

## Juvenile Law Update

PRESENTATION FOR  
JUVENILE JUSTICE VISION 20/20  
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## The Holy Grail of Recent Landmark Cases

### United States Supreme Court

- *Roper v Simmons (2005)*
  - The Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed.
- *Graham v Florida (2010)*
  - The Eighth and Fourteenth Amendments forbid imposition of the life without parole on offenders who were under the age of 18 when their non-homicide crimes were committed.
- *Miller v. Alabama (2012)*
  - The Eighth and Fourteenth Amendments forbids sentencing scheme that mandates life in prison without possibility of parole for juvenile homicide offenders
- *J.D.B. v North Carolina (2011)*
  - Police must consider a child's age when determining the issue of custody for purposes of providing *Miranda*

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## Juvenile Law Updates

### And most recently . . .

- *Montgomery v Louisiana (1/25/16)*
  - Ruled that *Miller v. Alabama* is retroactive
  - *Miller* held that imposition of a mandatory life without parole sentence for a juvenile under the age of 18 (on the date of the offense) violates the Eighth Amendment prohibition on "cruel and unusual punishment."
  - Michigan Supreme Court previously ruled it was not retroactive

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**The Evolving Face of Juvenile Justice:  
The Times They Are A Changing...**

**RUSS MARLAN, EXECUTIVE BUREAU ADMINISTRATOR, MICHIGAN DEPARTMENT OF CORRECTIONS:**

"There's been an evolution in the criminal justice system. We're moving from a model that gets tough on crime to one that is smart on crime and uses what works."




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## INITIATIVES TO REFORM JUVENILE JUSTICE SYSTEM

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## RAISE THE AGE

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The two major concerns raised by jurisdictions that have not yet raised the age (i.e., include 16 and 17 year-olds in the juvenile system are:

1. Cost
2. Public safety

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## The Justice Policy Institute



Recommends seven factors to keep costs manageable and to protect the public:

1. Expand Use of Diversion
2. Make Probation and Aftercare More Effective
3. Address Mental Health Needs Outside of the Deep End of the System
4. Reduce the Use of Pretrial Detention
5. Reduce Reliance on Facilities and Focus Resources on Community Based Approaches
6. Keep young people safe by complying with PREA
7. Improve Juvenile Justice System's Management of Resources and Strengthen Strategies to Serve Young People More Effectively

[http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheage\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheage_fullreport.pdf)

### EXPAND USE OF DIVERSION

\*Use Pre-Arrest and Pre-adjudication diversion

Focus on changing juvenile's behavior outside the justice system

Avoid negative consequences of justice system example



### MAKE PROBATION AND AFTERCARE APPROACHES MORE EFFECTIVE

Eliminate the "following the rules" and the "keep an eye on them" approach to juvenile probation.

Engage the youth in behavior change  
Partner with community organizations

Engage families

GOAL: LIMIT THE LIKELIHOOD THAT THE JUVENILE'S PROBATION WILL BE REVOKED





**ADDRESS  
MENTAL HEALTH  
NEEDS: KEEP  
THEM OUT OF  
THE DEEP END**

Use developmentally appropriate and community-based mental health services

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**REDUCE THE USE  
OF PRETRIAL  
DETENTION**

Why? Because:

1. Youth who are detained are more likely to reoffend than youth who are not detained.
2. Mental health conditions are likely to worsen during detention
3. Detained youth are likely to have a hard time reconnecting in school, getting a job, or otherwise acclimating.

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**REDUCE  
RELIANCE  
ON  
FACILITIES**

AND FOCUS  
RESOURCES ON  
COMMUNITY-BASED  
APPROACHES

Keeps the youth closer to home

Relies on local programming



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**KEEP YOUNG  
PEOPLE SAFE BY  
COMPLYING  
WITH THE  
PRISON RAPE  
ELIMINATION  
ACT**

Focus on keeping the young person safe  
Avoid having to physically alter facilities to create sections to keep juveniles separate from adults



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**STRENGTHEN  
STRATEGIES TO SERVE  
YOUNG PEOPLE MORE  
EFFECTIVELY**

Developmentally appropriate programming  
Use more effectively objective tools to assess what the juvenile needs to move past delinquency

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**MICHIGAN**

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## Legislation

House Bill 4607, introduced in May of this year, proposes that all cases involving defendants under the age of 18 (as opposed to 17) be transferred to family court. Under this new legislation, "juvenile" would be defined as follows:

Sec. 1 (1)(i)

(i) "Juvenile" means a person who is less than 17 18 years of age who is the subject of a delinquency petition.

## Why a Change in the Law Makes Sense



## The Facts



## Innovative Programming in Michigan



[http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/truancy\\_pilot\\_hopes\\_to\\_keep\\_ki.html](http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/truancy_pilot_hopes_to_keep_ki.html)

[http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/kent\\_county\\_launches\\_girls\\_cou.html](http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/kent_county_launches_girls_cou.html)

Michigan Courts are recognizing that the traditional law and order approach does not speak to the very real needs of children.

## Changes in Minor in Possession Law



Beginning in 2018, a minor in possession first offense will be treated as a civil infraction instead of a misdemeanor.

MIP violations impact thousands of Michigan minors every year. According to the Detroit Free Press, "[f]rom 2009 to 2013, the latest statistics available from the Michigan State Police, some 38,499 people under age 21 were arrested for minor in possession of alcohol charges. And counties with college towns racked up some of the biggest numbers, including: Ingham County, home of Michigan State University, with 863 citations in 2013; Washtenaw County, home to the University of Michigan and Eastern Michigan University, with 401 MIP charges; and Isabella County, home of Central Michigan University, with 233 charges."

### M.I.P. After 01/01/2018

A minor who purchases, consumes, possesses or attempts to do, or has any bodily alcohol content is punished as follows:

1st - Civil Infraction and fine of not more than \$100. May also be sent to programming. Can only be used once.

EXCEPTION: minor who uses a fake ID = misdemeanor not more than 93 days and/or \$100.00 fine.

2nd offense and onward = Misdemeanor and imprisonment if:  
violated probation  
failed to complete punishment  
failed to pay fines

2nd: 30 days or less of imprisonment and/or a fine, not more than \$200. May also be sent to programming.

3rd onwards: 60 days or less of imprisonment and/or a fine, not more than \$500. May also be sent to programming.

MCL 436.1703

MCL 436.1703(7) After 10/10/2017

## Breath Analysis of a Minor

To administer a preliminary breath analysis to a minor, a police officer must have:

Minor's Consent  
OR  
Court Order

\*admissible in a state civil infraction or criminal prosecution.

## Questions?