

IT'S TIME TO HAVE AN ADULT DISCUSSION ABOUT ALABAMA'S JUVENILE TRANSFER LAWS

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This article addresses whether juveniles that act like adults should be treated like adults, at least within the context of Alabama's criminal justice system. Alabama, like essentially every other state, has a legal mechanism that allows for—or even mandates—that juvenile offenders be prosecuted in criminal courts like adults.¹ This issue has come on display recently in Auburn, Alabama, where a sixteen-year-old driver was charged criminally with manslaughter following a traffic collision that led to the death of Rod Bramblett, the “Voice of the Auburn Tigers,” and his wife Paula.² Admittedly, this event and the author's prior law enforcement experience were the inspirations for this article.

True to Justice Brandeis's words, the states have conducted themselves as laboratories in the realm of juvenile justice.³ Prosecuting juveniles as adults has legal support from the Supreme Court,⁴ but various social-science studies dispute the value or deterrent effect of these schemes.⁵ This article will explore the various formulas jurisdictions

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¹ ALA. CODE §§ 12-15-203, 12-15-204 (2012); e.g., Patrick Griffin et al., *Trying Juveniles as Adults: Analysis of State Transfer Laws and Reporting*, JUV. OFFENDERS & VICTIMS: NAT'L REP. SERIES, Sept. 2011, at 2.

² E.g., Sara Palczewski, *Auburn Teen Driver's Case in Bramblett Crash Headed to Grand Jury*, OPELIKA-AUBURN NEWS (July 17, 2019), https://www.oanow.com/news/local/auburn-teen-driver-s-case-in-fatal-bramblett-crash-headed/article_4b1ffbe4-a8d0-11e9-bc36-7789f37bbd6f.html.

³ *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting); see, e.g., Griffin, *supra* note 1, at 2 (discussing various statutory schemes employed by states for juvenile transfer).

⁴ See generally *Kent v. United States*, 383 U.S. 541 (1966) (approving of the waiver of juvenile court jurisdiction when appropriate procedures are followed).

⁵ See, e.g., Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, JUV. JUST. BULL., June 2010, at 8.

have experimented with, identify Alabama's particular scheme, address the viewpoints surrounding juvenile transfers, discuss relevant research on the topic, and propose reforms Alabama could consider to effectively meet the needs of juvenile offenders and society.

I. WHAT ARE JUVENILE TRANSFER STATUTES ANYWAY?

Juvenile transfer laws are those that allow juveniles to be prosecuted the same as adults in criminal courts⁶ rather than as delinquents in juvenile courts.⁷ The juvenile cases are *transferred* from one court to the other. Some states allow cases to begin in juvenile court and then move to adult court, some states allow prosecutors to file charges directly against juveniles in adult court, and some states allow some mixtures of these models.⁸ Generally, the varying schemes are referred to as judicial-waiver laws, prosecutorial-discretion/concurrent-jurisdiction laws, and statutory-exclusion laws.⁹

A. Judicial-Waiver Laws

In judicial-waiver models, the juvenile is initially prosecuted in juvenile courts but then is transferred—or the juvenile court waives its jurisdiction—to adult courts for criminal prosecution.¹⁰ The judge bases his decision to transfer following a hearing and considering a set of articulated standards.¹¹ Most states have adopted a version of the judicial-waiver scheme, but there are significant differences between the models.¹²

The first variation is the discretionary judicial-waiver model. Under this model, the prosecutor moves to transfer the juvenile offender to criminal court and bears the burden of proving that the juvenile court should approve the transfer.¹³ Although standards vary between states, courts will generally consider the nature of the offense and the youth's

⁶ In Alabama, these would be the district and circuit courts. ALA. CODE § 12-15-203(a) (2012) (“A prosecutor . . . may file a motion requesting the juvenile court judge to transfer a child for criminal prosecution to the circuit or district court . . .”).

⁷ See Griffin, *supra* note 1, at 2.

⁸ See *id.*

⁹ *Id.*; Redding, *supra* note 5, at 2 (classifying the statutes as “judicial-discretionary (judicial transfer),” “prosecutorial direct-file,” and “legislative (automatic transfer)”).

¹⁰ E.g., Griffin, *supra* note 1, at 2.

¹¹ *Id.*

¹² See *id.*

¹³ Griffin, *supra* note 1, at 2. In some states, such as North Dakota, a juvenile may also voluntarily waive juvenile court jurisdiction and opt for adult-court prosecution. Jennifer Albaugh & Haley Wamstad, *Striking a Fair Balance: Extended Juvenile Jurisdiction in North Dakota*, 88 N.D. L. REV. 139, 147–48 (2012).

age, maturity level, previous delinquent or criminal history, and potential for rehabilitation.¹⁴ Also, states usually reserve transfer for juveniles that are a specified minimum age and have committed a certain offense level.¹⁵ Some states also consider whether the youth has a serious delinquent record.¹⁶ A few states do not have a minimum age for some offenses,¹⁷ but other states, like Alabama, will set a minimum age for transfer.¹⁸ Although statistics for the success of these petitions are not clear, less than one percent of all juvenile cases are transferred to criminal courts.¹⁹

The next subcategory is the presumptive waiver. According to the U.S. Department of Justice, “presumptive waiver laws define a category of cases in which waiver from juvenile to criminal court is presumed appropriate.”²⁰ In these cases, the judge weighs the statutorily-prescribed factors in favor of transfer, and the burden shifts to the juvenile to prove that the juvenile court should not waive jurisdiction.²¹ Examples of these statutes are found in Alaska and Colorado, among other states.²²

Finally, there are mandatory-waiver laws. These laws require prosecutions against qualifying youths to begin in juvenile court, and then, under certain circumstances, the juvenile court must waive jurisdiction and transfer the case to criminal court.²³ The juvenile court’s only duty is to hold a hearing to confirm that the statutory requirements are met.²⁴ Such laws are the functional equivalent of a statutory-exclusion law, discussed below, and they fall under the broad umbrella of “automatic transfer laws.”²⁵

¹⁴ Griffin, *supra* note 1, at 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* (discussing Alaska, Kansas, and Washington); *see, e.g.*, ALASKA STAT. ANN. § 47.12.100(a) (West 2019); WASH. REV. CODE ANN. § 13.40.110 (West 2019). Kansas has amended its statute since Griffin’s article, and now Kansas does not permit the criminal prosecution of juveniles less than 14 years old. KAN. STAT. ANN. § 38-2347 (West 2019).

¹⁸ *E.g., id.*; ALA. CODE § 12-15-203(a) (2012).

¹⁹ Griffin, *supra* note 1, at 2.

²⁰ *Id.* at 4.

²¹ *Id.*

²² ALASKA STAT. ANN. § 47.12.100(c)(2) (West 2019); COLO. REV. STAT. ANN. § 19-2-518(c) (West 2019).

²³ Griffin, *supra* note 1, at 4.

²⁴ *Id.*

²⁵ *Id.*; Redding, *supra* note 5, at 2.

B. Direct-File Laws

Under direct-file laws, also known as prosecutorial-discretion or concurrent-jurisdiction laws, the prosecutor has the discretion to charge the youth in juvenile court or criminal court.²⁶

Several states employ direct-file laws. Arizona is one example of a direct-file state because it allows the local prosecutor to charge a juvenile that is at least fourteen years old as an adult for certain felony offenses.²⁷ One interesting facet of Arizona's system is that if the prosecutor exercises his discretion to file directly in criminal court, he can later move the court to transfer the case to the juvenile court, and the criminal court is compelled to transfer the case for adjudication.²⁸ Another example of a direct-file state is Georgia, which allows a district attorney to charge a child of any age in criminal court for crimes that carry penalties of death or life imprisonment (with or without parole).²⁹

States employing this practice rarely, if ever, provide standards for guiding the prosecutor's discretion (other than statutory thresholds for qualifying offenses), and even where there are standards, the accused juveniles have little recourse to challenge (or even learn of) the basis for the criminal prosecution.³⁰ Depending on the jurisdiction, direct-file laws may have the effect of functioning like automatic-transfer laws when prosecutors take a hardline stand to transfer all cases involving certain offenders or offenses.³¹

C. Statutory-Exclusion Laws

The final broad category of juvenile transfer statutes is statutory-exclusion laws. These laws, which are another breed of automatic-transfer laws, grant exclusive jurisdiction over juvenile offenders to adult criminal courts for certain offenses.³² These laws are also referred to as legislative-transfer laws.³³ While juveniles in many states are prosecuted the same as adults for smaller offenses, like traffic citations,³⁴ statutory-exclusion statutes are slightly different because they

²⁶ Griffin, *supra* note 1, at 2; Redding, *supra* note 5, at 2.

²⁷ ARIZ. REV. STAT. ANN. § 13-501(B) (West 2019). Arizona also has a statutory-exclusion law for juveniles that are fifteen or older and commit certain violent crimes. *See* ARIZ. REV. STAT. ANN. § 13-501(A) (West 2019).

²⁸ *See* ARIZ. REV. STAT. ANN. § 8-302(B) (West 2019).

²⁹ GA. CODE ANN. § 15-11-560(a) (West 2019).

³⁰ Griffin, *supra* note 1, at 5.

³¹ *Id.*

³² *Id.* at 2; Redding, *supra* note 5, at 2.

³³ Redding, *supra* note 5, at 2.

³⁴ For example, Alabama grants exclusive jurisdiction for traffic offenses to the district and municipal courts. *See* ALA. CODE §§ 12-12-51, 12-14-1 (2012).

remove prosecutions that would normally be in juvenile court and place them directly into criminal court.³⁵ Murder is the offense most commonly excluded from juvenile court, but many states also encompass other violent felonies.³⁶ While statutory-exclusion laws would seem to eliminate discretion with regard to how to prosecute juvenile offenders, prosecutors can still avoid (or seek) prosecution of youths in adult court, because they often make the ultimate charging decisions.³⁷ In more controversial or borderline cases, the prosecutor may elect to present the case to a grand jury first, which effectively allows representatives of the community to decide how to proceed against the juvenile.³⁸

Alabama employs a statutory-exclusion scheme.³⁹ A juvenile that is at least sixteen and is accused of a capital offense,⁴⁰ a Class A felony,⁴¹ a felony offense with use of a deadly weapon as an element,⁴² a felony with the use of a dangerous instrument as an element and the victim falls within a specified class,⁴³ or drug trafficking must be prosecuted as an adult.⁴⁴ The language of Alabama's statute lives up to the moniker of "statutory exclusion" because it states these specific offenders "shall not be subject to the jurisdiction of the juvenile court."⁴⁵ Georgia employs a similar scheme, granting exclusive jurisdiction to the superior court (the adult criminal court) for the prosecution of juveniles at least thirteen years old charged with murder, voluntary manslaughter, rape, and other violent felonies.⁴⁶

³⁵ Griffin, *supra* note 1, at 6.

³⁶ See *id.* (discussing several states' legislative schemes).

³⁷ See Albaugh & Wamstad, *supra* note 13, at 157.

³⁸ See ALA. CODE §§ 15-8-1 to -2 (2018) (defining indictment and indictable offenses); ALA. R. CRIM. P. 12.3(c)–(d) (duties and powers of Alabama grand juries).

³⁹ See ALA. CODE § 12-15-204 (2012).

⁴⁰ In Alabama, murder is a capital offense when it is committed under an aggravating circumstance—such as during the course of a robbery or kidnapping—or is committed against a specific class of victim—such as a law enforcement officer or a person less than fourteen years old. See ALA. CODE § 13A-5-40(a) (2015 & Supp. 2019).

⁴¹ Generally, a Class A felony is punishable by imprisonment of ten to ninety-nine years or life. ALA. CODE § 13A-5-6(a)(1) (2015 & Supp. 2019). Examples of Class A felonies are murder, forcible rape, or armed burglary. See ALA. CODE §§ 13A-6-2, 13A-6-61(a)(1), 13A-7-5(a)(3) (2015 & Supp. 2019).

⁴² A deadly weapon is essentially a firearm, knife, or any other instrument designed to cause death or serious physical injury. See ALA. CODE § 13A-1-2(7) (2015).

⁴³ A dangerous instrument generally is any object, regardless of its intended use or design, that "is highly capable of causing death or serious physical injury." See ALA. CODE § 13A-1-2(5) (2015). The specific types of classes of victims are law enforcement, a public official, or a public-school employee. ALA. CODE § 12-15-204(a)(5) (2012).

⁴⁴ ALA. CODE § 12-15-204(a)(6) (2012).

⁴⁵ ALA. CODE § 12-15-204(a) (2012).

⁴⁶ GA. CODE ANN. § 15-11-560(b) (West 2019).

D. Miscellaneous Provisions

In addition to these basic frameworks, there are other popular statutory mechanisms used in the realm of juvenile transfer laws. Some of these additional statutory provisions are designed to enhance the penalty of criminal prosecution, but others provide a safety valve that provides less punitive options.

1. “Once an adult, always an adult”

Some states have enacted laws that require juveniles that have been criminally prosecuted in the past to be criminally prosecuted again in the future, even if the subsequent offense may otherwise have been proper for juvenile adjudication.⁴⁷ While most states apply the “adult label” broadly, prosecuting previously transferred juveniles as adults forever for any offense, some states limit the circumstances to certain offenses or offenders of a certain age.⁴⁸ Often, the adult label sticks only if the juvenile-adult is convicted of the first offense, but that’s not always the case, especially if the transfer to adult court was pursuant to an individualized assessment of the youth.⁴⁹

Alabama employs the once-an-adult-always-an-adult framework for juveniles. “A conviction or adjudication as a youthful offender of a child of a criminal offense, with the exception of a nonfelony traffic offense, shall terminate the jurisdiction of the juvenile court over that child with respect to any future delinquent acts”⁵⁰ Additionally, if a child is already under the jurisdiction of the juvenile court and gets convicted of any crime committed when he was eighteen or older, the juvenile court loses its jurisdiction over the child.⁵¹ Arizona also applies a once-an-adult-always-an-adult scheme for any juvenile convicted of a felony as an adult and then subsequently charged with any crime.⁵² Texas mandates the continued adult prosecution of juveniles previously convicted as adults if the juvenile is charged with committing a felony.⁵³ California provides for a discretionary scheme where a juvenile previously transferred from the juvenile court, based on certain

⁴⁷ *E.g.*, Griffin, *supra* note 1, at 2.

⁴⁸ *Id.* at 7.

⁴⁹ *See id.*

⁵⁰ ALA. CODE § 12-15-203(i) (2012); *see also* ALA. CODE § 12-15-204(b) (2012) (“Notwithstanding any other provision of law, any person who has been convicted or adjudicated a youthful offender in a court handling criminal offenses pursuant to the provisions of this section shall not thereafter be subject to the jurisdiction of juvenile court for any pending or subsequent offense.”).

⁵¹ ALA. CODE § 12-15-117(b) (2012).

⁵² ARIZ. REV. STAT. ANN. § 13-501(C) (West 2019).

⁵³ TEX. FAM. CODE ANN. § 54.02(m) (West 2019).

factors, may be prosecuted directly in criminal court if the youth is sixteen or older at the time of the subsequent offense and the subsequent offense is otherwise subject to waiver.⁵⁴

2. Reverse-Waiver laws

Some states allow juveniles initially prosecuted in criminal court to petition to be remanded to the juvenile court.⁵⁵ This often comes up in the context of states that allow prosecutors to file directly in criminal court.⁵⁶ To activate the reverse-waiver process, the juvenile will petition the criminal court to waive its jurisdiction back to the juvenile court.⁵⁷ In the hearing, the juvenile bears the burden to establish that waiver is appropriate, and the criminal court will typically base its decision on factors similar to those of the standard judicial-waiver process.⁵⁸ While several states allow for reverse-waivers, their availability is circumscribed to limited instances.⁵⁹

3. Blended sentencing

Blended sentencing is a modern and developing facet of juvenile justice.⁶⁰ Blended sentencing occurs when a juvenile court is empowered to impose adult criminal punishments on a juvenile (“juvenile-blended”), or an adult court has the ability to impose juvenile sanctions (“criminal-blended”).⁶¹ Criminal-blended laws have a similar effect as reverse-waivers because they allow for a transferred juvenile offender to seek juvenile punishments instead of the presumably harsher adult punishments.⁶² Usually, juvenile sanctions are imposed with a suspended criminal sentence to encourage compliance within the juvenile framework.⁶³ Criminal-blended sentencing is usually restricted to a certain subset of offenders.⁶⁴

Juvenile-blended sentencing may also have the same process—the juvenile receives juvenile court sanctions with a suspended criminal sentence hanging in the background waiting to be imposed if the

⁵⁴ See CAL. WELF. & INST. CODE § 707.01 (1994).

⁵⁵ Griffin, *supra* note 1, at 2.

⁵⁶ See *id.* at 7.

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See *id.*

⁶⁰ Albaugh & Wamstad, *supra* note 13, at 152.

⁶¹ Griffin, *supra* note 1, at 7.

⁶² See *id.*

⁶³ See *id.*

⁶⁴ See *id.*

juvenile does not comply.⁶⁵ This type of blended sentencing is viewed as giving a last chance and providing juvenile court options for delinquent youths that might otherwise be transferred to criminal court.⁶⁶ Interestingly, though, the thresholds for imposing juvenile blended sentencing are usually lower than the thresholds for transfers to criminal court, which opens juvenile-blended sentencing to unintended abuses by providing adult punishments to juvenile offenders that might not otherwise be transferred or subject to criminal prosecution.⁶⁷

Within these blended models are further subsets—exclusive, inclusive, or contiguous.⁶⁸ Exclusive models allow a judge to impose either a juvenile or an adult punishment effective immediately.⁶⁹ A juvenile-exclusive blend would allow the juvenile court to choose between either a juvenile sanction or a criminal sentence, and a criminal-exclusive blend would provide the same options to an adult court judge.⁷⁰ Inclusive models allow the judge to impose both juvenile and criminal sanctions, with the criminal sanction usually being suspended.⁷¹ Under contiguous models, the juvenile court may initially impose a juvenile sanction, but if the term of the punishment extends past the time when the juvenile ages out of the juvenile system, the offender is then transferred to an adult facility for the remainder of his term.⁷² When the offender reaches the maximum age for juvenile jurisdiction, the juvenile court may be empowered to make a determination as to whether transfer to an adult facility is appropriate.⁷³ Proponents of blended sentencing note that this dual system can help bridge the gap between punishment disparities that may exist between the relatively lenient juvenile system and the potentially harsh adult system.⁷⁴

II. NOW WE KNOW WHAT THE STATUTES ARE, BUT DO THEY WORK?

As with anything, juvenile transfer statutes have pros and cons. There are expected effects and unintended consequences. Numerous studies have been conducted on juvenile transfer laws. The Office of

⁶⁵ *See id.* at 23–26.

⁶⁶ *See id.* at 7.

⁶⁷ Griffin, *supra* note 1, at 7.

⁶⁸ Fred Chessman, *A Decade of NCSC Research on Blended Sentencing of Juvenile Offenders: What Have We Learned about “Who Gets a Second Chance?”*, FUTURE TRENDS IN ST. CTS. 2011, at 113.

⁶⁹ *Id.*

⁷⁰ *Id.* at 114.

⁷¹ *Id.* at 113.

⁷² *Id.*

⁷³ *See id.* at 114.

⁷⁴ *See* Albaugh & Wamstad, *supra* note 13, at 157–59.

Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice took on the task of reviewing several studies,⁷⁵ and other researchers have continued to analyze the benefits and detriments of transfer statutes, even looking to the same studies.⁷⁶ Beyond social-science research, some have advocated for stricter and more regimented prosecutions to combat what is seen as an increase in juvenile crime.⁷⁷ At the end of the day, what does society get out of juvenile transfer laws?

A. *The Case for Juvenile Transfers*

According to some, “America’s juvenile justice system is failing abysmally.”⁷⁸ Pointing to increases in juvenile crime and the perceived leniency of juvenile justice programs, there has been a bit of a public outcry for tougher juvenile punishments.⁷⁹ “The original goals of the juvenile justice system failed to completely materialize, forcing the juvenile justice system to change its approach and take a retributivist turn. Instead of protecting juvenile offenders, the juvenile justice system now focuses on protecting society from juvenile offenders incapable of being rehabilitated.”⁸⁰ Some of this shift began following the United States Supreme Court decision of *Kent v. United States*,⁸¹ in which part of the Court recognized that treating juveniles as adults may be necessary under the right circumstances.⁸² Now, there is more of a focus on retribution and punishment rather than treating or rehabilitating juvenile offenders.⁸³

Transfer statutes promote this retributive goal for society, arguably reflecting society’s norms and desired framework. On its face, transferring juveniles to adult courts gives the appearance of being

⁷⁵ See generally Griffin, *supra* note 1 (analyzing the various transfer statutes); Redding, *supra* note 5 (analyzing the deterrent effect of juvenile transfer laws).

⁷⁶ See generally Sarah E.S. Kukino, *Juvenile Transfer to Adult Criminal Court: Why Transfer is Not the Best Method in Addressing Juvenile Delinquency* (2015) (unpublished Senior thesis, Claremont McKenna College) (available at http://scholarship.claremont.edu/cmc_theses/1042) (analyzing trends and results from juvenile transfer statutes and social science studies).

⁷⁷ See generally Ralph A. Rossum, *Holding Juveniles Accountable: Reforming America’s “Juvenile Injustice System”*, 22 PEPP. L. REV. 907 (1995) (arguing that the rehabilitative model of juvenile justice is broken).

⁷⁸ Rossum, *supra* note 77, at 907.

⁷⁹ Albaugh & Wamstad, *supra* note 13, at 141.

⁸⁰ *Id.*

⁸¹ See generally *Kent v. United States*, 383 U.S. 541 (1966).

⁸² See Albaugh & Wamstad, *supra* note 13, at 144–45 (citing *Kent*, 383 U.S. at 542–45).

⁸³ See *id.* at 145; see also Rossum, *supra* note 77, at 909 (discussing that the initial goal of juvenile courts was to treat juvenile offenders as if they were victims of a disease).

tough on crime, and the process potentially removes dangerous predators from the community.⁸⁴ Accordingly, there was a public policy shift away from treatment-based juvenile justice.⁸⁵ Opponents of the treatment model used by the juvenile justice system point to the system's focus on the juvenile and his background without paying attention (or enough attention) to the severity of the offense.⁸⁶ Because of this more individualized analysis and discretion, the juvenile system is more susceptible to abuses or inequalities. For example, a white juvenile offender from a two-parent home and living in an affluent neighborhood could be charged with a homicide crime and receive a lesser sentence than a black juvenile from a single-parent home in a more depressed neighborhood that is charged with a theft crime.⁸⁷

Opponents of the current system point to the juvenile justice system's reduced procedural safeguards, too.⁸⁸ Two specific concerns have been the lack of jury trials for juveniles and of public proceedings.⁸⁹ Additionally, judges and other juvenile court personnel have a great deal of discretion under the typical juvenile court system, and according to some, this broad discretion impedes reforms that would support a uniform, proportionate, and effective juvenile justice system.⁹⁰ Ultimately, it appears that the proponents of transfer and a stricter juvenile justice system believe that the regimented and harsher approach will provide a deterring effect while also providing a more just result.

B. The Case Against Juvenile Transfers

In a nutshell, critics of juvenile transfer statutes argue that the statutes do not work. More skeptically, research evidence suggests that juvenile transfer has no deterrent effect on juvenile crime,⁹¹ and in fact,

⁸⁴ See Albaugh & Wamstad, *supra* note 13, at 145–46 (discussing the evolution of juvenile justice and the rationales); *see also id.* at 141 (“Instead of protecting juvenile offenders, the juvenile justice system now focuses on protecting society from juvenile offenders incapable of being rehabilitated.”); Nicole Scialabba, *Should Juveniles Be Charged as Adults in the Criminal Justice System*, AM. BAR ASS’N (Oct. 3, 2016), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2016/should-juveniles-be-charged-as-adults/> (noting political positions that justified transfers as being “tough on crime”).

⁸⁵ See Albaugh & Wamstad, *supra* note 13, at 145.

⁸⁶ See Rossum, *supra* note 77, at 914.

⁸⁷ *See id.*

⁸⁸ *See id.* at 911.

⁸⁹ *See id.* at 915, 918; *see generally* Cart Rixey, Note, *The Ultimate Disillusionment: The Need for Jury Trials in Juvenile Adjudications*, 58 CATH. U. L. REV. 885 (2009) (discussing the need for jury trials for juveniles).

⁹⁰ See Rossum, *supra* note 77, at 925–26.

⁹¹ Griffin, *supra* note 1, at 26.

some studies suggest transfer may have the opposite effect.⁹² While results of studies are not consistent, transfer generally has not been shown to “work,” meaning juvenile transfer laws have not been shown to increase public safety by reducing crime through general or specific deterrence.⁹³ Admittedly, research on the efficacy of juvenile transfer has been sporadic because research has only been conducted in certain states and not all models have been analyzed.⁹⁴ That said, a strong feeling exists that juvenile transfer is not the problem-solver proponents hoped it would be.⁹⁵

The author’s research for this article has yielded few sources advocating the benefits of juvenile transfer, and the amount of literature opposing (or at least reforming) juvenile transfer laws far outweighs proponents’ literature.⁹⁶ Research does not show a net-positive effect. Primarily, there is little or no proof that juvenile transfer has a deterrent value—both general and specific.⁹⁷ General deterrence looks at the effect on *any* would-be juvenile offender, and specific deterrence looks at whether trying and sentencing juvenile offenders as adults decreases the likelihood of reoffending.⁹⁸ Under either view, juvenile transfer statutes seem to prove ineffective.

1. General Deterrence

Juvenile transfer laws have proven generally ineffective as a general deterrent. A pair of early studies showed that transfer laws did not lower juvenile crime rates.⁹⁹ Even when information about the transfer laws was publicized and some evidence indicated juveniles were aware of the transfer possibility, there was still no deterrent effect from the

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See generally Kukino, *supra* note 76, at 2–3 (introducing the article and the proposition that “several studies [show that] juvenile transfer may not be the most effective means of addressing the issues of juvenile delinquency”).

⁹⁶ Accord Scialabba, *supra* note 84, at 5 (citing comprehensive UCLA literature review on juvenile cases prosecuted in adult court).

⁹⁷ Redding, *supra* note 5, at 2 (noting studies on specific deterrence have shown increased recidivism and studies on general deterrence have shown juvenile transfer laws to have little or no effect).

⁹⁸ *Id.*

⁹⁹ *Id.* (citing Eric L. Jensen & Linda K. Metsger, *A Test of the Deterrent Effect of Legislative Waiver on Violent Juvenile Crime*, 40 CRIME & DELINQ. 96, 102 (1994)); Simon I. Singer & David McDowall, *Criminalizing Delinquency: The Deterrent Effects of The New York Juvenile Offender Law*, 22 L. & SOC’Y REV. 521, 532–533 (1988).

transfer law.¹⁰⁰ One particular study looked at fourteen states and reviewed juvenile crime data for the five years before and after each state adopted a juvenile transfer statute.¹⁰¹ With the exception of one, all of the states showed either an increase or no change in juvenile crime rates.¹⁰²

Bucking the general trend, one study has shown that where there are significantly harsher punishments resulting from the transfer to adult court, the rate of juvenile crimes reduces moderately as juveniles approach the age of criminal responsibility.¹⁰³ Conversely, one study in Florida showed that as juveniles turned eighteen and faced criminal sanctions, those sanctions had no deterrent effect.¹⁰⁴

Awareness of the juvenile transfer laws may play a role in the general deterrent value of the transfer statutes, but the overall evidence is not strong.¹⁰⁵ In an interview-based study of a group of juvenile offenders in New York, the juveniles said they stopped committing crimes when they reached the age they knew they could be tried as an adult.¹⁰⁶ While some studies, such as the one in New York, suggest that educating and informing youths on juvenile transfer laws may promote deterrence, that is not always the case. Other studies have shown that many juvenile offenders (1) do not know about the transfer statutes despite informational efforts by the jurisdictions and (2) even if some juveniles are aware, they do not expect the laws will be applied to them.¹⁰⁷ Interestingly enough, studies of these groups have shown that juveniles, now with the benefit of hindsight, appreciated the seriousness of their crimes and punishments, and they believe that if they had known they would have been charged as an adult (rather than receiving relative leniency in the juvenile system) they would not have

¹⁰⁰ *Id.* (citing Singer & McDowall, *supra* note 99, at 524–25).

¹⁰¹ *Id.* at 3 (citing Benjamin Steiner & Emily Wright, *Assessing The Relative Effects of State Direct File Waiver Laws on Violent Juvenile Crime: Deterrence or Irrelevance?*, 96 J. OF CRIM. L. & CRIMINOLOGY 1451, 1455–56 (2006)).

¹⁰² *See id.* (citing Steiner & Wright, *supra* note 101, at 1467–69).

¹⁰³ Redding, *supra* note 5, at 2 (citing Steven D. Levitt, *Juvenile Crime and Punishment*, 106 J. OF POL. ECON. 1156, 1157–59 (1998)).

¹⁰⁴ *Id.* (citing Davis S. Lee & Justin McCrary, *Crime, Punishment, and Myopia*, NAT'L BUREAU OF ECON. RES., June 2005, at 3)).

¹⁰⁵ *Id.* at 3.

¹⁰⁶ *Id.* (citing Glassner et. al., *A Note on the Deterrent Effect of Juvenile vs. Adult Jurisdiction*, 31 SOC. PROBS. 219, 221 (1983)).

¹⁰⁷ *Id.* (citing Richard E. Redding & Elizabeth J. Fuller, *What Do Juvenile Offenders Know about Being*

Tried as Adults? Implications for Deterrence, 55 JUV. & FAM. CT. J. 35, 36–37 (2004)); Peterson-Badali et. al., *Youth Court Dispositions: Perceptions of Canadian Juvenile Offenders*, 45 INT'L J. OF OFFENDER THERAPY AND COMP. CRIMINOLOGY 593, 597 (2001).

committed their crimes.¹⁰⁸ This dovetails with studies of adult offenders that show “[w]hen potential offenders are made aware of substantial risks of being punished, many of them are induced to desist.”¹⁰⁹ Additionally, arrest rates (rates of juvenile and adult arrests) correlate to juvenile crime rates, which means that more arrests can lead to decreases in juvenile crime, evidencing a general deterrent effect by law enforcement.¹¹⁰

Ultimately, criminal sanctions will only deter potential offenders if the individuals perform a risk analysis of their potential activities.¹¹¹ Similar to Learned Hand’s calculus for negligence,¹¹² juvenile offenders seemingly undergo a similar analysis: If the risk of punishment appears greater than the value of short-term reward from the offense, then do not offend; if the risk appears less than the reward’s value, offend. In addition, “[a] law can act as a deterrent only if the targeted population is aware that the law exists and believes that it will be enforced.”¹¹³ This calculus may prove difficult for juveniles, who are often immature and too focused on short-term benefits to appreciate the seriousness of their actions and consequences.¹¹⁴ Accordingly, until the availability and application of juvenile transfer statutes are made widely known to would-be juvenile offenders, the general deterrent value of these laws is questionable at best, and many researchers believe transfer laws are ineffective deterrents.¹¹⁵

¹⁰⁸ *Id.* (citing Redding & Fuller, *supra* note 107, at 35–37).

¹⁰⁹ Redding, *supra* note 5, at 3 (citing A. von Hirsch et. al., *Criminal Deterrence and Sentence Severity: An Analysis of Recent Research*, 39 ALBERTA L. REV. 597 (1999)).

¹¹⁰ *Id.* (H. Naci Mocan & Daniel I. Rees, *Economic Conditions, Deterrence and Juvenile Crime: Evidence from Micro Data*, 7 AM. L. & ECON. REV. 319, 331 (2005)).

¹¹¹ *Id.* at 4 (citing A. von Hirsch et. al., *supra* note 109, at 599 (identifying the following three factors relating to whether offenders are deterred: “(1) they believe there is a significant likelihood of getting caught, (2) believe there is a significant likelihood of receiving a substantial sentence, and (3) consider the risk of the penalty when deciding whether to offend”)).

¹¹² *See* *United States v. Carroll Towing Co.*, 159 F.2d 169, 173 (2d Cir. 1947).

¹¹³ Redding, *supra* note 5, at 4.

¹¹⁴ *Id.* (citations omitted).

¹¹⁵ *See, e.g., id.* at 2 (“[T]he bulk of the empirical evidence suggests that transfer laws have little or no general deterrent effect.”); Scialabba, *supra* note 84 (“[A UCLA study] ultimately found that there has been little to no deterrent effect on juveniles prosecuted in adult court . . .”).

2. Specific Deterrence

Juvenile transfer statutes seem to fail at promoting specific deterrence, too, at least for violent offenses.¹¹⁶ One particularly interesting study involved a comparison of juvenile offenders accused of robbery or burglary in New Jersey, where they were adjudicated in juvenile court because the state lacked an applicable transfer law, with similarly-accused juveniles in New York subjected to the state's transfer laws.¹¹⁷ "Both areas shared similar demographic, socioeconomic, and crime-indicator characteristics. Thus, the study provides a comparison of recidivism rates as a function of whether cases were processed in the juvenile or criminal court, without the sample selection problems inherent in studies comparing cases within a single jurisdiction"¹¹⁸ The study showed that juveniles processed in the criminal court for robbery had a higher recidivism rate.¹¹⁹ Juveniles sentenced to probation in adult court reoffended at a higher rate than those incarcerated in the juvenile system, and those incarcerated by adult courts have the highest recidivism rate.¹²⁰ With the exception of drug offenses, probated sentences in juvenile court yield the lowest recidivism rates.¹²¹ A subsequent follow-up study comparing New York and New Jersey found, again, generally higher recidivism rates for New York youths tried in adult courts compared to New Jersey youths adjudicated as delinquents in juvenile courts.¹²² The lone exception was drug offenses, which showed higher recidivism for offenders handled in juvenile courts.¹²³

Other studies have reached similar conclusions. Studies in Florida, which uses a prosecutorial-transfer method, found that juveniles

¹¹⁶ Redding, *supra* note 5, at 4.

¹¹⁷ See *id.* (citing Jeffrey Fagan, *The Comparative Advantage of Juvenile Versus Criminal Court Sanctions On Recidivism Among Adolescent Felony Offenders*, 18 LAW & POL'Y 77, 79 (1996)).

¹¹⁸ *Id.*

¹¹⁹ *Id.* (citing Fagan, *supra* note 117, at 92). Although, there was no meaningful difference for those charged with burglary. *Id.* (citing Fagan, *supra* note 117, at 92).

¹²⁰ *Id.* (citing Fagan, *supra* note 117, at 93); see also Craig A. Mason & Shau Chang, *Re-Arrest Rates Among Youth Sentenced in Adult Court*, JUV. SENT'G ADVOC. PROJECT, MIAMI-DADE COUNTY PUB. DEFENDER'S OFF. 7-8 (October 15, 2001), http://www.pdmi-ami.com/JSAP_2001_Impact_Evaluation.pdf.

¹²¹ Redding, *supra* note 5, at 4 (citing Fagan, *supra* note 117, at 96). "Criminal court adjudication substantially reduced the risk of rearrest in [drug] cases." *Id.*

¹²² *Id.* at 6 (citing JEFFREY FAGAN ET AL., BE CAREFUL WHAT YOU WISH FOR: LEGAL SANCTIONS AND PUBLIC SAFETY AMONG ADOLESCENT FELONY OFFENDERS IN JUVENILE AND CRIMINAL COURT 66, (Columbia University Law School: Public Law Research Paper No. 03-61) (2003)).

¹²³ *Id.* (citing FAGAN ET AL., *supra* note 122, at 65).

prosecuted as adults generally reoffended at a higher rate.¹²⁴ The exception was transferred property-crime felons, who had lower recidivism rates than those processed in the juvenile system.¹²⁵ However, a follow-up study in Florida showed higher recidivism rates for transferred juveniles across the board, including property crimes.¹²⁶ A Pennsylvania study found that transferred youths are not only more likely to reoffend but are also usually rearrested more quickly and for more serious crimes when they do reoffend.¹²⁷

Looking beyond just the adjudicatory process, research has shown that juvenile facilities are more effective at curbing recidivism than adult prisons.¹²⁸ Over half of the respondents in one study rated “deep-end” juvenile facilities¹²⁹ as beneficial, attributing their success to the intensive training and treatment programs provided.¹³⁰ Not surprisingly, only one-third of respondents rated adult facilities as beneficial, and most cited horrible experiences and the opportunities to learn more criminal behavior as contributing to negative effects and outcomes.¹³¹ The majority of respondents said that prison had either no impact or a negative impact on their behaviors.¹³²

Overall, the research shows that transfers to criminal courts do not reduce rates of reoffending.¹³³ If community protection is the goal of transfer statutes, the statutes seemingly fail at that goal.¹³⁴ In fact, research by the Centers for Disease Control and Prevention has shown an opposite effect.¹³⁵ Simply put, transferring juveniles to adult courts

¹²⁴ *Id.* at 4 (citing Donna M. Bishop et al., *The Transfer of Juveniles to Criminal Court: Does It Make a Difference?*, 42 CRIME & DELINQ. 171, 171 (1996)); *see also* FLA. STAT. ANN. § 985.557 (West 2019) (discretionary direct-file statute).

¹²⁵ Redding, *supra* note 5, at 4 (citing Lawrence Winner et al., *The Transfer of Juveniles to Criminal Court: Reexamining Recidivism Over the Long Term*, 43 CRIME & DELINQ. 548, 557–58 (1997)).

¹²⁶ *See id.* at 5 (citing Lon Lanza-Kaduce et al., *Juvenile Offenders and Adult Felony Recidivism: The Impact of Transfer*, 28 J. CRIME & JUST. 59, 67 (2005)).

¹²⁷ *Id.* at 4 (citing David L. Myers, *The Recidivism of Violent Youths in Juvenile and Adult Court: A Consideration of Selection Bias*, 1 YOUTH VIOLENCE & JUV. JUST. 79, 92 (2003)).

¹²⁸ *Id.* at 5 (citing Donna M. Bishop & Charles E. Frazier, *Consequences of Transfer in THE CHANGING BORDERS OF JUVENILE JUSTICE: TRANSFER OF ADOLESCENTS TO THE CRIMINAL COURT* 227, 263 (Jeffrey Fagan & Franklin E. Zimring eds., 2000); Jodi Lane et al., *Adult versus Juvenile Sanctions: Voices of Incarcerated Youths*, 48 CRIME & DELINQ. 431, 433, 449 (2002)).

¹²⁹ These are high-security juvenile facilities for high- and medium-risk offenders. *Id.*

¹³⁰ *See id.*

¹³¹ Redding, *supra* note 5, at 5.

¹³² *Id.* (citing Lane et al., *supra* note 128, at 454).

¹³³ *Id.* at 6.

¹³⁴ *Id.*

¹³⁵ *See id.* (citing Angela McGowan et al., *Effects on Violence of Laws and Policies*

does not teach young offenders the desired lesson, which is not to commit crimes. Continuing with juvenile transfer statutes in their current state—in light of their ineffectiveness—demonstrates that these models are purely punitive and not rehabilitative or restorative.

III. WHAT CAN ALABAMA DO?

At this point, it appears safe to assume that juvenile transfer, in its broadest sense, is not a panacea. The practice will not cure what ails society, juvenile crime, or the criminal justice system. As they are now, juvenile transfer statutes do not possess the deterrent value proponents desired. That said, adult prosecution of juveniles still has a use and a place. Below are some suggested strategies for adjusting Alabama's juvenile transfer system that account for concerns regarding the effectiveness of transfer balanced against the need to address the concerns raised by outlier cases (both the extremely heinous and the more docile). Admittedly, the suggestions below may not be perfect or comprehensive solutions; however, based on the current state of research on the effectiveness of juvenile justice and juvenile transfer, the recommendations below will hopefully initiate some thoughtful debate among policymakers.

A. Adopt Blended Sentencing

Similar to the programs proposed in North Dakota, Alabama should adopt blended sentencing.¹³⁶ Blended sentencing inherently provides discretion and flexibility to judges while also allowing harsher adult sanctions for juvenile offenders that cannot or will not rehabilitate in juvenile programs. The blended model provides a graduated response, however there are risks for bias and discrimination.¹³⁷ The question, then, is which model of blended sentencing to employ. Some argue that criminal-exclusive or juvenile-exclusive models defeat the purpose of blended sentencing because they tie judges' hands by implementing only one "level" of punishment without integrating both.¹³⁸ The inclusive models tend to show better results for rehabilitation and reducing recidivism.¹³⁹

Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systematic Review, 32(4S) AM. J. PREVENTIVE MED. S7, S15 (2007)).

¹³⁶ See generally Albaugh & Wamstad, *supra* note 13, at 152–60 (discussing blended sentencing and proposed reforms for North Dakota).

¹³⁷ Chessman, *supra* note 68, at 116.

¹³⁸ Brandi Miles Moore, Note, *Blended Sentencing for Juveniles: The Creation of a Third Criminal Justice System?*, J. OF JUV. L. 126, 135 (2002).

¹³⁹ *Id.*

The model proposed in North Dakota was a juvenile-inclusive scheme.¹⁴⁰ This model seems workable given the various considerations of effectiveness and due process. The juvenile court would retain jurisdiction over a juvenile case. To alleviate the concerns over due process and procedural fairness, juveniles in certain cases could demand a jury trial.¹⁴¹ Given research that shows that juveniles tend to respond negatively to adult court proceedings, having the case begin and remain in juvenile court is likely the better or more effective option.¹⁴² To reduce and protect against stigmatization that comes with public jury trials and hearings, the juvenile jury trials could be closed to the public.¹⁴³ Blended sentencing is generally designed to provide one last chance in the juvenile system before having to face criminal sentences or to provide a strong “wake-up call” for a first-time serious juvenile offender.¹⁴⁴

Because juvenile court judges will be more familiar with the programs and services that juvenile sentencing can offer—and assumedly having a feel for their rate of success—and likely will be more familiar with the frequent offenders, it makes sense for them to be the ones to impose the blended sentencing. Criminal court judges, while likely fair and conscientious jurists, may be less attuned or accustomed to considering the available juvenile services and would have a better grasp on the harsher adult sanctions (and potentially would have more comfort meting out such punishments). Regardless, ensuring that judges are well educated about the negative effect transfers have on juvenile offenders can be helpful in increasing the likelihood of successful outcomes.¹⁴⁵

B. Restrict and Reform Automatic Transfer

As discussed above, statutory-exclusion laws likely have no deterrent effect, probably lead to increased recidivism, and have greater costs.¹⁴⁶ While blended sentencing should be used infrequently, statutory exclusions should be used even less and likely should be reserved

¹⁴⁰ Albaugh & Wamstad, *supra* note 13, at 158–59.

¹⁴¹ *Id.* at 159. Under the proposed (but unsuccessful) North Dakota reform bill, a juvenile subjected to an extended jurisdiction juvenile proceeding had the right to a jury trial on guilt. See S.B. 2035, 63d Leg. (N.D. 2013).

¹⁴² See Redding, *supra* note 5, at 7 (citing findings from various studies that show that juveniles’ distrust, feel less support from, and sense more disparity and unfairness from the adult court system).

¹⁴³ See S.B. 2035, 63d Leg. (N.D. 2013).

¹⁴⁴ Moore, *supra* note 138, at 135; Albaugh & Wambach, *supra* note 13, at 158–59.

¹⁴⁵ Redding, *supra* note 5, at 8.

¹⁴⁶ See Albaugh & Wambach, *supra* note 13, at 159.

as the true last resort.¹⁴⁷ Studies have shown the juvenile programs, even for serious juvenile offenders, that utilize a continuum of programs and punishments have better outcomes and are more effective at reducing recidivism.¹⁴⁸ Courts should be weary of transferring juveniles that have not had the prior opportunity to receive juvenile-court treatment.¹⁴⁹ Moreover, the frequency of offending, rather than the seriousness of offending, is a better indicator of recidivism, which counsels against charging first-time offenders as adults.¹⁵⁰ To be sure, though, the threat of adult prosecution may have some effect, as discussed above, in that studies have shown some reduction in juvenile reoffending as the juveniles approach the age of criminal responsibility, especially where there is a greater disparity in treatment between juvenile and criminal courts.¹⁵¹

Perhaps a better option would be to eliminate Alabama's statutory exclusions and replace it with mandatory judicial waiver, given their similarity.¹⁵² By relying solely on mandatory judicial waiver, the process could remain streamlined while also considering additional circumstances for requiring transfer. For example, Alabama's current automatic transfer law does not have a provision for automatically transferring repeat offenders—it only provides for automatic transfer of juveniles of a certain age accused of certain crimes.¹⁵³ The current judicial transfer statute allows the juvenile court to consider the prior record of a youth only when determining whether to exercise discretion in transferring a child to adult court.¹⁵⁴ The Alabama legislature could repeal section 12-15-204 and amend section 12-15-203 to include discretionary transfer for some offenses (as is the case) but include certain mandatory transfer provisions for specified individual offenses (such as capital offenses) and require that a juvenile previously adjudicated delinquent for a certain number or type of felonies be transferred. If the juvenile meets the mandatory transfer criteria, it will have the same functional effect as statutory exclusion, potentially providing additional grounds for automatic transfer that are consistent with

¹⁴⁷ See *id.*; Kukino, *supra* note 76, at 53 (“Transfer should be reserved for the worst juvenile offenders who undoubtedly prove to be unamenable to the treatment and services provided by the juvenile justice system.”).

¹⁴⁸ Kukino, *supra* note 76, at 54–58 (discussing various states' programs for offenders and how a continuum can be more effective for treatment).

¹⁴⁹ See Redding, *supra* note 5, at 8 (Lane et al., *supra* note 128).

¹⁵⁰ *Id.* (citations omitted).

¹⁵¹ Redding, *supra* note 5, at 2.

¹⁵² See Griffin, *supra* note 1, at 4.

¹⁵³ ALA. CODE § 12-15-204 (2012).

¹⁵⁴ ALA. CODE § 12-15-203(d)(2)–(3) (2012).

rehabilitative or blended sentencing; it will also require a hearing for the judge to determine probable cause and the meeting of the triggering circumstances for transfer.¹⁵⁵

C. Emphasize Guidelines for Transfer and Sentencing

Objectively, assessing the relevant factors for transfer or sentencing should lead to better outcomes. Blended sentencing seems to work best when the courts perform an assessment of risks and needs for the juveniles to determine the appropriate path for adjudication and possible punishment.¹⁵⁶ Also, guidelines and standards, especially those accounting for the offense and not just the offender, promote uniformity and proportionality while reducing the risk of bias and discrimination.¹⁵⁷ To be sure, Alabama's discretionary transfer statute already requires the juvenile probation officer to compile a report addressing the statutory factors for the court's consideration on transfer.¹⁵⁸ However, the extent to which that process is standardized is unclear. Federal and Alabama criminal sentencing utilize pre-sentence investigations that include worksheets-based guidelines for determining appropriate sentencing.¹⁵⁹ To reach the goal of uniformity and reduced discrepancy, a similar form or score system may be useful in assessing the propriety of transfer of juveniles. A similar report would also be useful for determining potential sentences. The worksheets and calculations could assist with meeting the objective guidelines that could thwart bias and discrimination because they are based on standardized factors while also being tailored to the individualized needs of particular juveniles. Certain factors could be weighted based on studies of most predictive factors. That said, essentially all decisions by judges require some discretion, and rarely will a calculated formula be "one size fits all." Accordingly, any guidelines would be most effective if they are presumptive or voluntary, allowing for deviations or departures in unique cases.

IV. CONCLUSION

Widespread use of juvenile transfer laws has not proven effective. Despite their facial value of serving as a deterrent to would-be

¹⁵⁵ See Griffin, *supra* note 1, at 4.

¹⁵⁶ Chessman, *supra* note 68, at 116.

¹⁵⁷ Rossum, *supra* note 77, at 918–20 n.77–78.

¹⁵⁸ ALA. CODE § 12-15-203(e) (2012).

¹⁵⁹ See U.S. SENT'G COMMISSION (2019), <https://www.ussc.gov/topic/worksheets>; ALA. SENT'G COMMISSION (2019), <http://sentencingcommission.alacourt.gov/sentencing-standards/>.

offenders (or reoffenders), research does not support that hypothesis. Instead, studies have shown the value in rehabilitative programs and sentences provided in juvenile courts, and to the extent harsher punishments are required for serial or serious offenders, blended sentencing or last-resort transfers are the best option. Based on the available research and models, Alabama could stand to revise its juvenile justice program to introduce juvenile-inclusive blended sentencing, adopt mandatory waiver in place of statutory exclusions, and conduct guideline-based assessments of offenders to determine what court and what sentences can provide the best outcomes for the offender and for society.

As a matter of reasoning, juvenile transfer schemes can promote a system of political accountability and one that reflects a state's or a community's view of acceptable conduct and consequences. States generally have wide latitude in the arena of legislating health, safety, and welfare,¹⁶⁰ and juvenile justice is no different. Like any other statutory scheme, juvenile transfer laws are ultimately subject to the preferences of the states' citizens. If the citizens believe that juvenile transfer laws are most effective for addressing juvenile crime, they will vote—whether directly through referenda or indirectly through legislators—for stricter juvenile transfer laws. By inverse, if citizens see transfer as too harsh or counterproductive, they will exercise the same ballot-box power to enact more juvenile-court-centric models. This political responsiveness is not limited to legislators creating laws. Perhaps more directly affected are attorneys and judges. Local prosecutors that choose in which court to seek justice can equally be subject to scrutiny by their constituents based on the charging decisions made. Similarly, judges that exercise their discretion in deciding whether to transfer or what sanctions to dispense face similar pressures. Keeping juvenile transfer statutes in place—as opposed to abolishing transfer or abolishing juvenile courts—can allow for discretion by legislators, judges, and prosecutors, which will ultimately reflect the will of the community.

Admittedly, this lone article cannot—nor does it endeavor to—solve all of the problems associated with serious juvenile offenders. Criminal justice, especially juvenile justice, is fraught with complex problems that will require in-depth and serious consideration for solutions. The solutions likely will neither be easy nor inexpensive, at least in the short term. Any reform will require new resources—both in funding and infrastructure—to progress towards its goals. However,

¹⁶⁰ See *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996); see also Griffin, *supra* note 1, at 25 (states are free to determine their own ages for the juvenile-adult distinction).

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the right reforms can have long-term benefits by reducing crime and the associated societal, governmental, and fiscal costs. Hopefully Alabama's policymakers will heed the call to have adult conversations about juvenile solutions.