

## **Overview of the Juvenile Justice Improvement Amendment Act of 2008 (Bill Number B17-0913)**

The Juvenile Justice Improvement Amendment Act of 2008, B17-0913, was introduced in the Council of the District of Columbia (DC Council) on July 15, 2008 by Councilman Mendelson and Councilman Wells.

This bill would make two positive changes to DC law regarding youth under 18 charged as adults in the DC Criminal Division. Below please find a summary of these changes:

### Create a “Reverse Waiver” Hearing for Youth Charged as Adults

*What current DC law says:* The United States Attorney’s Office (USAO), which prosecutes the case, determines whether to charge and try a youth as an adult.

*What the Juvenile Justice Improvement Amendment Act does:* Allows a DC adult court judge - a neutral decision-maker - to review the decision on whether a youth should be prosecuted as an adult. If the adult court judge believes a youth can be rehabilitated and it is in the public’s interest, the judge can send the youth back to the District’s juvenile court after a “reverse waiver” hearing. During this hearing, the judge must consider a variety of factors, including the youth’s age and mental condition.

*Why this change is needed:*

- Youth involved in the adult criminal justice system are more likely to reoffend. Youth who have been previously prosecuted as adults are, on average, 34 percent more likely to commit additional crimes than youth retained in the juvenile justice system, according to a report by the U.S. Centers for Disease Control and Prevention. Another report by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice recently concluded that transferring youth to the adult criminal system substantially increases recidivism and recommended changing laws to decrease the number of youth transferred to the adult criminal justice system.
- Too many of the District’s youth are prosecuted as adults. Publicly available data indicates that the vast majority of sixteen and seventeen year olds are charged by the U.S. Attorney’s Office as adults, even if the youth has never been arrested before.
- A recently issued report by the District of Columbia Department of Corrections showed that:
  - 40% of the youth held at the D.C. Jail – a detention facility for adults – have no prior record;
  - Most of the youth held at the DC Jail are not charged with FBI “index crimes” (typically considered to be the most serious offenses);

- Only slightly more than half the youth held at the jail are actually convicted in the adult criminal justice system.
- Public opinion supports this change. A recent Zogby poll found that 92% of Americans believe that the decision to try a youth in adult court is best made on a case-by-case basis by a neutral decision-maker, such as a juvenile court judge.
- Youth prosecuted as adults are not eligible for many rehabilitative services made available to youth in the juvenile justice system by a unanimous vote in the DC Council and cannot be returned to the juvenile justice system even if they could benefit from these rehabilitative services.

### Keeps the District's Youth Out of Adult Jails

*What current DC law says:* Permits children as young as 15 to be prosecuted as adults. Once the decision is made to prosecute a youth as an adult, and if the youth must be detained before their trial, the youth must be placed in the DC Jail.

*What the Juvenile Justice Improvement Amendment Act does:* Allows youth charged as adults to be held in juvenile facilities both while a reverse waiver motion is pending and before their trial. If a judge determines that the youth should be held in an adult facility, the youth must be separated from adults.

*Why this change is needed:*

- Youth placed in adult jails are at great risk of physical assault. According to the U.S. Department of Justice Bureau of Justice Statistics, in 2005 and 2006, 21 percent and 13 percent (respectively) of the victims of inmate-on-inmate sexual violence in jails were youth under the age of 18, despite the fact that only one percent of all jail inmates are juveniles.
- Youth have the highest suicide rates of all inmates in jails. Youth are 19 times more likely to commit suicide in jail than youth in the general population and 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.
- Adult jails do not offer age appropriate services for youth, such as access to education. The most recent survey of educational programs in adult jails found that 40 percent of jails provided no educational services at all, only 11 percent provided special education services, and just 7 percent provided vocational training.
- Only slightly more than half the youth held at the DC jail and charged with adult crimes are actually convicted as adults. Yet, their experience in adult jail is likely to have long lasting negative consequences.