



The Campaign for Youth Justice (CFYJ) is a national organization dedicated to ending the practice of prosecuting, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system.

Fact Sheet: Direct File

“Direct File” (also known as “Prosecutorial Discretion”) is a power that allows prosecutors solely to decide whether to bring charges against young people in juvenile court or in adult criminal court. Many states do not even allow the defense to challenge or a judge to review this decision.

Direct file is an unchecked prosecutorial power

- When a prosecutor chooses to go directly file in adult criminal court they effectively override any juvenile or family court jurisdiction over a case without any input from a more independent fact-finder like a judge.
- “There is wide variation among the States regarding criteria for direct file treatment, with some emphasizing offense categories, others the age of the juvenile involved, and still others the extent and seriousness of the juvenile’s offending history.”¹
- Yet in several prosecutors are not required to provide reasons for their decisions to directly file in adult criminal court
- Direct file also increases pressure put on juveniles to accept plea bargains rather than be tried in adult court.
- Disallowing direct file ensures that a judge considers several factors before allowing a transfer requested by the prosecutor.

A majority of states are moving away from direct file of youth

- Some states that previously had a direct file systems chose to discontinue the practice because, “not only does direct file omit a disinterested arbiter for the child’s best interests, it plunges youngsters — and increasingly those charged with nonviolent crimes — into the much more punitive adult system.”²
- In 2012 Colorado successfully limited direct file to only the most severe crimes and to youth over 16 years of age as well as ensuring a process for the case to be move back (called “reverse waiver”) to juvenile court.

Currently 14 states and Washington, D.C., allow for direct file.

- The states that continue to allow prosecutors to direct file youth into adult court are: AK, AZ, CA, CO, DC, FL, GA, LA, MI, MT, NE, OK, VA, VT, WY.
- Once direct filed DC, FL, LA, and MI do not allow the case to be transferred back to juvenile court—also known as “reverse waiver”.

¹ Patrick Griffin et al, *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions* Office of Juvenile Justice and Delinquency Prevention. (Dec 1998) Available online at <http://www.ojjdp.gov/pubs/tryingjuvasadult/transfer2.html>

² Miami Herald Editorial Board, *Direct File Wrong for Juvenile Offenders*, Miami Herald (Oct. 2015) Available online at <http://www.miamiherald.com/opinion/editorials/article41433630.html>