

## Statement of Juvenile Law Center

House of Representatives Judiciary Committee

Markup of H.J. Res. 76; H.J. Res. 92; H.R. 495; H.R. 2826

June 14, 2017

### **Juvenile Law Center**

Founded in 1975, Juvenile Law Center is the oldest non-profit, public interest law firm for children in the country. Juvenile Law Center uses an array of legal strategies and legislative advocacy to promote fairness, prevent harm, ensure access to appropriate services, and create opportunities for success for youth in the foster care and juvenile justice systems. For teenagers in these systems and exiting both systems, we also work to ensure a smooth transition from adolescence to adulthood. Widely published and internationally recognized as thought leaders with unique expertise on issues of adolescence and the law, Juvenile Law Center's impact on the development of law and policy on behalf of adolescents is recognized nationally and internationally.

Most of the youth on whose behalf we work are between 10 and 21 years of age and are among society's most vulnerable—most likely to be mislabeled, ignored, harmed, or scarred for life by systems that are supposed to help them. While our focus has traditionally been on youth in the justice and child welfare systems, youth in the immigration system encounter some of the same legal challenges and we partner with colleagues who specialize in immigration law to raise issues unique to children and adolescents.

We work to protect and advance children's rights in courts, legislatures, and executive agencies. Our strategies include litigation, appellate advocacy and submission of amicus (friend-of-the-court) briefs, policy reform, public education, training, and strategic communications. We strive to ensure that laws, policies, and practices affecting youth are rooted in research, consistent with children's unique developmental characteristics.

### **The Law Has Established that "Kids are Different"**

Our laws consistently recognize that youth under the age of 18 must be treated differently from adults. Over 60 years ago, the Supreme Court held that "children have a very special place in life which law should reflect."<sup>1</sup> Every state maintains a child welfare system, operating under

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<sup>1</sup> May v. Anderson, 345 U.S. 528, 536 (1953)

federal mandates, to ensure that children lacking proper parental care and control are protected from abuse and neglect. Federal law allows youth to stay in foster care to age 21, recognizing the developmental needs of children even beyond age 18.

Recent Supreme Court cases have reiterated that the law must calibrate to the unique developmental status of children. These cases recognize that adolescents make decisions differently than adults, that they are uniquely capable of growth and change, and that, as a result, they deserve unique protections under the law. Thus, the Supreme Court has decided that children may not receive the death penalty or certain other harsh adult sentences, and that they are entitled to specific procedural protections in criminal cases. The Supreme Court has also made clear that children deserve protections in a wide variety of contexts: they are entitled to unique protections from obscenity or coercive speech, greater limits may be placed on their ability to work, and additional restrictions may be placed on their reproductive rights as compared with adults.

Nationwide, states laws limit children's ability to participate in civil society in virtually all respects – placing limits on adolescents' right to vote, drink alcohol, purchase cigarettes, drive a car, enter into a contract, marry, or even get a body piercing or visit a tanning salon. These statutory distinctions between children and adults are based on the recognition that youth under 18 require, and deserve, the state's care and protection.

A significant body of research in adolescent development and neuroscience confirms the importance of protecting adolescents. Researchers have consistently found that adolescents are less capable than adults of making mature decisions; they engage in sensation- and reward-seeking behavior, and they weigh short-term benefits over long-term consequences. Researchers have also found that adolescents are more impulsive than adults and also more vulnerable than adults – they are more susceptible to coercion from both peers and authority figures. Most importantly, adolescence is a transitory period. A young person under 18 is still in the process of forming his or her sense of identity. While most teenagers engage in risky behaviors, including sometimes breaking the law, they typically age into thoughtful, mature members of society, even without any interventions by the legal system.

Recent research grounds our understanding of the distinctions between adolescents and adults in the science of the teenage brain; neuro-imaging techniques highlight differing rates of development for different parts of the brain. For a teenager, the limbic system, which governs emotions, is highly active. At the same time, the prefrontal cortex, which governs executive functioning and decision-making, is not fully developed. Researchers have described this phenomenon by analogizing a teenage brain to a car with “all gas and no brakes.” Of course, as

the Supreme Court has recognized, one doesn't need social science or neuroscience to understand that teenagers are different from adults – “as any parent knows,” teenagers are different from adults.

### **Rejection of Efforts to Lower the Age of Minority in Immigration Laws**

We urge Congress to reject all efforts to deny children their lawful status as children, and to resist categorizing even older adolescents as adults. The Supreme Court has emphatically rejected distinguishing among youth under the age of 18, guided by scientific research, and our laws recognize that children to age 18 should be treated with special protection by the courts and agencies that interpret and enforce the laws. We urge Congress to treat children who seek to immigrate into the United States as children and to reject all attempts to lower the age of childhood below 18.

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