;
- 48. 3) expert testimony, including psychological and social assessments, may be presented by any party.

3. In deciding the motion, the court shall consider at least the following factors (modified Kent factors):

- 49. 1) the juvenile's age and level of maturity;
- 50. 2) the nature and seriousness of the alleged offense (including role in the offense);
- 51. 3) the juvenile's prior record and response to previous interventions;
- 52. 4) mental health, neurodevelopmental conditions and any disability affecting risk perception and behavior control;
- 53. 5) availability of suitable juvenile programs (treatment, probation, FGC and other interventions);

54. 6) the views of victim(s), where they can be obtained without causing further harm; and

55. 7) the time remaining before the juvenile reaches adulthood and the feasibility of completing juvenile interventions.

4. The prosecution bears the burden of proving the necessity of transfer by a preponderance of the evidence.

5. The court shall address in its reasoning which specific juvenile tools are available and why they are deemed insufficient in the particular case.

§4-113. Written Decision and Right to Appeal.

1. The decision on a waiver motion shall be issued as a separate written order setting forth:

56. 1) the evidence relied upon by the court;

57. 2) analysis of each factor under §4-112(3);

58. 3) the conclusion regarding the adequacy or inadequacy of juvenile interventions; and

59. 4) the final ruling – denial of transfer or transfer to adult court.

2. A decision to transfer the case to adult court may be appealed under an expedited procedure established by state procedural law.

3. Filing an appeal stays transfer of the case to adult court until final disposition of the appeal, unless the juvenile court finds that such stay poses a clear and immediate danger to public safety.

§4-114. Status of the Juvenile Pending Final Transfer Decision.

1. Until a transfer decision becomes final, the juvenile shall be deemed subject exclusively to juvenile court jurisdiction.

2. Detention, supervision and other interim measures shall be imposed only within the juvenile system and in facilities that ensure separation from adult detainees.

Subchapter 4-3. Reverse Waiver

§4-201. Right to Seek Reverse Waiver.

1. Where a juvenile case has been transferred to adult court, the juvenile, through counsel, has the right to file a motion for reverse waiver seeking return of the case to juvenile jurisdiction.

2. The motion may be filed after the case has been docketed in adult court and at any time prior to final sentencing.

3. Any waiver of the right to seek reverse waiver must be knowing, voluntary, and placed on the record after consultation with counsel.

§4-202. Procedure for Considering a Reverse Waiver Motion.

1. The motion shall be filed in the adult court hearing the case, with a copy served on the prosecutor.

2. The court shall schedule a hearing not later than thirty (30) days after the motion is filed, unless the parties agree to a different date.

3. At the hearing, the parties shall have the same procedural rights as at the initial waiver hearing, including the right to present new evidence and expert assessments.

§4-203. Grounds for Reverse Waiver and Allocation of Burden of Proof.

1. The motion for reverse waiver shall be granted unless the prosecution proves that:

60. 1) the juvenile system is unable to provide sufficient protection of public safety in the particular case; or

61. 2) specific characteristics of the offense and of the juvenile make juvenile interventions manifestly inadequate.

2. In considering the motion, the court shall give particular attention to:

62. 1) any changes in the juvenile's behavior since the original transfer;

63. 2) participation in educational, treatment or rehabilitative programs;

64. 3) new or updated information regarding mental health or developmental conditions; and

65. 4) the views of victim(s), where participation is possible without additional harm.

3. Any doubt as to the sufficiency of juvenile interventions shall be resolved in favor of returning the case to juvenile jurisdiction.

§4-204. Status of the Case and Measures During Consideration of Reverse Waiver.

1. While a reverse waiver motion is pending, the adult court may stay proceedings on the merits and may not impose final sentence.

2. Interim measures imposed on the juvenile shall, to the greatest extent possible, conform to juvenile standards, and the court shall consider placement in a juvenile facility for the duration of the motion's consideration.

§4-205. Consequences of Granting Reverse Waiver.

1. If the motion is granted, the adult court shall order the case returned to juvenile court, which shall resume proceedings from the stage at which they were discontinued due to transfer.

2. Proceedings and evidence developed in adult court may be used in juvenile court only if obtained in compliance with juvenile standards and where use is consistent with the best interests of the child.

§4-206. Subsequent Motions and Time Limits.

1. If a reverse waiver motion is denied, a subsequent motion may be filed only upon a showing of new, material circumstances arising after the previous ruling.

2. Reverse waiver is not available after imposition of final sentence in adult court.

§4-207. Data Collection and Monitoring of Waiver/Reverse Waiver Practice.

1. The designated state authority shall collect data on: the number of waiver and reverse waiver motions, their outcomes, demographic characteristics of affected juveniles and subsequent outcomes, including recidivism.

2. Such data shall be included in the annual report required under §7-102, with a dedicated section evaluating fairness and effectiveness of waiver and reverse waiver practice.

SECTION 5. RESTORATIVE JUSTICE AND FAMILY GROUP CONFERENCES (MODULE 5 – RESTORATIVE JUSTICE & FGC)

§5-101. Priority of Restorative Justice.

1. In all juvenile cases where it can be done without undue risk to victims or public safety, restorative justice shall be considered as a preferred alternative to traditional adjudication.

2. The court, prosecutor or diversion authority shall consider the possibility of FGC or other restorative program and document the outcome of such consideration.

§5-102. Family Group Conference: Initiation and Participants.

1. An FGC may be initiated by the prosecutor, the court, probation/diversion services, the juvenile or the juvenile's legal representatives, or by victim(s).

2. Participants in an FGC may include the juvenile, parents or caregivers, victim(s) or their representatives, the FGC facilitator and, as appropriate, representatives of schools, mental health or social services.

3. Victim participation is voluntary.

§5-103. FGC Plan and Its Approval.

1. The outcome of an FGC is a written plan that may include measures to repair harm, educational requirements, therapeutic interventions and family obligations.
2. The plan shall be submitted to the juvenile court or designated authority for approval.
3. Upon successful completion of the plan, the case may be closed without adjudication or the petition may be dismissed, in accordance with state law.

**SECTION 6. PROCEDURAL SAFEGUARDS AND CONDITIONS OF CUSTODY
(MODULE 6 – PROCEDURAL SAFEGUARDS & CONDITIONS)**

§6-101. Right to Counsel.

Every juvenile has the right to counsel at all stages of juvenile proceedings; waiver of counsel is permitted only after consultation with counsel and in the presence of parents or guardians, unless the court determines otherwise in the best interests of the juvenile.

§6-102. Prohibition of Interrogation Without Counsel and Legal Representative.

Any confession or statement obtained as a result of interrogation of a juvenile without counsel and a legal representative present shall be deemed inadmissible, except in narrowly defined emergencies involving an immediate threat to life.

§6-103. Detention as a Measure of Last Resort.

Pretrial detention of a juvenile shall be used only when it is demonstrated that public safety cannot be secured by less restrictive alternatives such as supervised release, electronic monitoring or adherence to an FGC plan.

**SECTION 7. DATA COLLECTION, EVALUATION AND REPORTING
(MODULE 7 – DATA, KPIs & EVIDENCE-BASED POLICY)**

§7-101. Mandatory Data Collection and Analysis.

1. The designated state authority shall systematically collect data at least on the following indicators: number of cases diverted to diversion and FGC programs, completion rates, recidivism at 12 and 24 months, use of waiver and reverse waiver, and demographic distribution.
2. Data shall be aggregated and analyzed with full respect for confidentiality of personal information.

§7-102. Annual Public Report.

1. At least once per year, the designated authority shall publish a report containing statistical data, analysis of trends and disparities, evaluation of program effectiveness and recommendations for policy and legislative changes.
2. The report shall be transmitted to the state legislature, judiciary and relevant professional associations and shall be publicly available.

SECTION 8. IMPLEMENTATION AND TRANSITIONAL PROVISIONS
(MODULE 8 – IMPLEMENTATION)

§8-101. Phased Implementation.

1. A state may establish a phased implementation schedule for the modules of this Act over a period of up to three years.
2. Provisions on the minimum age of jurisdiction (§2-201), prohibition of prosecutorial direct file (§4-102) and presumption of diversion for misdemeanors (§3-101) shall take effect no later than twelve (12) months after adoption of this Act.

§8-102. Conflict of Laws.

In the event of a conflict between this Act and other state laws governing juvenile justice, the provisions of this Act shall prevail unless otherwise expressly provided in implementing legislation.

§8-103. Effective Date.

This Act shall take effect on a date designated by the state legislature, but not later than twenty-four (24) months after its adoption.