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EDITORIAL

## 12 and in Prison

The Supreme Court sent an important message when it ruled in *Roper v. Simmons* in 2005 that children under the age of 18 when their crimes were committed were not eligible for the death penalty. Justice Anthony Kennedy drew on compassion, common sense and the science of the youthful brain when he wrote that it was morally wrong to equate the offenses of emotionally undeveloped adolescents with the offenses of fully formed adults.

The states have followed this logic in death penalty cases. But they have continued to mete out barbaric treatment — including life sentences — to children whose cases should rightly be handled through the juvenile courts.

Congress can help to correct these practices by amending the Juvenile Justice and Delinquency Prevention Act of 1974, which is up for Congressional reauthorization this year. To get a share of delinquency prevention money, the law requires the states and localities to meet minimum federal protections for youths in the justice system. These protections are intended to keep as many youths as possible out of adult jails and prisons, and to segregate those that are sent to those places from the adult criminal population.

The case for tougher legislative action is laid out in [an alarming new study](#) of children 13 and under in the adult criminal justice system, the lead author of which is the juvenile justice scholar, Michele Deitch, of the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin. According to the study, every state allows juveniles to be tried as adults, and more than 20 states permit preadolescent children as young as 7 to be tried in adult courts.

This is terrible public policy. Children who are convicted and sentenced as adults are much more likely to become violent offenders — and to return to an adult jail later on — than children tried in the juvenile justice system.

Despite these well-known risks, policy makers across the country do not have reliable data on just how many children are being shunted into the adult system by state statutes or prosecutors, who have the discretion to file cases in the adult courts.

But there is reasonably reliable data showing juvenile court judges send about 80 children ages 13 and under into the adult courts each year. These statistics explode the myth that those children have committed especially heinous acts.

The data suggest, for example, that children 13 and under who commit crimes like burglary and theft are just as likely to be sent to adult courts as children who commit serious acts of violence against people. As has been shown in previous studies, minority defendants are more likely to get adult treatment than their white counterparts who commit comparable offenses.

The study's authors rightly call on lawmakers to enact laws that discourage harsh sentencing for preadolescent children and that enable them to be transferred back into the juvenile system. Beyond that, Congress should amend the juvenile justice act to require the states to simply end these inhumane practices to be eligible for federal juvenile justice funds.

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