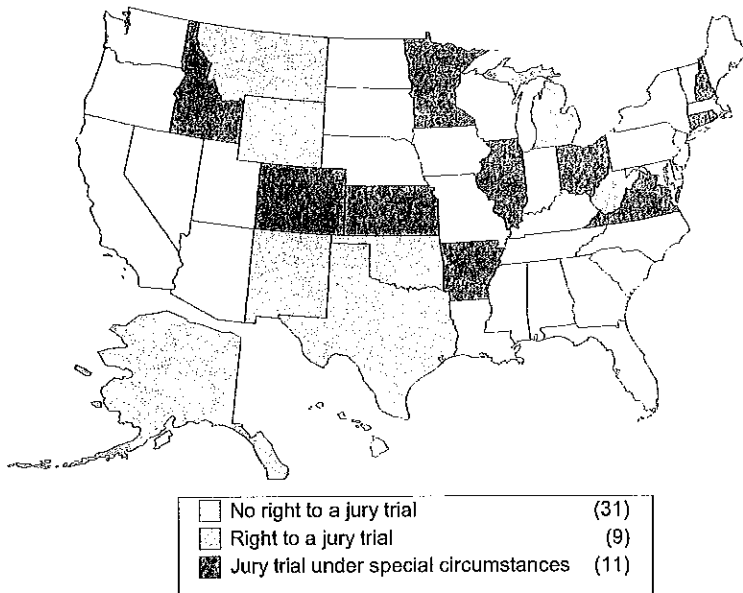


Juvenile Delinquents' Right to a Jury Trial (2007 Update)

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Juvenile Delinquents' Right to a Jury Trial



As of the end of the 2007 legislative session, either statute or case law in the following 31 jurisdictions specifically states that a juvenile delinquent has no right to a jury trial, under any circumstances in juvenile court: Alabama, Arizona, California, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, and Wisconsin.

In most states, when juvenile delinquents are tried in juvenile court, they are not given the full scope of rights adult defendants receive in criminal court, such as a trial

by jury. In 1971, the United States Supreme Court held that jury trials are not constitutionally required in juvenile court hearings. *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

However, 9 states allow jury trials for juveniles as a right: Alaska, Massachusetts, Michigan, Montana, New Mexico, Oklahoma, Texas, West Virginia, and Wyoming.

Even among these 9 states, some exceptions exist. For example, a juvenile has no right to a jury trial for a probation revocation hearing in: Michigan, Montana, New Mexico, and Wyoming. In Texas and Wyoming, a juvenile does not have a right to a jury trial at his or her transfer hearing.

An additional 11 states provide jury trials for juveniles

in juvenile court only under limited special circumstances: Arkansas, Colorado, Connecticut, Idaho, Illinois, Kansas, Minnesota, New Hampshire, Ohio, Rhode Island, and Virginia. These special circumstances include such matters as: juveniles tried under extended juvenile jurisdiction prosecution procedures; juveniles who may be subject to sentencing in an adult correctional facility; serious violent offenders; repeat juvenile offenders; and juveniles who appeal their juvenile court disposition.

Over the years, several states have proposed, but not enacted innovative legislation that would have permitted or required jury trials for delinquents in that state. For example, in 1994, Louisiana proposed legislation that would have provided the right to a hearing by jury in cases in which adjudication could result in confinement for 5 years or more. This jury would have been required to render a unanimous verdict. Under certain circumstances, the juvenile could have waived the right to a jury trial.

In the 2000 legislative session New Jersey proposed, but did not enact, a Bill that would have provided the right to a jury trial for juveniles charged with specified sexual offenses. The specific intent of this Bill was to target those juveniles not waived to adult criminal court.

In 1995, Oregon proposed,

but did not enact, legislation that would have provided a jury trial in any delinquency proceeding.

In 1997 the Pennsylvania General Assembly introduced a Joint Resolution proposing an amendment to the state Constitution that would have provided for a trial by jury in juvenile court cases. This Joint Resolution never made it into law.

Wisconsin proposed, but did not enact, legislation in 2007 that would have provided for jury trials if a juvenile was recommended for placement in the Serious Juvenile Offender Program or in a juvenile correctional facility beyond the age of majority.

Even though none of the above Bills were enacted into law, as juveniles increasingly face the risk of adult criminal sentencing or confinement in adult correctional facilities, one should expect to see increasing protections, such as jury trials, in juvenile courts.

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