

RESOLUTION R2018-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA TO STATE THE PREFERENCE AND THE WILL OF THE COUNTY TO HAVE CHILDREN OF THIS COMMUNITY TREATED AS CHILDREN WHEN THEY BREAK FLORIDA LAW; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, children are developmentally different from adults and these differences are documented by research on the adolescent brain and acknowledged by the U.S. and state supreme courts, as well as state and federal laws that prohibit children under the age of 18 from taking on major adult responsibilities such as contracting, voting, jury duty, and military service; and

WHEREAS, the juvenile justice system is designed for, and more effective at, rehabilitating children who fall into the delinquency system instead of the adult corrections system, given that the focus of the adult criminal justice system is punishment instead of rehabilitation; and

WHEREAS, children who are placed under the commitment and/or supervision of the juvenile court system are required to receive age-appropriate services and education; and if held in secure detention or placed in a rehabilitation or behavioral program, the children will be allowed to remain closer to their families, all of which reduce the likelihood of future offending; and

WHEREAS, prosecuting children in adult court has not been proven to deter crime, and in fact, it has been shown that a child prosecuted in the adult criminal justice system is more likely to be rearrested for a felony than a child who remains in the juvenile justice system¹; and

WHEREAS, children are significantly more likely to be physically and sexually assaulted or to commit suicide when confined in the same facility as adult offenders within the adult corrections system; and

WHEREAS, adult jails are not always designed to house children separately from adults, as required by law, and thus children are often held in solitary confinement and deprived of adequate educational services; and

WHEREAS, most of the children tried as adults in Florida are charged with non-violent offenses; and

WHEREAS, Florida's reliance on prosecutorial discretion leads to disparate sentencing under similar circumstances creating a system of "justice by geography," which

disproportionally affects low-income and minority children as well as, children with disabilities and mental health conditions; and

WHEREAS, children who are convicted of a crime in the adult corrections system will receive an adult criminal record. If convicted of a felony in the adult system, that adjudication can diminish the child's future education and employment opportunities and further strip the child of the right to vote, the ability to enlist in the military, or receive financial aid for higher education; and

WHEREAS, since 2009 in Florida, more than 14,000 children have been prosecuted as adults in Florida² – 98% of whom are “direct filed” in adult court by prosecutors without first conducting a hearing or receiving any input or ruling by a judge as to the appropriateness of the case being transferred to the adult corrections system³; and

WHEREAS, Florida is one of only 13 states that allows its children to be prosecuted as adults for criminal offenses and one of only three states that does not allow a juvenile court judge to participate in the decision to prosecute a child as an adult; and

WHEREAS, Florida prosecutes more children as adults for criminal offenses than any other state and the First Judicial Circuit transferred approximately 120 children to adult court in Fiscal Year 2016-2017, more than any other judicial circuit in the state; and

WHEREAS, even if prosecutors did not have sole discretion to transfer children to the adult system through “direct file,” children could still be transferred to the adult system through the “judicial waiver” process – a process in which a judge is involved in the decision to prosecute a child as an adult – which, according to a 2017 public opinion poll, 70% of registered Florida voters believe is the better way for the state to decide whether to prosecute children as adults⁴; and

WHEREAS, 74% of registered Florida voters believe children should be held in a system separate from adult offenders; and

WHEREAS, the oversight, training, and expertise of juvenile court judges uniquely qualify them to advise on the suitability of the adult court for a child.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AS FOLLOWS:

Section 1. That the above whereas clauses are true and incorporated by reference herein.

Section 2. That the Board of County Commissioners urges our Legislative Delegation and the entire Florida Legislature to adopt comprehensive legislative reform to require a

fitness hearing before a juvenile court judge in order to authorize the transfer of children charged with crimes to the adult system, and to further require that any child prosecuted as an adult be held in juvenile facilities only.

Section 3. The Board of County Commissioners further affirms its support of treating children as children through the juvenile justice system where appropriate services will be provided to the child and his or her family and where the focus is on rehabilitation, and not solely punishment of the child.

Section 4. That this Resolution shall take effect immediately upon adoption by the Board of County Commissioners.

ADOPTED this ____ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**

ATTEST: Pam Childers
Clerk of the Circuit Court

Jeff Bergosh, Chairman

_____ BCC Approved: _____

Deputy Clerk

(SEAL)

Approved as to form and legal
sufficiency.

By/Title: M Crawford, ASA
Date: 1/25/18

¹ Centers for Disease Control and Prevention, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services*. MMWR 2007; 56 (No. RR-9); Richard E. Redding, *Juvenile transfer laws: An effective deterrent to delinquency?* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention) (June 2010).

² Florida Department of Juvenile Justice, *The 2015-2016 Delinquency Profile*, available at <http://www.djj.state.fl.us/research/delinquency-data/delinquency-profile>; and Human Rights Watch, *Branded for Life: Florida's Prosecution of Children as Adults under its "Direct File" Statute (2014)*, available at https://www.hrw.org/sites/default/files/reports/us0414_ForUpload%202.pdf

³ Human Rights Watch, *Branded for Life: Florida's Prosecution of Children as Adults under its "Direct File" Statute (2014)*, available at https://www.hrw.org/sites/default/files/reports/us0414_ForUpload%202.pdf; see also Florida Statutes § 985.557.

⁴ 70% of registered Florida voters believe judges, not prosecutors, should decide whether to prosecute children as adults. Fabrizio Lee, "Florida RV Survey: 800 Registered Voters Statewide + Oversample of 600 Registered Republican Voters" (October 2017), available at <http://rightoncrime.com/2017/11/florida-poll-reveals-strong-support-for-criminal-justice-reform/>.