Support HB/SB18

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Establish a Minimum Age of Delinquency in Virginia
Vote YES on SB18

The Issue: Virginia currently does not have a minimum age for children to be adjudicated delinquent. In recent years, approximately 100 children per year aged 8-10 years old were referred to intake for delinquency.[1] The criminalization of childhood conduct is ineffective, traumatic, and futile.

The Solution: **SB 18** will amend Virginia's Juvenile Code to clarify that children 10 years and under should not be criminalized and best served through existing systems and services.

Children under the age of 11 are not criminally culpable.

- Brain imaging & behavioral science confirm what common sense and life experience already teach us: **elementary age children are not old enough to form criminal intent,** and misbehavior is the result of impulsivity, immaturity, lack of solid decision-making abilities, and underlying unmet needs.
- Children's underdeveloped brains and proclivity for hasty decision-making is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products, and these immaturities are especially profound in children under the age of 11.
- Even more, these young children often believe in fantasy and have active imaginations, further undercutting their culpability for conduct that may be only partially rooted in reality.

Establishing a minimum age of delinquency has bi-partisan support and national momentum.

- In 2022 thru 2025 a bill establishing a minimum age of 11 was introduced and in 2024 and 2025 passed both the House and the Senate before being vetoed by the Governor.
- In response to concerns about the availability and funding of services for youth under the age of 11 who commit delinquent acts, SB18 clarifies the funding mechanism to serve this population.

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[1] Data presented by the Department of Juvenile Justice to the Senate Courts of Justice Committee, January 13, 2025, and received via VFOIA request.

- Conservative states including Texas, Mississippi, Louisiana, Arkansas, and Nebraska have all passed minimum age legislation whereby children under either 10 or 11 cannot be adjudicated delinquent.[2]

The Impact : Elementary-aged children who commit delinquent acts and/or who need state intervention can access treatment and services through existing programs and funding sources.

- In the vast majority of cases, children who come into conflict with the law are contending with early childhood trauma and unmitigated adverse childhood experiences (ACEs), including psychological, physical, or sexual abuse; witnessing domestic violence; living with family members who are substance abusers, suffer from mental illness or are suicidal, or are formerly incarcerated.[3]
- These children need support from their communities, not involvement in the criminal legal system.
- Youth and families who need services can access them through direct referral to the local Family Assessment and Planning Team (FAPT), educational advocacy, Medicaid and other health insurance, and other community-based services.
- For children who need state intervention, Virginia's CHINS statute, § 16.1-278.4, provides a comparable, if not identical, mechanism for emergency custody and court-mandated terms and conditions. Similarly, CHINS youth are a target population for Virginia Juvenile Community Crime Control Act (VJCCCA) funding, the same as youth adjudicated delinquent.[4]

Criminalization of elementary-aged youth is unnecessary and harmful.

- Processing and prosecuting children under the age of 11 is traumatic for the youth and their families and wasteful for localities and the State.
- The overwhelming majority of cases against youth under 11 were dismissed or *nolle prosequied*, and between 2021-2024, less than eight youth below the age of 11 have been adjudicated delinquent.[5]

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[2] https://humanrightsforkids.org/state-ratings-reports/; Other conservative states include Kansas, North Dakota, South Dakota, Colorado. Also, Pennsylvania and Wisconsin.

[3] https://humanrightsforkids.org/publication/disposable-children-the-prevalence-of-child-abuse-and-trauma-among-children-prosecuted-as-adults-in-maryland-2/; https://humanrightsforkids.org/publication/unheard-the-epidemic-of-severe-childhood-trauma-among-girls-tried-as-adults/.

[4] In response to concerns about the recruitment of youth into gangs, elementary-aged children who are recruited to gangs or otherwise coerced into criminal activity are victims, not delinquents. Moreover, youth who are coerced into criminal activity may be the victims of human trafficking. These youth need our protection and care, not criminalization.

[5] Data presented by the Department of Juvenile Justice to the Senate Courts of Justice Committee, January 13, 2025.

- Court involvement, rather than diversion, is shown to negatively impact long-term outcomes for youth.[6]

[6] See Uberto Gatti, Amelie Petitclerc, Richard E. Tremblay, and Frank Vitaro, 2013, https://perma.cc/XMQ5-UVZA.