MINIMAL SUCCESS: THE CONSEQUENCES OF MANDATORY MINIMUMS IN YOUTH SENTENCING

*Maya Chrobot**

In New York State, children as young as thirteen can be processed as adults and sentenced to mandatory minimum sentences. Mandatory minimum sentences require judges to sentence the defendant to a statutorily set minimum term of imprisonment. Practitioners, judges, and researchers question the efficacy of mandatory minimum sentences, finding that they are ineffective at deterring crime, decreasing bias in sentencing, and increasing community safety. Additionally, there is clear evidence about the damaging effects of incarceration on young adults. Instead of functioning as rehabilitative punishment, incarceration leads young adults to experience poor mental and physical health outcomes upon release, and they are more likely to be justice-involved in the future.

The Marvin Mayfield Act proposed in the New York State Senate and Assembly seeks to eliminate all state mandatory minimum sentences. This Note examines the Marvin Mayfield Act through the lens of its impact on minor defendants processed in adult criminal courts. To do so, this Note considers legal scholarship on the use of mandatory minimum sentences for minor defendants alongside research from the fields of neuroscience and psychology.

This Note advocates for the elimination of mandatory minimum sentences because they are an ineffective tool for deterrence, decreasing bias, and increasing community safety. Additionally, there is clear evidence of the negative outcomes associated with incarceration at a young age. This Note concludes by proposing a community-involved sentencing program to address issues of bias.

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* J.D. Candidate, 2027, Fordham University School of Law; B.S., 2020, Bates College. Thank you to Professor John Pfaff for your guidance and feedback throughout this process. Thank you also to Nathan Kakalec and the editors and staff of the *Fordham Law Review* for your thoughtful review. Finally, thank you to my husband, Andrew Veilleux, for your unconditional support and encouragement.

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INTRODUCTION

> [T]here is no denying the fact that we cannot write these children off forever. Some day they will grow up and at some point they will have to be freed from incarceration. . . . [A]nd the kind of society we have in the years to come will in no small measure depend upon our treatment of them now.[1]

The Juvenile Offender Act of 1978[2] is a well-known law whose enactment marked a dramatic shift toward punitive juvenile policies in New York State.[3] State legislators pushed the Act forward in response to public outcry after two highly sensationalized murders.[4] In the spring of 1978, Willie Bosket was arrested and then convicted of those two murders.[5] Because Willie Bosket was only fifteen, the maximum sentence he faced was five years in prison.[6] In the years prior, then-New York State Governor Hugh L. Carey opposed measures that would allow children under sixteen to be tried in adult courts.[7] However, following Willie Bosket's conviction in 1978, Governor Carey proposed and then approved the Juvenile Offender Act.[8] The Act drastically changed the juvenile criminal system in New York State through measures such as lowering the age of criminal responsibility for certain crimes and increasing both the number of crimes subject to mandatory minimum sentences and the required sentence length.[9] This striking change in position came just in time for the 1978 gubernatorial election.[10]

The Juvenile Offender Act and the current state sentencing scheme in New York cannot be understood without recognizing their racist origins. Academics coined the term "juvenile superpredator" in the mid-1990s in response to an increase in the number of juvenile homicides.[11] The concern was that youth possessed an "unprecedented capacity for viciousness" that

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1. United States v. Bland, 472 F.2d 1329, 1349 (D.C. Cir. 1972) (Wright, J., dissenting).
2. 1978 N.Y. Laws ch. 481.
3. *See* Michelle Haddad, Note, *Catching Up: The Need for New York State to Amend Its Juvenile Offender Law to Reflect Psychiatric, Constitutional and Normative National Trends Over the Last Three Decades*, 7 CARDOZO PUB. L. POL'Y & ETHICS J. 455, 456 (2009).
4. *See id.* at 456–57.
5. *See id.* at 456.
6. *See id.*
7. *See* Richard J. Meislin, *Carey, in Shift, Backs Trial in Adult Court for Some Juveniles*, N.Y. TIMES, June 30, 1978, at A12, https://timesmachine.nytimes.com/timesmachine/1978/06/30/110879903.pdf (on file with the *Fordham Law Review*).
8. *See* Haddad, *supra* note 3, at 456–57.
9. *See id.* at 460.
10. *See* David S. Tanenhaus & Steven A. Drizin, *"Owing to the Extreme Youth of the Accused": The Changing Legal Response to Juvenile Homicide*, 92 J. CRIM. L. & CRIMINOLOGY 641, 668 (2002); *see also* M.A. Farber, *Officials Split Over Merit of Law Treating Young Felons as Adults*, N.Y. TIMES, Dec. 4, 1980, at A1, https://timesmachine.nytimes.com/timesmachine/1980/12/04/111320543.pdf (on file with the *Fordham Law Review*) (noting that this was a "major issue" in Governor Carey's reelection campaign).
11. *See, e.g.*, John J. DiIulio Jr., *Moral Poverty: The Coming of the Super-Predators Should Scare Us into Wanting to Get to the Root Causes of Crime a Lot Faster*, CHI. TRIB., Dec. 15, 1995, at 31.

had not been seen before,[12] and it justified legislation that had severe consequences.[13] The rhetoric of the "superpredator" spread widely through the media.[14] This has had lasting effects: even though "crime rates among Black youth have dropped steadily since the mid-1990s," the stereotype of dangerous Black young adults "prompted lawmakers and their constituents to continue to support laws and policies that they know disproportionately punish and incapacitate young [B]lack males."[15]

Although courts and legislatures are adjusting youth criminal law to account for new understandings of youth rehabilitation, alarming racial disparities persist. In recent years, the U.S. Supreme Court has noted the difference between children and adults when justifying divergent outcomes in youth and adult criminal matters.[16] Likewise, New York State has been slowly shifting to a rehabilitative model of youth justice. For example, in 2017, New York State passed the Raise the Age Act,[17] which barred automatic removal of minor defendants to adult court.[18] Nevertheless, Black youth are more than twice as likely to be arrested than White youth, even though their self-reported behavior does not indicate a greater propensity to commit crimes.[19] As their case continues through the criminal legal process, the racial disparities compound. For example, White youth are more likely to have their case transferred out of formal proceedings.[20] Black children are 60 percent more likely to be detained during the legal proceedings than their

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12. Lara A. Bazelon, Note, *Exploding the Superpredator Myth: Why Infancy Is the Preadolescent's Best Defense in Juvenile Court*, 75 N.Y.U. L. REV. 159, 177 (2000).

13. *See* Perry L. Moriearty & William Carson, *Cognitive Warfare and Young Black Males in America*, 15 J. GENDER RACE & JUST. 281, 281–82 (2012) (noting that these laws were considered the "broadest and most sustained legislative crackdown ever on serious offenses committed by youth within the jurisdictional ages of American Juvenile Courts" (quoting Franklin E. Zimring, *The 1990s Assault on Juvenile Justice: Notes from an Ideological Battleground*, 11 FED. SENT'G REP. 260, 260 (1999))).

14. *See* Moriearty & Carson, *supra* note 13, at 283 (labeling this part of the "social psychology of social war").

15. *See id.* at 284; *see also* B.J. Casey, Kim Taylor-Thompson, Estée Rubien-Thomas, Maria Robbins & Arielle Baskin-Sommers, *Healthy Development as a Human Right: Insights from Developmental Neuroscience for Youth Justice*, 16 ANN. REV. L. & SOC. SCI. 203, 206 (2019) ("[J]uvenile crime has significantly decreased.").

16. *See generally* Roper v. Simmons, 543 U.S. 551 (2005) (holding that the death penalty for minors is unconstitutional).

17. N.Y. CRIM. PROC. LAW § 722 (Consol. 2025).

18. *See id.*; *see also Raise the Age (RTA)*, N.Y.S. UNIFIED CT. SYS. (Dec. 23, 2019), https://www.nycourts.gov/courthelp/criminal/RTA.shtml (on file with the *Fordham Law Review*) (noting that at the time New York State passed the Raise the Age Act, it was one of only two states that held children as young as sixteen automatically criminally responsible).

19. *See* JOSH ROVNER, SENT'G PROJECT, YOUTH JUSTICE BY THE NUMBERS 4 (2025), https://www.sentencingproject.org/app/uploads/2025/11/Youth-Justice-By-The-Numbers.pdf [https://perma.cc/DYG6-GWR5]; *see also* Kristin Henning & Angela J. Davis, Opinion, *How Policing Black Boys Leads to the Conditioning of Black Men*, NPR (May 23, 2017, at 12:41 ET), https://www.npr.org/sections/codeswitch/2017/05/23/465997013/opinion-how-policing-black-boys-leads-to-the-conditioning-of-black-men [https://perma.cc/57LM-S6DJ] ("Black boys are policed like no other demographic.").

20. *See* ROVNER, *supra* note 19, at 4 (noting how White youth are more likely to have their case diverted, less likely to be detained, and less likely to be committed than their Black youth counterparts).

White peers and 64 percent more likely to be incarcerated at the conclusion of their case.[21] This compounding discrimination demonstrates one way in which the current sentencing framework is unworkable.

The Marvin Mayfield Act[22] is currently before the New York State Legislature and seeks to eliminate all mandatory minimum sentences.[23] Mandatory minimum sentences are sentences required by statute for certain crimes, and they apply once a defendant has been convicted of the specific crime regardless of the circumstances.[24] As they are defined by statute, mandatory minimum sentences constrain judges' discretion in sentencing.[25] If the Marvin Mayfield Act passes, it would put these sentencing decisions back in the hands of judges. Among other things, this would allow judges to more readily consider the youth of the defendant as a mitigating factor favoring a lower sentence, even when the defendant is processed as an adult. It would also provide opportunities for judges to sentence youth to alternatives to incarceration, which have been linked to decreased rates of future arrest and reincarceration compared to minor defendants sentenced to incarceration.[26]

This Note considers the proposed legislation and its effect on juvenile justice. Part I provides the history of juvenile justice in New York State and of mandatory minimum sentencing. Part II presents arguments for and against mandatory minimum sentences for minors. Finally, Part III evaluates the Marvin Mayfield Act and its effect on youth justice and provides additional suggestions for sentencing programs after the elimination of mandatory minimum sentences.

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21. *See id.* It is uncertain whether these numbers control for what the children were arrested for or what the state charged them with. These results could be due to bias at any stage in the process, including over policing Black neighborhoods, increased rates of arrest of Black children for higher level crimes, or prosecutors' bias in charging the offense.

22. S.B. 1209, 2025–2026 Gen. Assemb., Reg. Sess. (N.Y. 2025).

23. *Id.* Although the Marvin Mayfield Act proposes eliminating mandatory minimum sentences for all defendants, this Note focuses only on the impact on minor defendants.

24. *See, e.g.*, U.S. SENT'G COMM'N, AN OVERVIEW OF MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM 10 (2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170711_Mand-Min.pdf [https://perma.cc/75TY-GB3H]; N.Y. STATE JUST. TASK FORCE, RECOMMENDATIONS FOR REFORMS RELATING TO MANDATORY MINIMUM SENTENCES 4 (2025), https://www.nyjusticetaskforce.org/pdfs/Recommendations-for-Reforms-Mandatory-Minimum-Sentences.pdf [https://perma.cc/X888-8UGQ].

25. *See* ASHELY NELLIS, SENT'G PROJECT, HOW MANDATORY MINIMUMS PERPETUATE MASS INCARCERATION AND WHAT TO DO ABOUT IT 1 (2024), https://www.sentencingproject.org/app/uploads/2024/01/How-Mandatory-Minimums-Perpetuate-Mass-Incarceration-and-What-to-Do-About-It.pdf [https://perma.cc/6EV4-DEXS].

26. *See* RICHARD MENDEL, SENT'G PROJECT, WHY YOUTH INCARCERATION FAILS: AN UPDATED REVIEW OF THE EVIDENCE 22–25 (2022), https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf [https://perma.cc/NCP5-JGCD].

I. CREATION AND CURRENT STANDING OF THE JUVENILE LEGAL SYSTEM

How society and courts have engaged with the criminal behavior of minors has shifted over the past two centuries. This part focuses on the background of the juvenile legal system in New York and how the Marvin Mayfield Act would impact the present framework of youth sentencing. First, Part I.A lays out the current terminology for categorizing and sentencing minors in New York. Next, Part I.B reviews the trajectory of the New York State juvenile legal system. Finally, Part I.C explores the current state of sentencing for minors and how the Marvin Mayfield Act would impact it.

A. Current Classifications

Over time, New York State has used different terms to categorize youth in family and criminal courts. Some terms were recently created through the Raise the Age Act, and others have changed over the course of the last century. This section provides definitions of these terms and their implications as they currently stand in New York State.[27]

Juvenile Offender. This category applies to children ages thirteen to fifteen who can be prosecuted in criminal courts as adults.[28] To determine whether someone should be charged as a juvenile offender, the prosecutor considers the severity of the charge and the age of the defendant.[29] As the severity of a charge increases, the age at which the state can charge a child decreases.[30] For example, children who are charged with murder in the second degree can be prosecuted in adult court when they are as young as thirteen.[31] If the child is charged with certain other violent felony acts—such as kidnapping in the first degree—they can be prosecuted as an adult when they are fourteen years of age or older.[32]

The juvenile offender category was created in 1978 by the Juvenile Offender Act.[33] Although the Raise the Age Act did not impact the definition, it changed where these cases are heard.[34] The Raise the Age Act created the Youth Part of the criminal court that is dedicated to hearing the cases of juvenile offenders and adolescent offenders.[35] The court can only

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27. *See* N.Y. STATE RAISE THE AGE IMPLEMENTATION TASK FORCE, FINAL REPORT 33 (2020), https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL%20Report-Raise%20the%20Age%20Task%20Force%2012-22-20.pdf [https://perma.cc/C9EP-NQW2] (providing a flowchart of these terms and how they relate to one another).

28. *See* N.Y. PENAL LAW § 10.00(18) (Consol. 2025). A designation of juvenile delinquent on an adult defendant's record can be used to enhance the sentence they receive. *See* MERRIL SOBIE & GARY SOLOMON, NEW YORK PRACTICE SERIES—NEW YORK FAMILY COURT PRACTICE § 10.5 (2d ed. 2026).

29. *See* N.Y. PENAL LAW § 10.00(18) (Consol. 2025).

30. *See id.*; *see also* Michael A. Corriero, *Advancing Juvenile Justice Reform in New York*, N.Y. ST. BAR ASS'N J., Jan. 2008, at 20, 20–21 (providing examples of the charges).

31. *See* PENAL § 10.00(18); *see also* Corriero, *supra* note 30, at 21.

32. *See* PENAL § 10.00(18).

33. *See* Corriero, *supra* note 30, at 21.

34. *See* People v. K.S., 212 N.Y.S.3d 521, 524–25 (Sup. Ct. 2024).

35. *See* N.Y.S. UNIFIED CT. SYS., *supra* note 18.

transfer a juvenile offender's case to family court if a transfer would be "in the interests of justice" and the district attorney consents.[36]

Juvenile Delinquents. Prior to the Raise the Age Act, this category encompassed children between the ages of twelve and sixteen who allegedly committed an act that would constitute a crime if it had been committed by an adult and who were not otherwise covered by the definition of juvenile offender.[37] The Raise the Age Act expanded this definition to include sixteen- and seventeen-year-olds who are charged with misdemeanors.[38] If a child is charged as a juvenile delinquent, their case is heard in family court.[39] The proceedings are not punitive in nature, and the court is required to balance any safety concerns of the community with the needs and best interests of the child.[40]

Adolescent Offenders. This category applies to sixteen- or seventeen-year-olds who are charged with a felony offense.[41] The Raise the Age Act created this category to change the prior sentencing regime under which defendants sixteen years of age and older were automatically charged and processed as adults.[42] Although adolescent offenders' cases are heard in the Youth Part, there is a possibility of transfer to family court.[43]

Persons in Need of Supervision (PINS). A child could be adjudicated to be a PINS if they "do[] not attend school, or behave[] in a way that is dangerous or out of control, or often disobey[] [their] parents, guardians or other authorities."[44] These criteria do not require that the child have committed a crime.[45] A judge holds a fact-finding hearing to determine if the child needs state supervision.[46] The hearing is similar to a trial because it involves testimony, witnesses, and evidence and the child has the right to an attorney.[47] All PINS cases are heard in family court.[48] The judges' orders vary and can require the child to stay in a group home, participate in social services, or engage in community services.[49]

Youthful Offender. A judge has discretion to designate a defendant as a youthful offender if the defendant is between fourteen and eighteen years of

36. *See K.S.*, 212 N.Y.S.3d at 528; *see also* N.Y. CRIM. PROC. LAW § 722.22 (Consol. 2025).
37. *See* N.Y. FAM. CT. ACT § 301.2 (Consol. 2025).
38. *See K.S.*, 212 N.Y.S.3d at 524.
39. *See* N.Y. FAM. CT. ACT § 302.1 (Consol. 2025).
40. *See id.*
41. *See K.S.*, 212 N.Y.S.3d at 524.
42. *See id.*
43. *See id.*
44. *Persons in Need of Supervision (PINS)*, N.Y.C. FAM. CT., https://ww2.nycourts.gov/COURTS/nyc/family/faqs_pins.shtml [https://perma.cc/S599-7DVY] (last visited Mar. 12, 2026) (noting that "[a] child under the age of 18 who does not attend school . . . or often disobeys his or her parents, guardians or other authorities, may be found to be a Person In Need of Supervision").
45. *See id.*
46. *See id.*
47. *See id.*
48. *See id.*
49. *See id.*

age and has no prior record of a felony or youthful offender adjudication.[50] A youthful offender record is not a criminal record, and it is automatically sealed.[51] This disposition restricts maximum sentencing[52] and provides judges with options for noncustodial dispositions.[53]

B. Origins and Expansion of the Juvenile Legal System

The fluctuations in how New York State has categorized children reflect how the system of child welfare and delinquency has changed over time. This section considers the origins of the juvenile justice system in New York. Part I.B.1 considers the development of the youth legal system as it stands today. Part I.B.2 reviews the introduction of mandatory minimums at the federal and state levels, as well as how New York State introduced them into the juvenile legal system. Part I.B.3 considers changing attitudes toward youth punishment.

1. New York State Origins

The first juvenile reformatory in the country, the New York House of Refuge, opened in New York in 1825.[54] It was founded by a group with Quaker roots to focus on rehabilitating youth in the community as an alternative to more punitive measures.[55] The year prior, legislators authorized judges in New York City to place delinquent youth into the care of the House of Refuge instead of sending them to prison.[56] New York State expanded this authorization statewide in 1840.[57] This marked an increased focus on rehabilitation of youth.[58]

The end of the nineteenth century and beginning of the twentieth century saw changes to the New York Penal Law that reflected the ideas of rehabilitation behind the House of Refuge.[59] In 1909, the New York State Legislature raised the minimum age at which a child could be tried in adult

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50. *See Youthful Offenders*, N.Y. UNIFIED CT. SYS. (Dec. 13, 2019), https://www.nycourts.gov/courthelp/criminal/youthfulOffender.shtml [https://perma.cc/LXC3-PRXK]; *see also* N.Y. PENAL LAW § 60.02 (Consol. 2025).

51. *See* N.Y. UNIFIED CT. SYS., *supra* note 50.

52. *See id.* (noting that a defendant adjudicated as a youthful offender cannot serve more than four years in prison).

53. *See* Jared Trujillo, *Reducing Multigenerational Poverty in New York Through Sentencing Reform*, 26 CUNY L. REV. 225, 239 (2023).

54. *See* N.Y. STATE ARCHIVES, THE GREATEST REFORM SCHOOL IN THE WORLD: A GUIDE TO THE RECORDS OF THE NEW YORK HOUSE OF REFUGE 3 (1989), https://www.archives.nysed.gov/sites/archives/files/res_topics_ed_reform.pdf [https://perma.cc/HJ33-VGEL].

55. *See id.*

56. *See* 2 CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY § 9:1 (2025).

57. *See* SOBIE & SOLOMON, *supra* note 28, § 10.1.

58. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56, § 9:1.

59. *See id.* In 1894, New York State amended the penal code to allow a judge discretion to try a child under the age of fourteen for a misdemeanor when they had been charged with a felony that was not a capital offense. *See id.*

court to sixteen, except when the charges were murder or treason.[60] After almost a century of vast judicial discretion with respect to adolescent case processing, New York State created the children's courts in 1922.[61] These courts embraced parens patriae, the "belief that the state has the responsibility to take care of those who cannot care for themselves."[62] This allowed the state to step in to act as a parent to children and make decisions it believed were in their best interests.[63] Legislators believed that children were more receptive to treatment than adults; therefore, these courts focused more on rehabilitating the children and less on following strict procedural guidelines.[64]

The state had its own idea of what childhood and parenting should look like, and it stepped in when it believed parents were not fulfilling their duties.[65] However, the state most often interfered with immigrant and low-income families.[66] Additionally, the House of Refuge did not originally serve Black children because its founders feared they could not be rehabilitated like White children could.[67] Reformers also used the children's courts as a tool to directly regulate the behavior of children.[68] In addition to questions about how far the state should go in regulating children and the disparities among race, gender, and immigration status, there were concerns about how the cases themselves were handled. For example, judges possessed records of each interaction the child had with the court[69] and could use the accumulation of these contacts to decide the case without holding an evidentiary hearing.[70]

As concerns about due process in the children's courts grew, the New York State Court of Appeals heard two cases concerning what evidence was required for an adjudication of a delinquent in the children's court. In 1927,

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60. *See* SOBIE & SOLOMON, *supra* note 28, § 10.1.

61. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56, § 9:1.

62. Eraka Bath & Sofia Stepanyan, *Brief History of Juvenile Courts*, *in* 3 LITIGATOR'S HANDBOOK OF FORENSIC MEDICINE, PSYCHIATRY AND PSYCHOLOGY § 22:3 (Demothenes Lorandos ed., 2024).

63. *See id.*; *see also* BARRY C. FELD, THE EVOLUTION OF THE JUVENILE COURT: RACE, POLITICS, AND THE CRIMINALIZING OF JUVENILE JUSTICE 23 (Franklin E. Zimring & David S. Tanenhaus eds., 2017) ("Progressives viewed individual and societal welfare as co-extensive and saw no need to protect individuals from state benevolence.").

64. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56, § 9:1.

65. *See* FELD, *supra* note 63, at 21–22.

66. *See id.* at 19–21 ("Progressive child-savers' cultural construction of childhood clashed with that of immigrant parents who could not afford prolonged childhood dependency.").

67. *See id.* at 27.

68. *See id.* at 32 (noting that noncriminal, amoral behavior was believed to require guidance and court interference and that the "status jurisdiction had special implications for girls, many of whose parents brought them to court for 'sexual precocity' or fear they would become 'lost women'").

69. *See* Martin Guggenheim, *The Due Process Revolution in Juvenile Court—New York and the Early Years After* Gault, *in* RIGHTS, RACE, AND REFORM: 50 YEARS OF CHILD ADVOCACY IN THE JUVENILE JUSTICE SYSTEM 79, 82 (Kristin Henning, Laura Cohen & Ellen Marrus eds., 2018) (noting that Peter Schinitsky, an attorney heavily involved with the movement to obtain counsel in juvenile proceedings, and his team saw this when they observed over 1,000 cases).

70. *See id.* at 82.

the New York Court of Appeals heard *People v. Fitzgerald*,[71] where the defendant, a fifteen-year-old, was arrested and charged with burglary.[72] Within the Children's Court of Buffalo, there were two paths statutorily available to the judge when a child under the age of sixteen came before them.[73] The judge could choose to investigate the circumstances surrounding the alleged act and "find the child in need of the care and protection of the State."[74] Alternatively, the judge could "adjudicate the child to be delinquent" if the judge was "satisfied by competent evidence."[75]

In *Fitzgerald*, the children's court judge tried the defendant and found him guilty based on his coerced confession and his alleged accomplice's testimony.[76] However, the New York Court of Appeals held that the evidence was insufficient to convict the child and reversed and remanded the case.[77] This case seemed to signal that youth cases would be subject to increased procedural protections.[78]

Five years later, in *People v. Lewis*,[79] the New York Court of Appeals clarified procedural due process protections for children. By this time, the law that governed *Fitzgerald* had been repealed, and "[t]he concept of crime and punishment disappear[ed]" from the children's courts.[80] Instead, the law treated children who had committed an "act criminal in its nature" the same as "the child who was merely incorrigible, neglected, abandoned, destitute or physically handicapped."[81] The court reiterated its role as a caregiver and held that it was unnecessary to extend a strict evidentiary requirement to these care-focused proceedings.[82]

Although the court in *Lewis* did not acknowledge a need for increased procedural protections, the general sentiment around the children's courts was that their "limitations and deficiencies had been well documented."[83] To respond to the growing concerns, New York State passed the Family Court Act[84] in 1962, establishing the New York Family Court.[85] The family court system replaced the children's courts that had previously heard youth

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71. 155 N.E. 584 (N.Y. 1927).
72. *Id.* at 584, 587.
73. *See* An Act to Amend the Charter of the City of Buffalo, in Relation to the Children's Court, 1925 N.Y. Laws 702 (repealed); *Fitzgerald*, 155 N.E. at 586.
74. *Fitzgerald*, 155 N.E. at 587.
75. *Id.*
76. *See id.* at 586.
77. *See id.* at 588.
78. *See* Stephen A. Newman, *Foreword: The Past, Present, and Future of Juvenile Justice Reform in New York State*, 56 N.Y.L. SCH. L. REV. 1264, 1267–68 (2011/12).
79. 183 N.E. 353 (N.Y. 1932).
80. *Id.* at 354.
81. *Id.*
82. *See id.*
83. Merril Sobie, *The Family Court—a Short History*, 1 JUD. NOTICE 6, 7 (2011) ("Split jurisdiction, the absence of legal representation and procedural anarchy were among the criticisms which led to the development of a Family Court concept.").
84. N.Y. FAM. CT. ACT § 111 (Consol. 2025).
85. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56 § 9:1.

criminal cases.[86] One of the legislature's aims was to create a system that was more aligned with the due process protections present in adult criminal courts.[87] For example, in a "landmark measure," the New York State Legislature allowed for the appointment of counsel to children in their delinquency proceedings.[88]

Legislators still wanted the family court to be able to respond to the unique needs of children while also balancing increased procedural protections.[89] Therefore, a compelling state interest, or at least a rational basis, was necessary to justify the procedural differences between family court and adult criminal courts.[90] This regulation of procedure diminished judicial discretion and curtailed the use of parens patriae as justification for taking action on behalf of children and families.[91]

The Family Court Act divided the children over which it had jurisdiction into two categories: delinquent children and PINS. Delinquent children were those between seven and sixteen years of age who had committed an act that would be a crime if it had been committed by an adult.[92] If the child in court was not considered a delinquent, they were considered a PINS.[93] The Family Court Act distinguished between delinquents and PINS to limit the impact of the stigma associated with criminal behavior on the children who were not considered delinquent.[94]

In the decade after New York passed the Family Court Act, protection for youth expanded on the federal level as well. In 1967, the U.S. Supreme Court held that a minor defendant had a right to counsel in *In re Gault*.[95] Three years later, the U.S. Supreme Court heard *In re Winship*,[96] where it expanded *Gault* and held that juveniles, like adults, are constitutionally entitled to proof beyond a reasonable doubt when they are charged with a crime.[97] *Gault* and *Winship* "mandated the application of most criminal procedure standards to delinquency actions."[98]

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86. *See id.*
87. *See id.*
88. SOBIE & SOLOMON, *supra* note 28, § 10.1; *see* N.Y. FAM. CT. ACT § 249 (Consol. 2025). This change occurred five years before the U.S. Supreme Court held in *In re Gault*, 387 U.S. 1 (1967), that children in delinquency proceedings have the right to counsel. *See id.* at 41.
89. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56, § 9:1.
90. *See id.*; *see also In re* James A., 424 N.Y.S.2d 334, 336–37 (Fam. Ct. 1980).
91. *See* CALLAGHAN'S FAMILY COURT LAW & PRACTICE NY, *supra* note 56, § 9:1.
92. *See id.*
93. *See id.*
94. *See id.*
95. 387 U.S. 1 (1967); *id.* at 41.
96. 397 U.S. 358 (1970).
97. *Id.* at 368.
98. SOBIE & SOLOMON, *supra* note 28, § 10.1.

2. Introduction of Mandatory Minimum Sentences

Mandatory minimum sentences have existed for over 200 years but were originally only applied to crimes such as piracy and murder.[99] Legislators began to implement mandatory minimum sentences on the federal level in the 1970s.[100] States soon began to incorporate mandatory minimum sentences into their statutes,[101] and not long after, those sentences entered the juvenile justice system.[102]

Following President Richard Nixon's declaration of the "War on Drugs,"[103] the federal government began to implement mandatory minimums on a wide scale.[104] For example, federal legislators passed the Anti-Drug Abuse Act of 1986.[105] It included punitive mandatory minimum sentences, which was one of many efforts to control the "crack epidemic" and keep drug dealers off the streets.[106] New York State implemented mandatory minimum sentences on a wide scale in 1973 when it passed the Rockefeller Drug Laws,[107] and these sentences remain largely focused on drug-related crimes to this day.[108]

The result of these federal and state laws, including the increased use of mandatory minimum sentences, was staggering: the total state and federal

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99. Abigail A. McNelis, Note, *Habitually Offending the Constitution: The Cruel and Unusual Consequences of Habitual Offender Laws and Mandatory Minimums*, 28 GEO. MASON U. C.R.L.J. 97, 101 (2017).

100. *See* Matthew C. Lamb, Note, *A Return to Rehabilitation: Mandatory Minimum Sentencing in an Era of Mass Incarceration*, 41 J. LEGIS. 126, 136 (2015).

101. Christopher Mascharka, Note, *Mandatory Minimum Sentences: Exemplifying the Law of Unintended Consequences*, 28 FLA. ST. U. L. REV. 935, 936 (2001); *see also* Paul G. Cassell, *Too Severe?: A Defense of the Federal Sentencing Guidelines (and a Critique of Federal Mandatory Minimums)*, 56 STAN. L. REV. 1017, 1018 (2004) (noting the difference between the federal sentencing guidelines, which provide a range the judge can sentence within, and mandatory minimums, which provide a minimum term the judge must sentence the defendant to and "can lead to possible injustices").

102. *See generally* Margaret Holihan, Note, *The New York Juvenile Justice Reform Act of 1976: Restrictive Placement—an Answer to the Problem of the Seriously Violent Youth?*, 45 FORDHAM L. REV. 408 (1976).

103. *See* McNelis, *supra* note 99, at 101.

104. *See id.*

105. Pub. L. No. 99-570, 100 Stat. 3207 (codified as amended in scattered sections of the U.S. Code).

106. McNelis, *supra* note 99, at 101.

107. 1973 N.Y. Laws 1040–80, 2190–239, 3023–31 (codified as amended at N.Y. PENAL LAW §§ 220.00–.65, 221.00–.55); *see* JIM PARSONS, QING WEI, CHRISTIAN HENRICHSON, ERNEST DRUCKER & JENNIFER TRONE, VERA INST. OF JUST., END OF AN ERA?: THE IMPACT OF DRUG LAW REFORM IN NEW YORK CITY 4 (2015), https://vera-institute.files.svdcdn.com/production/downloads/publications/drug-law-reform-new-york-city-summary-01.pdf [https://perma.cc/MN5Z-THF7]; *see also* PATRICIA E. ALLARD & LYNN D. LU, BRENNAN CTR. FOR JUST., REBUILDING FAMILIES, RECLAIMING LIVES: STATE OBLIGATIONS TO CHILDREN IN FOSTER CARE AND THEIR INCARCERATED PARENTS 10 n.60 (2006), https://www.brennancenter.org/sites/default/files/legacy/d/download_file_37203.pdf [https://perma.cc/N6J6-3DB2] (citing resources for the amendments made to the Rockefeller Drug Laws).

108. *See, e.g.*, Mascharka, *supra* note 101, at 936 n.4.

prison population increased by 116 percent.[109] The federal prison population continued to increase, and by 2008, roughly "one in every 198 persons in the U.S. resident population [was] incarcerated in a state or federal prison."[110] Between 1991 and 2011, the number of federal criminal charges subject to mandatory minimum sentences "more than doubled."[111]

Youth in New York were not immune to the backlash that accompanied the intensifying fear of increased crime rates. The New York State Legislature responded to this fear with the Juvenile Justice Reform Act of 1976[112] (JJRA).[113] The JJRA codified a fundamental shift in the goal of the juvenile legal system. Prior to the JJRA's passage, the Family Court Act only required family courts to consider the "needs and best interests of the child."[114] The JJRA amended the purpose of the Family Court Act to require courts to consider the community's safety.[115] This created a balancing test for the courts, requiring them to consider additional factors beyond the child's needs.

The purpose of the family courts was not the only thing that changed. The "heart" of the JJRA was section 16, which created section 753-a of the Family Court Act, establishing mandatory detention periods for youth who were alleged to have committed certain "serious and violent offenses."[116] The maximum sentence was five years and was reserved for adolescents charged with murder, first-degree arson, or first-degree kidnapping.[117] Prior to 1976, the maximum sentence for a minor convicted of murder was eighteen months.[118]

When fifteen-year-old Willie Bosket was convicted of two high-profile murders in 1978, he was eligible for a maximum sentence of five years, and he would not have had a criminal record after he was released.[119] Widespread panic ensued as "the horrible nature of the crimes became distorted in the public perception as representative of the violent nature of all juvenile crimes."[120] Legislators responded quickly to the public's concerns

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109. *See* CELINDA FRANCO, CONG. RSCH. SERV., R41448, DRUG COURTS: BACKGROUND, EFFECTIVENESS, AND POLICY ISSUES FOR CONGRESS 4 (2010), https://www.everycrsreport.com/files/20101012_R41448_02f315fffbf7196a9b374dbdaa26d805b1e03c9a.pdf [https://perma.cc/XKX5-LF4N].

110. *Id.*

111. Evan Bernick & Paul J. Larkin, *Reconsidering Mandatory Minimum Sentences: The Arguments for and Against Potential Reforms*, HERITAGE FOUND. (Feb. 10, 2014), https://www.heritage.org/crime-and-justice/report/reconsidering-mandatory-minimum-sentences-the-arguments-and-against [https://perma.cc/TTQ2-KLQV].

112. 1976 N.Y. Laws ch. 878 (codified at N.Y. FAM CT. ACT art. 7 (Consol. 2026)).

113. *See* Holihan, *supra* note 102, at 408.

114. *See id.* at 415.

115. *See id.*

116. *Id.* at 417.

117. *See id.* at 415, 418. This sentence could be extended after a hearing each year until the young adult turned twenty-one. *See id.* at 418.

118. *See* Farber, *supra* note 10, at B11.

119. *See* Haddad, *supra* note 3, at 456.

120. Jordan K. Hummel, *The Bitter Side of Sweet Sixteen: Why New York Should Amend Its Juvenile Transfer Laws*, 27 J.C.R. & ECON. DEV. 261, 272 (2014).

and proposed the Juvenile Offender Act, which passed mere months later.[121] Five years prior, New York State had "led the national charge in enacting harsh sentencing laws" through measures such as the Rockefeller Drug Laws.[122] Now, the passage of the Juvenile Offender Act made the state "a leader in punitive reform of the juvenile system," permitting harsher sentences for adolescents.[123]

The Juvenile Offender Act authorized procedural changes, which meant that many cases were automatically transferred to adult criminal courts.[124] It also increased the mandatory minimum sentences under the JJRA by imposing mandatory detention for some children, lowering the age of criminal responsibility for certain crimes, and "restrict[ing] plea bargaining options" for adolescents.[125] It represented a decisive shift in focus from rehabilitation to punishment[126] and was called "one of the most punitive and regressive juvenile laws in the country."[127]

The Juvenile Offender Act changed the entire framework of youth criminal law. In its first year, almost "three-quarters of the arrests were for robbery in the first- and second-degree, instead of more abhorrent crimes such as rape or murder" to which the Juvenile Offender Act was enacted as a response.[128] It also transformed the possible range of imprisonment terms. Because the maximum sentence was five years of incarceration, the defendants were usually released from custody before they turned twenty-one.[129] However, after the Juvenile Offender Act, "juvenile offenders [could] be sentenced to life in prison, which could feasibly be eighty years."[130]

3. Changing Attitudes Toward Youth Punishment

Between 2007 and 2012, the Supreme Court heard three juvenile rights cases and recognized that children were categorically different from adults. In *Roper v. Simmons*,[131] the Court overruled *Stanford v. Kentucky*,[132] where it had held that "the Eighth and Fourteenth Amendments did not proscribe

121. *See* Haddad, *supra* note 3, at 456–57. Governor Carey "shifted his position" on adolescent rehabilitation and supported the act—just in time for his reelection campaign. *Id.* at 457 n.5; *see* Anna Quindlen, *Hard-Driving Carey Hails, and Defends, Record*, N.Y. TIMES, Aug. 7, 1978, at B1, https://timesmachine.nytimes.com/timesmachine/1978/08/07/112798615.pdf (on file with the *Fordham Law Review*).

122. Trujillo, *supra* note 53, at 238.

123. Rose M. Charles & Jennifer V. Zuccarelli, *Serving No "Purpose": The Double-Edged Sword of New York's Juvenile Offender Law*, 12 J.C.R. & ECON. DEV. 721, 725–26 (1997).

124. *See* Corriero, *supra* note 30, at 21 ("The Juvenile Offender Law authorized the wholesale movement of an entire category of children to the adult court.").

125. Haddad, *supra* note 3, at 460.

126. *See* Corriero, *supra* note 30, at 21 (highlighting the "unprecedented" nature of the measures included in the Juvenile Offender Act).

127. Charles & Zuccarelli, *supra* note 123, at 725–26.

128. Haddad, *supra* note 3, at 466.

129. *See id.* at 459, 468.

130. *See id.* at 468.

131. 543 U.S. 551 (2005).

132. 492 U.S. 361 (1989).

the execution of juvenile offenders over 15 but under 18."[133] *Roper* established that sentencing an individual under eighteen years of age to death is unconstitutional.[134] The Court highlighted three major differences between juveniles and adults that demonstrate that "juvenile offenders cannot with reliability be classified among the worst offenders."[135] In 2010, the Supreme Court held in *Graham v. Florida*[136] that a sentence of life without parole for any crime committed by a minor, except homicide, violated the Eighth Amendment's prohibition of cruel and unusual punishments.[137] In its opinion, the Court stated that "the limited culpability of juvenile nonhomicide offenders" paired with the severity of a sentence of life without parole led to its determination that the sentence was unconstitutional.[138] Two years later, in *Miller v. Alabama*,[139] the Supreme Court extended *Graham* and held that mandatory sentences of life without parole for *any* crime were unconstitutional for minors under the Eighth Amendment.[140] In *Miller*, the Court drew on its reasoning from *Roper* regarding the fundamental differences between minors and adults to support its holding.[141]

Following these Supreme Court decisions, New York passed legislation to reform the state juvenile justice system, including the Raise the Age Act in 2017.[142] Support for the Act was built on a pilot Adolescent Diversion Program implemented in 2012.[143] The program ran in nine counties and created a separate part of the criminal court for sixteen- or seventeen-year-old defendants.[144] The "[s]ubsequent findings included a decreased re-arrest rate

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133. *Roper*, 543 U.S. at 562.

134. *See id.* at 574. *Roper* was a sign of changing views on youth but did not change the laws in New York State. One year prior, the New York Court of Appeals ruled that the state's death penalty statute was unconstitutional according to the state constitution. *See* People v. LaValle, 817 N.E.2d 341, 344 (N.Y. 2004).

135. *Roper*, 543 U.S. at 569; *see also* Corriero, *supra* note 30, at 22 (highlighting how the Supreme Court used minors' developmental differences as "an accepted societal factor in determining the appropriate treatment of juvenile offenders").

136. 560 U.S. 48 (2010).

137. *Id.* at 82.

138. *Id.* at 74.

139. 567 U.S. 460 (2012).

140. *Id.* at 465. *Graham* and *Miller* also demonstrate the evolving understanding of adolescence but did not directly impact defendants in New York State. New York State law allows for juvenile life without parole sentences, but there is no one currently serving this sentence. *See Juvenile Life Without Parole by State*, CAMPAIGN FOR THE FAIR SENT'G OF YOUTH, https://cfsy.org/media-resources/states-that-ban-juvenile-life-without-parole/ [https://perma.cc/58JT-B349] (last visited Feb. 12, 2026).

141. *See Miller*, 567 U.S. at 465; *see also* Cara H. Drinan, *The* Miller *Revolution*, 101 IOWA L. REV., 1787, 1816, 1819–22 (2016) (reading *Miller* as standing for the unconstitutionality of mandatory minimums for youth).

142. N.Y. CRIM. PROC. LAW § 722 (Consol. 2025).

143. Samantha A. Mumola, Note, *The Concrete Jungle: Where Dreams Are Made of . . . and Now Where Children Are Protected*, 39 PACE L. REV. 539, 548–49 (2018); *see also* MICHAEL REMPEL, SUVI HYNYNEN LAMBSON, CAROLYN R. CADORET & ALLYSON WALKER FRANKLIN, CTR. FOR CT. INNOVATION, THE ADOLESCENT DIVERSION PROGRAM: A FIRST YEAR EVALUATION OF ALTERNATIVES TO CONVENTIONAL CASE PROCESSING FOR DEFENDANTS AGES 16 AND 17 IN NEW YORK 3 (2013), https://www.courtinnovation.org/sites/default/files/documents/ADP_Report_Final_0.pdf [https://perma.cc/V3GR-MBNW].

144. *See* REMPEL ET AL., *supra* note 143, at 1.

for felonies coupled with an absence of harm to public safety."[145] Over the next five years, reform of the juvenile justice system in New York, including the movement to raise the age of adult criminal liability, had strong support from then-Governor Andrew Cuomo,[146] the judiciary,[147] and the public.[148] At the same time, New York City's appalling treatment of adolescents in the youth criminal system spurred support for additional reform.[149] Kalief Browder's experience and treatment by New York City law enforcement and prosecutors shined a light on the experiences of children and adolescents of color. Police arrested Kalief Browder for allegedly stealing a backpack when he was sixteen years old, and New York City prosecutors detained him in Rikers Island for three years with no trial or conviction.[150] The city held him in solitary confinement for almost two of those years and released him in 2013 due to lack of evidence.[151] Two years after his release, Browder committed suicide.[152] He had spoken openly about the irreparable impact incarceration and solitary confinement had on him.[153] After his death, people rallied in New York City, including at the entrance to Rikers Island, to honor and demand justice for Kalief Browder.[154] Browder's story sparked a larger conversation around juvenile justice and youth incarceration.[155] New York

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145. Mumola, *supra* note 143, at 548.

146. *See id.* ("Governor Cuomo publicly made Raise the Age a top priority.").

147. *See generally* Jonathan Lippman, *Criminal Justice Reform Is Not for the Short-Winded: How the Judiciary's Proactive Pursuit of Justice Helped Achieve "Raise the Age" Reform in New York*, 45 FORDHAM URB. L.J. 241 (2017).

148. *See* Mumola, *supra* note 143, at 549.

149. *See id.* (noting that "the movement gained momentum after the tragic passing of Kalief Browder, which resulted in a widespread public outcry for reform").

150. *See* Benjamin Weiser, *Kalief Browder's Suicide Brought Changes to Rikers. Now It Has Led to a $3 Million Settlement.*, N.Y. TIMES (Jan. 24, 2019), https://www.nytimes.com/2019/01/24/nyregion/kalief-browder-settlement-lawsuit.html (on file with the *Fordham Law Review*); *see also* Udi Ofer, *Kalief Browder's Tragic Death and the Criminal Injustice of Our Bail System*, ACLU (Mar. 15, 2017), https://www.aclu.org/news/smart-justice/kalief-browders-tragic-death-and-criminal-injustice-our-bail-system [https://perma.cc/6RLT-JRBY] (noting that Kalief Browder's family could not afford bail, which had been set at $3,000).

151. *See* Michael Schwirtz & Michael Winerip, *Kalief Browder, Held at Rikers Island for 3 Years Without Trial, Commits Suicide*, N.Y. TIMES (June 8, 2015), https://www.nytimes.com/2015/06/09/nyregion/kalief-browder-held-at-rikers-island-for-3-years-without-trial-commits-suicide.html?_r=0 (on file with the *Fordham Law Review*); Jennifer Gonnerman, *Before The Law*, NEW YORKER (Sep. 29, 2014), https://www.newyorker.com/magazine/2014/10/06/before-the-law (on file with the *Fordham Law Review*) (explaining that the prosecution's witness had left the country and the prosecution was "unable to meet [its] burden of proof at trial").

152. *See* Weiser, *supra* note 150.

153. Browder stated:

> I'm not all right. I'm messed up. I know that I might see some money from this case, but that's not going to help me mentally. I'm mentally scarred right now. That's how I feel. Because there are certain things that changed about me and they might not go back.

Gonnerman, *supra* note 151.

154. Ashoka Jegroo, *New Yorkers Mourn Kalief Browder's Death*, WAGING NONVIOLENCE (June 13, 2015), https://wagingnonviolence.org/2015/06/new-yorkers-mourn-kalief-browders-death/ [https://perma.cc/S5ZE-NC4J].

155. *See* Michael Schwirtz & Michael Winerip, *De Blasio Tours Rikers Jail Complex for First Time as Mayor*, N.Y. TIMES (Dec. 17, 2014), https://www.nytimes.com/2014/12/18/ny

City announced an end to solitary confinement for minors in 2014.[156] In 2016, then-President Barack Obama cited the treatment of Kalief Browder when he announced a ban on solitary confinement for minors in federal prisons.[157] People continue to tell Kalief Browder's story to remember him and highlight the tragedy of our treatment of youth in the criminal legal system.[158]

There are ongoing efforts to continue reforming New York State's sentencing scheme for youth offenders. New York State Senator Zellnor Myrie is sponsoring a bill in the 2025 to 2026 legislative session that aims to "update New York's criminal law to reflect twenty-first-century understanding of the adolescent brain and criminal culpability."[159] To achieve this, the bill proposes widening the scope of the youthful offender status and creating a new young adult offender status.[160]

C. Youth Sentencing in New York

This section considers where youth sentencing stands today and how the Marvin Mayfield Act would impact sentencing. Part I.C.1 first reviews the current sentencing framework for minors in New York State. Next, Part I.C.2 discusses how the proposed Act would eliminate mandatory minimum sentences. Lastly, Part I.C.3 considers how the Act would impact the current sentencing structure.

1. Current Practices for Sentencing Minors in New York

New York State's classifications[161] for children in the criminal and family court systems expose the complexity of adjudication and sentencing processes for minors. Youth criminal cases are heard either in the family court or the Youth Part of the criminal court, and the distinction between the two is an important one. The purpose of the Family Court Act requires the court to balance the needs of the community and the child during family court proceedings.[162] However, there is no requirement to consider the child's

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region/mayor-bill-de-blasio-rikers-island-visit.html (on file with the *Fordham Law Review*) (noting the "intensifying pressure to address rampant brutality and corruption at Rikers Island").

156. *See id.*

157. *See* Weiser, *supra* note 150.

158. *See* Piyali Basak, *Op-Ed: In Honor of Kalief Browder: Remember His Story and Fight to Protect Discovery Reform*, AMSTERDAM NEWS (Mar. 27, 2025), https://amsterdamnews.com/news/2025/03/27/remember-kalief-browder-story-and-fight-to-protect-discovery-reform/ [https://perma.cc/6G85-NK5Q]; Ofer, *supra* note 150.

159. S.B. 4330, 2025–2026 Gen. Assemb., Reg. Sess. (N.Y. 2025).

160. *See id.*

161. *See supra* Part I.A.

162. *See* N.Y. FAM. CT. ACT § 301.1 (Consol. 2025) ("In any proceeding under this article, the court shall consider the needs and best interests of the respondent as well as the need for protection of the community.").

needs in the Youth Part.[163] Juvenile offenders are processed in the Youth Part of the criminal court.[164] Transferring their case to family court requires the prosecutor's consent and is very limited.[165] For adolescent offenders, the crime charged affects where the case is heard. If the alleged offense is nonviolent, there is a presumption of removal to family court unless the prosecution can show extraordinary circumstances that warrant keeping the case in the Youth Part.[166] If the prosecution charges the defendant with a violent offense, there is no presumption of removal to family court, but the Youth Part is required to hold a hearing for arguments on why the case should be moved to family court.[167] Additionally, even if a case is moved from the Youth Part to family court, some felony charges "are then classified as 'designated felonies,' which require mandatory minimum sentences when judges order restrictive placement."[168]

The current classifications are convoluted and can lead to unpredictable treatment of children. For example, in *People v. K.S.*,[169] police officers responding to a report of a physical fight arrested the defendant, who was fifteen years old, after they allegedly saw him carrying a loaded pistol.[170] The state charged the defendant with criminal possession of a weapon in the second degree.[171] Due to the severity of the charge and the defendant's age, the state prosecuted K.S. as a juvenile offender.[172] Under the New York Criminal Procedure Law (CPL) section 722.22(1)(b),[173] removal to family court requires the consent of the district attorney.[174] If K.S. had been sixteen or seventeen at the time of arrest, he would have been classified as an adolescent offender and entitled to the six-day review process detailed in

163. *See* N.Y. CRIM. PROC. LAW § 722.10 (Consol. 2025) (including no such language regarding a balancing test); *see also* People v. K.S., 212 N.Y.S.3d 521, 524 (Sup. Ct. 2024) ("Unlike criminal court proceedings, juvenile delinquency proceedings strive to balance both the needs and safety of the community with the needs and best interests of the child.").

164. *See K.S.*, 212 N.Y.S.3d at 524–25.

165. *See id.* at 523.

166. CRIM. PROC. LAW § 722.23(1)(b)–(d); *see also* People v. Guerrero, 227 N.Y.S.3d 497, 499 (App. Div. 2025) ("While the term 'extraordinary circumstances' is not defined in the statute, the legislative history for CPL 722.23 reveals that . . . courts should 'look at all the circumstances of the case, as well as . . . all of the circumstances of the young person,' including both mitigating and aggravating factors." (quoting *N.Y. Assembly Debate on 2017 N.Y. Assembly Bill A3009C*, 2017–2018 Leg. Sess. 39 (N.Y. 2017))). *Compare* People v. C.A., No. 73308-25/001, 2025 N.Y. Misc. LEXIS 8672, at *4 (Erie Cnty. Fam. Ct. 2025) (finding that there were no extraordinary factors that justified keeping the case in the Youth Part), *with* People v. D.J., 179 N.Y.S.3d 516, 520 (Erie Cnty. Fam. Ct. 2022) (holding that extraordinary circumstances existed that warranted keeping the case in the Youth Part).

167. *See* CRIM. PROC. LAW § 722.23(2); *see also K.S.*, 212 N.Y.S.3d at 523.

168. Trujillo, *supra* note 53, at 249 (quoting N.Y. FAM. CT. ACT § 301.2(8) (Consol. 2025)).

169. 212 N.Y.S.3d 521 (Sup. Ct. 2024).

170. *See id.* at 522, 528.

171. *See id.*

172. *See id.*; *see also supra* Part I.A (defining juvenile offenders as children between thirteen and fifteen who are processed in the Youth Part of the criminal court, with restricted options to transfer to family court).

173. N.Y. CRIM. PROC. LAW § 722.22(1)(b) (Consol. 2025).

174. *Id.*

CPL section 722.23.[175] Under CPL section 722.23, removal to family court would occur unless the state met its statutory burden to retain the case in the Youth Part.[176]

Counsel for K.S. successfully challenged the disparate removal framework as violative of the defendant's right to equal protection of the laws under both the New York State Constitution and the Fourteenth Amendment to the U.S. Constitution.[177] Although the court granted the requested relief, it did not change how New York State's overlapping juvenile classifications yield inconsistent procedural protections based solely on age.

Empirical data reveal significant racial disparities in the operation of New York's youth legal system. In 2023, 51 percent of New York youth were members of minority groups, but 76 percent of the cases that were referred to juvenile court involved minority defendants.[178] Black youth in the system are more likely to receive punitive sanctions and less likely to be offered rehabilitative interventions than their White counterparts.[179] This may be due in part to the findings that "Black boys can be misperceived as older than they actually are and prematurely perceived as responsible for their actions . . . where their peers receive the beneficial assumption of childlike innocence."[180] Relatedly, there are significant racial disparities in the New York family regulation system.[181] This is important because a child's involvement in that system is a "significant indicator" that they will engage with the juvenile justice system.[182]

2. Proposed Elimination of Mandatory Minimum Sentences in New York

In 2025, New York State Senator Zellnor Myrie sponsored the Marvin Mayfield Act, which proposes to eliminate mandatory minimum sentences

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175. *See K.S.*, 212 N.Y.S.3d at 526; *see also supra* Part I.A (defining adolescent offenders as defendants who are sixteen or seventeen charged with felonies and who have a potential for removal to family court).

176. *See K.S.*, 212 N.Y.S.3d at 526.

177. *See id.* at 529.

178. RACIAL & ETHNIC DISPARITIES ADVISORY COMM., ADDRESSING RACIAL AND ETHNIC DISPARITIES IN NEW YORK 7 (2025), https://www.criminaljustice.ny.gov/crimnet/ojsa/Federal%20Fiscal%20Year%202024%20-%20Three-year%20New%20York%20State%20Plan%20to%20Address%20Racial%20and%20Ethnic%20Dispariti.pdf [https://perma.cc/L7CG-EC9B].

179. *See* Joshua C. Cochran & Daniel P. Mears, *Race, Ethnic, and Gender Divides in Juvenile Court Sanctioning and Rehabilitative Intervention*, 52 J. RSCH. CRIME & DELINQ. 181, 182 (2015) (noting that these results were seen "even after controlling for a range of legal and extralegal factors").

180. Phillip A. Goff, Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta & Natalie A. DiTomasso, *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY & SOC. PSYCH. 526, 540 (2014).

181. *See generally Racism at Every Stage: Data Shows How NYC's Administration for Children's Services Discriminates Against Black and Brown Families*, NYCLU (June 20, 2023), https://www.nyclu.org/report/racism-every-stage-data-shows-how-nycs-administration-childrens-services-discriminates [https://perma.cc/A86M-K53R] (highlighting the racial disparities in the family regulation system).

182. Trujillo, *supra* note 53, at 236.

in New York State.[183] Although the Raise the Age Act reduced the number of minors tried in adult criminal courts, it still left thousands of children to be processed in the Youth Part.[184] In 2019 alone, there were approximately 5,500 children who were arrested and eligible to be tried in the Youth Part rather than in family court.[185]

If enacted, the Marvin Mayfield Act would primarily impact the children who are charged as juvenile offenders[186] and adolescent offenders.[187] Those cases are heard in the Youth Part and are therefore subject to mandatory minimum sentences. As illustrated in *People v. K.S.*, the complexity of the sentencing structure for minors and the liberty interests at stake are particularly significant, as they shape both the future of the youths at risk and the broader goals of juvenile justice.

II. MANDATORY MINIMUM SENTENCES: ADVANCING OR OBSTRUCTING JUSTICE?

This part presents arguments for and against the use of mandatory minimum sentences for minors. Part II.A addresses the arguments against the use of mandatory minimum sentences for minor defendants. Part II.B covers the arguments in support of mandatory minimum sentences for minor defendants.

A. Mandatory Minimum Sentences Ignore Fundamental Aspects of Youth Development

One of the main arguments against the use of mandatory minimum sentences for minor defendants focuses on the fundamental differences between minors and adults. Part II.A.1 presents the argument that the defendant's youth should be considered an unequivocal mitigating factor, which would in turn justify distinct treatment of minor defendants. Part II.A.2 then considers arguments that mandatory minimums do not serve the goals of punishment due to the unique circumstances of young adulthood.

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183. S.B. 1209, 2025–2026 Gen. Assemb., Reg. Sess. (N.Y. 2025); A.B. 1297, 2025–2026 Gen. Assemb., Reg. Sess. (N.Y. 2025). Versions of this bill were introduced in two previous legislative sessions. *See* S.B. 7871, 2021–2022 Gen. Assemb., Reg. Sess. (N.Y. 2021); A.B. 9166, 2021–2022 Gen. Assemb., Reg. Sess. (N.Y. 2021); S.B. 6471, 2023–2024 Gen. Assemb., Reg. Sess. (N.Y. 2021); A.B. 2036, 2023–2024 Gen. Assemb., Reg. Sess. (N.Y. 2021).

184. *See* RAISE THE AGE IMPLEMENTATION TASK FORCE, *supra* note 27, at 9–10.

185. *See id.*

186. *See supra* Part I.A (defining juvenile offenders as children between thirteen and fifteen who are processed in the Youth Part of the criminal court with no meaningful opportunity for transfer to the family court).

187. *See supra* Part I.A (defining adolescent offenders as defendants who are sixteen or seventeen charged with felonies with the potential for removal to family court).

1. Youth as a Mitigating Factor

Since mandatory minimum sentences became integrated into the juvenile legal system almost fifty years ago, there have been significant advances in what scientists know about the human brain.[188] Time has allowed researchers and those involved in the system to see the impact of mandatory minimums on generations of youth.[189]

Professors Laurence Steinberg and Elizabeth Scott argue that the developmental differences between adolescents and adults require criminal legal systems to handle most cases involving young offenders differently from adults.[190] In their article *Less Guilty by Reason of Adolescence*, Professors Steinberg and Scott consider how the relationship between "the immaturity of adolescent offenders" and their "blameworthiness" should impact their punishment.[191] The authors begin by categorizing the mitigating factors courts may consider at sentencing into three groups: (1) diminished decision-making capacity, (2) extraordinary external circumstances, and (3) whether the alleged criminal act was out of character for the defendant.[192] The authors then consider the "psychosocial factors . . . most relevant to understanding differences [between adolescents and adults] in judgment and decision making."[193] They assert that these fundamental differences map directly onto these three categories of mitigating factors.[194] The authors conclude that the presence of these psychosocial factors indicates that adolescents should be considered less blameworthy than their adult defendant counterparts, and youth itself should be a universal mitigating factor in sentencing.[195]

First, Professors Steinberg and Scott consider the category of mitigating factors that relate to a defendant possessing a diminished decision-making capacity.[196] They link this diminished capacity to young adults' incomplete brain maturation and its impacts on their executive function.[197] The authors note four main reasons behind the difference in executive function between

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188. *See* B.J. Casey, C. Simmons, L.H. Somerville & A. Baskin-Sommers, *Making the Sentencing Case: Psychological and Neuroscientific Evidence for Expanding the Age of Youthful Offenders*, 5 ANN. REV. CRIMINOLOGY 321, 327–29 (2022) (highlighting several studies that demonstrate an increased understanding of brain development).

189. *See* Corriero, *supra* note 30, at 22; *see also* MENDEL, *supra* note 26, at 20–21.

190. Laurence Steinberg & Elizabeth Scott, *Less Guilty by Reason of Adolescence*, 58 AM. PSYCH. 1009, 1009 (2003).

191. *See id.* at 1010.

192. *See id.* at 1011.

193. *Id.* at 1012.

194. *See id.* at 1011–15.

195. *See id.* at 1016–17; *see also* State v. Lyle, 854 N.W.2d 378, 398 (Iowa 2014) ("The constitutional analysis is not about excusing juvenile behavior, but imposing punishment in a way that is consistent with our understanding of humanity today.").

196. *See* Steinberg & Scott, *supra* note 190, at 1011–14 (noting examples such as people who demonstrate a "mental illness . . . extreme emotional distress, or susceptibility to influence or domination").

197. *See id.* Professors Steinberg and Scott distinguish young adults' abilities to engage in the reasoning process from their ability to properly assess and value the decision-making factors. *Id.*

young adults and adults. First, young adults' ability to think about the future is more limited than their adult counterparts.[198] Second, when comparing risk and reward, adults usually focus on the potential for risk more than adolescents do.[199] Third, Professors Steinberg and Scott note that adults have better impulse control than adolescents.[200] Research has found that the part of the brain responsible for impulse control undergoes extensive development during adolescence.[201] Finally, adolescents are more likely to be swayed by their peers than adults.[202]

Scenarios that involve rapid decision-making can compound adolescents' psychosocial immaturity and result in poor choices.[203] According to Samantha Schad, this highlights young adults' diminished responsibility in the criminal context because choices to engage in criminal activity are usually made quickly.[204] Finally, many of these decision-making faculties do not fully develop for most people until they are in their mid-twenties.[205]

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198. *See id.* at 1012 (hypothesizing that the differences could be due to "cognitive limitations in their ability to think in hypothetical terms" or because "teens may . . . attach more weight to short-term consequences because they seem more salient to their lives"); *see also* Samantha Schad, Note, *Adolescent Decision Making: Reduced Culpability in the Criminal Justice System and Recognition of Capability in Other Legal Contexts*, 14 J. HEALTH CARE L. & POL'Y 375, 376 (2011) (noting that it is "difficult for [adolescents] to perceive future consequences"); Trujillo, *supra* note 53, at 240 (highlighting that "young people have a diminished capacity to . . . consider and appreciate short-term and long-term consequences").

199. *See* Steinberg & Scott, *supra* note 190, at 1012; *see also* Bonnie L. Halpern-Felsher & Elizabeth Cauffman, *Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults*, 22 J. APPLIED DEVELOPMENTAL PSYCH. 257, 257, 268 (2001) (finding that when evaluating a potentially risky decision, adults noted more comprehensively weighed risks and benefits than adolescents).

200. *See* Steinberg & Scott, *supra* note 190, at 1012–13.

201. *See* Mariam Arain, Maliha Haque, Lina Johal, Puja Mathur, Wynand Nel, Afsha Rais, Ranbir Sandhu & Sushil Sharma, *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE & TREATMENT 449, 451 (2013) ("[A]dolescence is one of the most dynamic events of human growth and development, second only to infancy in terms of the rate of developmental changes that can occur within the brain.").

202. *See* Laurence Steinberg & Susan B. Silverberg, *The Vicissitudes of Autonomy in Early Adolescence*, 57 CHILD DEV. 841, 848 (1986) ("For most boys and girls, the transition from childhood into adolescence is marked more by a trading of dependency on parents for dependency on peers rather than straight-forward and unidimensional growth in autonomy."); *see also* Steinberg & Scott, *supra* note 190, at 1012 (noting how adolescents respond to peer influence directly, such as choosing to follow an instruction from a peer, and indirectly, such as making a choice based on what they believe will get them approval from their peers).

203. *See* Schad, *supra* note 198, at 376; *see also* Casey et al., *supra* note 188, at 327 (noting that the cognitive control of young adults under emotional arousal is lower than adults under the same conditions).

204. *See* Schad, *supra* note 198, at 381. Samantha Schad provides an example of the distinction between understanding the law and being able to make informed decisions based on that knowledge. *Id.*

205. *See* Arain et al., *supra* note 201, at 451; *see also* Steinberg & Scott, *supra* note 190, at 1013 ("[T]he most important developments during adolescence occur in regions that are implicated in processes of long-term planning, the regulation of emotion, impulse control, and the evaluation of risk and reward."); Trujillo, *supra* note 53, at 240 ("It has been well established by neuroscientists over the past two decades that young brains do not fully develop until people reach their mid-twenties, particularly in the prefrontal cortex which regulates impulse control.").

This developmental process further emphasizes the difference between minors and adults in decision-making capability.

The second category of mitigating factors that Professors Steinberg and Scott consider is the defendant's ability to resist coercive influence.[206] The authors note that criminal law generally allows defendants to argue for reduced culpability when a reasonable person "might have responded in the same way as the defendant under similar circumstances."[207] The authors argue that because adolescents are generally less capable of resisting outside influences than adults, courts should analyze the reasonableness of the defendant's behavior by comparing it to that of a "developmentally normal" adolescent rather than that of an adult.[208]

The final category of mitigation that Professors Steinberg and Scott discuss is when the defendant argues that the alleged criminal act was out of character for them.[209] If a defendant can successfully demonstrate that the act was out of character, criminal law typically treats this as a mitigating factor.[210] The authors argue that the character of adolescents is inherently "unformed," meaning that risky or illegal behavior is not indicative of bad character.[211] Instead, it reflects exploration and experimentation associated with a universal process of developing one's sense of identity in adolescence.[212] They note that as young adults mature, most will cease to engage in harmful behavior, demonstrating that it is not a fundamental part of their identity.[213] The authors argue that because most of the crimes adolescents commit are not demonstrative of their character, they should be considered less culpable.[214]

Professors Steinberg and Scott note that even if mitigation would not usually be appropriate because of the nature of the crime, the defendant's adolescence should nevertheless be considered.[215] Some experts argue that youth incarceration occurs at a "critical point" in adolescent development and normalizes a certain level of violence.[216] Additionally, evidence suggests that incarceration, the punishment required by mandatory minimum sentences, results in "higher rates of rearrest and reincarceration compared

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206. *See* Steinberg & Scott, *supra* note 190, at 1014.

207. *Id.*

208. *Id.*

209. *Id.* at 1011.

210. *Id.* at 1014 ("[T]he criminal law implicitly assumes that harmful conduct reflects the actor's bad character and treats evidence that this assumption is inaccurate as mitigating of culpability.").

211. *Id.*

212. *Id.*

213. *Id.* ("Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood.").

214. *Id.*

215. *Id.* at 1016 ("Given the uncertainty of predicting adult character during adolescence, efforts should be made to protect against the iatrogenic effects of incarceration in prison and to invest in the future postincarceration lives of even serious chronic offenders.").

216. Corriero, *supra* note 30, at 22.

with probation and other community alternatives to confinement."[217] The age and developmental status of minor defendants raise serious concerns that are less relevant to adult defendants.

2. Mandatory Minimum Sentences: Unable to Serve the Goals of Punishment

Former Federal Bureau of Investigation Director Robert S. Mueller III stated that mandatory minimum sentences were built to serve the goals of "just punishment, deterrence, and incapacitation."[218] However, researchers,[219] courts,[220] and scholars[221] have questioned whether mandatory minimum sentences are effective at reaching these goals for young offenders. This section presents arguments that mandatory minimum sentences do not serve the goals of just punishment, deterrence, or increased public safety due to incapacitation.

Proponents of mandatory minimum sentences argue that they serve as a tool to counteract the highly disparate sentences that resulted from judicial discretion.[222] Mandatory minimum sentences connect the length of the sentence with the crime and therefore ensure that "individuals are punished commensurate with their moral culpability."[223]

Critics of mandatory minimum sentences argue that the problematic discretion merely shifted hands from courts to prosecutors.[224] Prior to sentencing, prosecutors make critical decisions that impact the defendant's ultimate sentence.[225] The prosecution decides what crime to charge, which can determine the applicable mandatory minimum.[226] Other decisions, such

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217. MENDEL, *supra* note 26, at 4; *see also* Erica Ackerman, Jenny Magram & Tom D. Kennedy, *Systematic Review: Impact of Juvenile Incarceration*, CHILD PROT. & PRAC., Dec. 2024, at 1, 4–8 (noting the wide-ranging consequences of youth incarceration).

218. Robert S. Mueller, *Mandatory Minimum Sentencing*, 3 FED. SENT'G REP. 230, 230 (1992).

219. *See* MENDEL, *supra* note 26, at 4 ("[I]ncarceration is most often not an effective strategy for steering young people away from delinquent behavior."); Jeffery T. Ulmer, Megan C. Kurlychek & John H. Kramer, *Prosecutorial Discretion and the Imposition of Mandatory Minimum Sentences*, 44 J. RSCH. CRIME & DELINQ. 427, 451 (2007).

220. *See* Roper v. Simmons, 543 U.S. 551, 571 (2005); *see also* United States v. Kupa, 976 F. Supp. 2d 417, 420 (E.D.N.Y. 2013).

221. *See* Trujillo, *supra* note 53, at 243–44; Haddad, *supra* note 3, at 458 (highlighting the inefficiencies of the Juvenile Offender Act).

222. *See* Mistretta v. United States, 488 U.S. 361, 365 (1989); *see also* Dorszynski v. United States, 418 U.S. 424, 437 (1974) (describing federal district judges' discretion in sentencing as "unfettered").

223. Bernick & Larkin, *supra* note 111.

224. *See* Ulmer, Kurlychek & Kramer, *supra* note 219, at 427–28.; *see also* NELLIS, *supra* note 25, at 1–2; *see also* James Vorenberg, *Decent Restraint of Prosecutorial Power*, 94 HARV. L. REV. 1521, 1522 (1981) ("[A]s the powers of other criminal justice officials have contracted, those of prosecutors have expanded.").

225. *See* Vorenberg, *supra* note 224, at 1522.

226. *See id.* at 1521–22; *see also* David Bjerk, *Making the Crime Fit the Penalty: The Role of Prosecutorial Discretion Under Mandatory Minimum Sentencing*, 48 J.L. & ECON. 591, 622 (2005) ("[P]rosecutors generally have the discretion to prosecute a defendant for a lesser

as whether to engage in plea bargaining, are also within their discretion.[227] The choices the prosecution makes at all stages are "virtually unreviewable."[228] Instead of eliminating discretion in sentencing, mandatory minimum sentences have moved it behind closed doors.[229]

The expanding research on youth brain development has also called into question the efficacy of mandatory minimum sentences as a deterrence tool.[230] In *Roper v. Simmons*, the Supreme Court highlighted that "juveniles will be less susceptible to deterrence" because of their youth.[231] The Court found that the factors that contribute to the difference in culpability between adolescents and adults[232] similarly cause differences in the deterrence effect.[233] Research has shown that a decrease in the rate of youth incarceration does not increase the rate at which minors commit crimes.[234] This result suggests that youth incarceration is not an effective tool for deterring criminal behavior.[235]

The final goal served by mandatory minimum sentences, Director Mueller stated, is the ability to incapacitate the offender, thereby increasing public safety.[236] However, researchers argue that increased sentences do not improve public safety and instead contribute to higher rates of recidivism.[237] Richard Mendel, a senior research fellow at the Sentencing Project, reviewed studies comparing youth who were incarcerated with those placed in community-based alternatives, such as parole or diversion programs.[238] The research found that incarceration is associated with higher rates of rearrest and reincarceration[239] and that recidivism rates increased with longer incarceration sentences.[240] One of those studies identified "little or no marginal benefit . . . for retaining an individual in institutional placement

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charge than the initial arrest charge, and the use of such discretion can have dramatic effects on sentencing with respect to mandatory minimum sentencing laws.").

227. *See* Vorenberg, *supra* note 224, at 1521; *see also* NELLIS, *supra* note 25, at 2 ("The threat of mandatory minimums also encourages defendants to plead to a different crime to avoid a stiff, mandatory sentence.").

228. ANGELA J. DAVIS, ARBITRARY JUSTICE: THE POWER OF THE AMERICAN PROSECUTOR 5 (2007) ("Prosecutors make the most important of these discretionary decisions behind closed doors and answer only to other prosecutors.").

229. *See* Vorenberg, *supra* note 224, at 1522 ("The fate of most of those accused of crime is determined by prosecutors, but typically this determination takes place out of public view—in the hallways of the court-house, in the prosecutors' offices, or on the telephone.").

230. *See* Trujillo, *supra* note 53, at 240–41.

231. Roper v. Simmons, 543 U.S. 551, 571 (2005).

232. The U.S. Supreme Court considered three factors: lack of maturity, vulnerability to external pressures, and unformed character. *See id.* at 569–70.

233. *Id.* at 572 ("[T]he likelihood that the teenager offender has made the kind of cost-benefit analysis that attaches any weight to the possibility of execution is so remote as to be virtually nonexistent." (quoting Thompson v. Oklahoma, 487 U.S. 815, 837 (1988))).

234. *See* MENDEL, *supra* note 26, at 13.

235. *See id.* at 2, 13.

236. *See* Mueller, *supra* note 218, at 230.

237. *See* MENDEL, *supra* note 26, at 4.

238. *See id.* at 12–14.

239. *See id.* at 13.

240. *See id.* at 14.

longer."[241] Although an increased length of incarceration does meet the immediate goal of incapacitating the offender, these studies indicate that it does not necessarily correlate with increased public safety in the long term.[242]

B. Mandatory Minimum Sentences Support the Pursuit of Justice

This section presents arguments in favor of mandatory minimum sentences for minor defendants. Part II.B.1 presents the argument that the Supreme Court's recognition of the differences between youth and adult defendants only applies to extreme sentences and should not be extended to most mandatory minimum sentences. Part II.B.2 identifies the argument that mandatory minimum sentences are appropriate measures to reduce crime. Part II.B.3 examines the argument that mandatory minimum sentences are appropriate because the legislature is best positioned to determine sentencing structures and mandatory minimum sentences reduce bias in the criminal legal system.

1. Young Adults Are Not "Categorically Diminished"

Proponents of mandatory minimum sentences argue that the U.S. Supreme Court's recognition of the differences between youth and adult defendants only applies in extreme circumstances, as seen in the dissents in *State v. Lyle*.[243] In *Lyle*, the Iowa Supreme Court majority held that all statutes permitting mandatory minimum sentences for minors violated the state's constitution.[244] A jury convicted Andre Lyle Jr. after he was tried for robbery related to an altercation that occurred outside his high school when he was seventeen.[245] The trial court sentenced him to the mandatory minimum term as designated by statute.[246] The defendant unsuccessfully appealed to the Iowa Court of Appeals, and the Iowa Supreme Court granted the defendant's application for further review.[247] In making its determination, the court relied on the U.S. Supreme Court's recent decisions in *Miller*, *Graham*, and

241. *Id.* (quoting Thomas A. Loughran, Edward P. Mulvey, Carol A. Schubert, Jeffrey Fagan, Alex R. Piquero & Sandra H. Losoya, *Estimating a Dose-Response Relationship Between Length of Stay and Future Recidivism in Serious Juvenile Offenders*, 47 CRIMINOLOGY 699, 723 (2009)).

242. *See* Lamb, *supra* note 100, at 145 ("Mandatory minimums have neither deterred criminal behavior nor reduced recidivism rates . . . [and] have not produced a net increase in public safety.").

243. 854 N.W.2d 378 (Iowa 2014); *id.* at 406 (Waterman, J., dissenting); *id.* at 407 (Zager, J., dissenting).

244. *Id.* at 380 (majority opinion).

245. *Id.* at 381.

246. *Id.*

247. *Id.* at 381–82.

Roper and their emphasis on the distinction between youth and adult culpability.[248]

In his dissent, Justice Bruce B. Zager argued that the holding of these U.S. Supreme Court cases should not be extended to eliminate mandatory minimums.[249] Justice Zager stated that there was no evidence that the capacity of minors was "categorically diminished" such that it would justify eliminating mandatory minimum sentences.[250] He argued that if it were appropriate to consider youth offenders as categorically different based on their diminished culpability, the U.S. Supreme Court would have said as much in *Miller*.[251] Therefore, according to Justice Zager, U.S. Supreme Court precedent indicates that there is no reason to treat young offenders differently in most cases.[252]

Additionally, Justice Thomas D. Waterman's dissent in *Lyle* supports the idea that mandatory minimum sentences are especially appropriate for young adults.[253] Many studies show that people are more likely to engage in risky or illegal behavior when they are teenagers.[254] Therefore, Justice Waterman argued that mandatory minimum sentences could ensure that minors who committed felony crimes would be incarcerated during the years when they are more likely to engage in violent crimes.[255]

2. Mandatory Minimums Ensure Appropriate and Just Punishment

Additionally, many argue that mandatory minimum sentences are appropriate because they reduce bias in the criminal legal system and the legislature is best positioned to determine sentencing structures. The U.S. Supreme Court considered the role of the legislature in sentencing structures in *Gregg v. Georgia*.[256] The Supreme Court granted certiorari to determine

248. *Id.* at 384–86.

249. *Id.* at 407–08 (Zager, J., dissenting).

250. *See id.* at 407; *see also* Haddad, *supra* note 3, at 478 (noting that some researchers are hesitant to use relatively new findings about adolescent brain development "to apply to the basis of mitigation of criminal culpability").

251. *See Lyle*, 854 N.W.2d at 408 (Zager, J., dissenting).

252. *See id.* at 407.

253. *See id.* at 406 (Waterman, J., dissenting) ("A seventeen-year-old offender would still be eligible for release by age twenty-five. But, that offender would be incarcerated during the late teens and early twenties—the ages when violent crimes are most likely to be committed.").

254. *See* Steinberg & Scott, *supra* note 190, at 1012.

255. *Lyle*, 854 N.W.2d at 406 (Waterman, J., dissenting); *see also* David B. Muhlhausen, Sr. Pol'y Analyst, Heritage Found., Prepared Statement to the U.S. Sentencing Commission: Theories of Punishment and Mandatory Minimum Sentences 2 (May 27, 2010) [hereinafter Muhlhausen Statement], https://www.ussc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20100527/Testimony_Muhlhausen.pdf [https://perma.cc/X4HN-SB9N] ("The criminal behind prison bars cannot harm those of us on the outside.").

256. 428 U.S. 153 (1976). On the one hand, the U.S. Supreme Court's decisions in *Roper*, *Graham*, and *Miller* weaken the argument that *Gregg* is a clear grant of power to legislators because there, the Court limited legislators' sentencing power based on differences between youth and adult defendants. On the other hand, the three youth cases covered extreme sentences and could be read as not affecting the rest of state mandatory minimums.

whether the death penalty was unconstitutional as used by the Georgia legislature.[257] The defendant was convicted of two counts of armed robbery and two counts of murder.[258] The defendant appealed, arguing that the death penalty in his case constituted cruel and unusual punishment.[259] In its analysis, the Court emphasized the role of the legislature in sentencing structures.[260] Legislators are able to consider all relevant information—such as scientific studies and the needs of their local community—"with a flexibility of approach that is not available to the courts."[261] The Court further noted that the judgment of courts was best informed in "narrow limits" and therefore not appropriate for determining sentencing structures.[262] Proponents thus argue that mandatory minimum sentences are the result of the legislature's complex factual analyses and that the job of determining sentencing should not be entirely turned over to the courts.[263]

Proponents of mandatory minimum sentences also claim that they reduce bias toward an individual because they ensure the punishment is based only on the crime and not on the individual.[264] David B. Muhlhausen, a former analyst at the Heritage Foundation, argues that disparities in sentences for similar crimes "violat[e] the offenders' and our sense of justice" and "undermine the rule of law."[265] Muhlhausen cites studies that demonstrated extensive disparities in sentencing, even when the defendants' verdicts or convictions were similar.[266] When sentencing disparities become too pronounced, concerns arise over whether there can be effective rehabilitation.[267]

III. ELIMINATION OF MANDATORY MINIMUM SENTENCES: A STEP IN THE RIGHT DIRECTION

This part argues in support of the Marvin Mayfield Act. Part III.A evaluates the arguments in support of and in opposition to mandatory minimum sentences. Part III.B offers additional recommendations for sentencing reform to complement the Marvin Mayfield Act.

257. *See id.* at 162.
258. *See id.* at 160.
259. *See id.* at 162.
260. *See id.* at 176 (noting that "specification of punishments . . . 'are peculiarly questions of legislative policy'" (quoting Gore v. United States, 357 U.S. 386, 393 (1958))).
261. *Id.* at 186.
262. *Id.* at 175 (quoting Dennis v. United States, 341 U.S. 494, 525 (1951) (Frankfurter, J., concurring)).
263. *See* Bernick & Larkin, *supra* note 111 ("Granting district courts some additional limited sentencing discretion would improve the status quo by eliminating some unjust sentences without obviously undercutting the incapacitative, deterrent, and educative benefits of the criminal law.").
264. *See* Muhlhausen Statement, *supra* note 255, at 3.
265. *See id.* at 3–4.
266. *See id.* at 4.
267. *See* Mistretta v. United States, 488 U.S. 361, 365 (1989).

A. The Incompatibility Between Young Adults and Old Sentencing Policies

This section presents arguments in support of the elimination of mandatory minimum sentences. First, Part III.A.1 addresses how mandatory minimum sentences are ineffective to serve their three main goals—deterrence, public safety, and bias elimination. Next, Part III.A.2 considers the role of legislators in sentencing schemes. Finally, Part III.A.3 addresses concerns about high-risk youth and community safety.

1. Counterproductive Consequences of Mandatory Minimum Sentences

The claim that mandatory minimum sentences have a deterrence effect for potential youth offenders is incorrect. Given the current understanding of brain development, mandatory minimums are ineffective at dissuading young adults from participating in criminal activities because young adults do not weigh risk and reward in the same way adults do.[268] Additionally, their ability to understand long-term consequences is impaired.[269] Therefore, even if young adults knew of the mandatory minimum sentence, their cognition prevents them from properly weighing these risks. This suggests that mandatory minimums are not an effective deterrent for youth offenders.

Mandatory minimums are also ineffective at increasing community safety. There is no dispute that incarceration removes someone from the community and makes it almost impossible for them to commit a crime and harm the community during their imprisonment. However, youth incarceration has clear adverse consequences for the individual and the community.[270] Incarceration in a youth detention center is linked to poor mental and physical health outcomes and decreased educational and employment outcomes.[271] There is evidence that incarceration is related to increased likelihood of reoffending in adulthood due to the normalization of violence,[272] stigma associated with involvement in the criminal legal system,[273] or another reason.[274] Additionally, studies show that as the length of incarceration increases, so does the rate of recidivism.[275] Mandatory minimum sentences

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268. *See* Steinberg & Scott, *supra* note 190, at 1012; *see also* Halpern-Felsher & Cauffman, *supra* note 199, at 257–58, 271 (finding that "there are important differences in decision-making competence between early adolescence and adults").

269. *See, e.g.*, Trujillo, *supra* note 53, at 240.

270. *See* Corriero, *supra* note 30, at 22 ("[W]hatever the symbolic gains from sentencing adolescents as adults, these gains are discounted if not reversed by increased public safety risks of substantial punishment of juveniles as adults." (quoting Jeffrey Fagan, *This Will Hurt Me More Than It Hurts You: Social and Legal Consequences of Criminalizing Delinquency*, 16 NOTRE DAME J.L. ETHICS & PUB. POL'Y 1, 28 (2002))).

271. *See* Ackerman, Magram & Kennedy, *supra* note 217, at 4–8.

272. *See* Corriero, *supra* note 30, at 22.

273. *See id.*

274. *See* Ackerman, Magram & Kennedy, *supra* note 217, at 8; *see also* MENDEL, *supra* note 26, at 4.

275. *See* MENDEL, *supra* note 26, at 4.

do not necessarily contribute to an increase in community safety in the long run because previously incarcerated youth are more likely to reoffend in adulthood.

It is also important to note how members of communities who have been the most impacted by violence respond to harsh prosecutorial policies. The communities that vote for reform prosecutors[276] include those with the highest rates of violence.[277] This indicates that the residents believe that harsh policies do not always serve their best interests, either because they do not feel safer or because they are unwilling to bear the costs associated with such policies.[278]

The third rationale for mandatory minimum sentences—that they reduce bias in sentencing—is an inaccurate description of how they impact the biases that youth offenders experience. Although mandatory minimums remove much of the discretionary power from judges, they place it with prosecutors instead.[279] For example, what prosecutors charge defendants with "determines the extent of the suspect's contact with the criminal justice system."[280] For youth defendants specifically, the possible sentences and the state's standard of proof about the defendant's potential for rehabilitation are predicated on the crime charged.[281] This shift in power is concerning because prosecutors are not "best equipped to make . . . diagnostic and rehabilitative judgments" for youth offenders.[282] Additionally, there is evidence that "social statuses (i.e., gender, ethnicity, and age) shape prosecutors' perceptions of blameworthiness and community protection."[283] These critical decisions, shaped by implicit or explicit biases, are essentially unreviewable.[284]

An additional concern regarding the power prosecutors hold relates to the plea bargaining process. Prosecutors have discretion over when to bargain and when to extend reasonable offers.[285] These decisions can directly reflect the prosecutor's view about which crimes and offenders deserve harsher

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276. *Defining the Role and Purpose of a Reform Prosecutor*, VAND. UNIV. L. SCH. (Dec. 3, 2024, at 09:17 ET), https://law.vanderbilt.edu/defining-the-role-and-purpose-of-a-reform-prosecutor/ [https://perma.cc/2EVL-56TB] (describing reform prosecutors as those who are "dedicated to improving the criminal justice system").

277. Sejla Rizvic, *The Big Idea: Local Politics, Reform Prosecutors, and Reshaping Mass Incarceration*, FORDHAM L. NEWS (Mar. 31, 2025), https://news.law.fordham.edu/blog/2025/03/31/the-big-idea-local-politics-reform-prosecutors-and-reshaping-mass-incarceration/ (on file with the *Fordham Law Review*).

278. *See id.*

279. *See* Ulmer, Kurlychek & Kramer, *supra* note 219, at 451 ("Our findings support the long-suspected notion that mandatory minimums are not mandatory at all but simply substitute prosecutorial discretion for judicial discretion."); *see also* Vorenberg, *supra* note 224, at 1521.

280. Vorenberg, *supra* note 224, at 1526.

281. *See supra* Part I.A; *see also supra* Part I.C.1 (discussing the importance of these decisions in *People v. K.S.*).

282. Vorenberg, *supra* note 224, at 1558.

283. Ulmer, Kurlychek & Kramer, *supra* note 219, at 452.

284. *See* DAVIS, *supra* note 228, at 5.

285. *See* Vorenberg, *supra* note 224, at 1533–34 (noting that prosecutors can "pick the types of offenses over which to bargain and the levels at which to charge, as long as the number of guilty pleas induced is sufficient to hold the volume of trials to manageable levels").

treatment.[286] Prosecutors can also use mandatory minimum sentences as leverage against young defendants.[287] These defendants have limited executive function and cannot comprehend long-term consequences in the same way adults can.[288] Mandatory minimum sentences give prosecutors additional influence over the possible outcome of the case, with clearly concerning effects.

Some supporters of mandatory minimum sentences argue that they tie the punishment to the crime and not the person.[289] However, the theory that the crime and the individual are distinct does not align with other structures in the criminal legal system.[290] For example, the system allows for consideration of mitigating and aggravating factors during sentencing, demonstrating a belief that some circumstances surrounding a crime make it more or less worthy of punishment.[291]

2. The Legislature's Role in Sentencing

Proponents of the argument that mandatory minimum sentences are appropriate because the legislature is in the best position to determine sentencing structures fail to consider two points. First, the U.S. Supreme Court decided *Gregg v. Georgia* almost thirty years before *Roper v. Simmons*. The Supreme Court declared certain legislative sentencing schemes unconstitutional based on the fundamental differences between youth and adult defendants in *Roper v. Simmons*, *Graham v. Florida*, and *Miller v. Alabama*.[292] These cases demonstrate that the Supreme Court's view—perceiving the legislature as the best body to make determinations about punishment—is not an absolute grant of discretion.[293] Second, it is

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286. *See id.* at 1534 (noting that a prosecutor can make plea-bargaining decisions that "reflect[] his own views or his appraisal of community sentiment").

287. *See* Ulmer, Kurlychek & Kramer, *supra* note 219, at 448 ("This suggests that prosecutors may use the threat of applying a longer mandatory sentence as a key piece of leverage to obtain guilty pleas.").

288. *See supra* Part II.A.

289. *See* Muhlhausen Statement, *supra* note 255, at 3.

290. Rachel Martin, *A Federal Judge Says Mandatory Minimum Sentences Often Don't Fit the Crime*, NPR (June 1, 2017, at 05:04 ET), https://www.npr.org/2017/06/01/531004316/a-federal-judge-says-mandatory-minimum-sentences-often-dont-fit-the-crime [https://perma.cc/S3JM-R2YY] ("Mandatory minimums support unwarranted uniformity by treating everyone alike even though their situations are dramatically different.").

291. *See* Steinberg & Scott, *supra* note 190, at 1010; *see also* John B. Meixner Jr., *Equality in Sentencing Mitigation*, 94 FORDHAM L. REV. 891, 893–96 (2025) (providing examples of mitigation in sentencing). The criminal legal system also provides for jury nullification, which is

> a jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself, or because the result dictated by law is contrary to the jury's sense of justice, morality, or fairness.

Jury Nullification, LEGAL INFO. INST., https://www.law.cornell.edu/wex/jury_nullification [https://perma.cc/7SNA-SX2X].

292. Roper v. Simmons, 543 U.S. 551, 571, 578 (2005); Graham v. Florida, 560 U.S. 48, 82 (2010); Miller v. Alabama, 567 U.S. 460, 479 (2012).

293. *See supra* Part I.B.3.

reasonable that legislators in New York, after reviewing research about youth brain development, determined that, although the legislature is usually the suitable institution to determine sentencing, youth sentencing requires something different. It is possible that legislators found that the variability of youth development renders bright-line rules unworkable and therefore that sentencing for youth is best left in the hands of judges and community sentencing programs.

Additionally, legislators could have determined that mandatory minimum sentences misallocate the error cost of determining sentence length for youth offenders. Proponents of mandatory minimum sentences assume that it is better to sentence a youth offender to an erroneously long sentence than to provide a sentence that is too short. However, evidence of the impact that incarceration has on young adults[294] demonstrates that this error cost allocation may be unreasonable. Eliminating mandatory minimum sentences would likely flip this error cost by decreasing the risk of overly long sentences for someone undeserving and increasing the risk of unsuitably short sentences. However, this approach would not preclude a judge from sentencing a defendant to a long sentence (at or beyond the current minimum sentence) if they think the case requires it.

3. Highlighting Humanity in Sentencing

As discussed in Part I.C, those sentenced in the Youth Part of the adult criminal court, and therefore subject to mandatory minimum sentences, fall into one of three categories. The first category is when the defendant is between the ages of thirteen and fifteen and the state charges them with an offense severe enough to designate them a juvenile offender.[295] The case remains in the Youth Part if the district attorney does not consent to removal to family court or the judge decides removal would not be in the interest of justice.[296] The second category is when the defendant is sixteen or seventeen years of age and charged with a nonviolent felony, but the judge has granted the district attorney's motion to keep the case in the Youth Part due to "extraordinary circumstances."[297] The third category is when the defendant is sixteen or seventeen years of age and the state has charged them with a violent felony.[298] The case remains in the Youth Part when the charge includes aggravating factors[299] or the district attorney "proves to the court that 'extraordinary circumstances' exist."[300] In all of these situations, the

294. *See, e.g.*, Ackerman, Magram & Kennedy, *supra* note 217.

295. This includes "all 13-, 14-, and 15-year-olds accused of murder, as well as 14- and 15-year-olds accused of rape, robbery, arson, burglary and other specified violent crimes." People v. K.S., 212 N.Y.S.3d 521, 523 (Sup. Ct. 2024).

296. *See supra* Part I.A.

297. *Adolescent Offenders*, N.Y. UNIFIED CT. SYS. (Dec. 23, 2019), https://nycourts.gov/courthelp/Criminal/adolescentOffender.shtml [https://perma.cc/AK2P-RLZQ].

298. *See id.*

299. *See id.* Aggravating factors include circumstances in which "the defendant displayed a firearm or deadly weapon" or "the defendant caused significant physical injury." *Id.*

300. *Id.*

court has the opportunity to consider mitigating factors—such as the minor's ability to be rehabilitated and whether the minor poses a danger to the community—when deciding whether the case should remain in the Youth Part.[301]

Despite the presence of aggravating factors or concerns about community safety, these children should not be subject to mandatory minimums for a variety of reasons. First, it is too difficult to determine which defendants will ultimately be a danger to the community.[302] Attempting to make this determination will likely result in false positives, with many young adults paying the price for the actions of a few.[303] Additionally, there are studies that "indicate that the callous-unemotional/psychopathic traits decrease with age in the majority of youth whether justice-involved or not."[304] Finally, it is important to recognize the humanity of youth offenders and to acknowledge that they deserve a system that does not routinely subject them to the damaging effects of incarceration. The concern noted in one of the first annual reports of the Society of the Reformation of Juvenile Delinquents in the City of New-York almost 200 years ago rings true today: "The vengeance of the law, when inflicted upon them as a terror to others, is altogether misplaced, and has neither vindication for its justice, nor apology for its severity."[305]

B. Looking Forward: A Community Endeavor

Eliminating mandatory minimum sentences through the Marvin Mayfield Act, while a good first step, is insufficient on its own to improve sentencing outcomes for youth defendants. Just as prosecutors may make decisions impacted by implicit or explicit biases,[306] judges may too.[307] Once mandatory minimum sentences are eliminated, additional safeguards must be put in place to help mitigate the effects of bias at both the prosecutorial and

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301. *See id.*

302. *See, e.g.*, Evan McCuish & Patrick Lussier, *Twenty Years in the Making: Revisiting Laub and Sampson's Version of Life-Course Criminology*, J. CRIM. JUST., Sep.–Oct. 2023, at 1, 1 (highlighting Professors Robert J. Sampson and John H. Laub's assertions that "early risk factors were not informative of adulthood informal social control, persistent offending, and the degree to which informal social control protects against later offending").

303. *See* Farber, *supra* note 10, at B11 (highlighting an interview with Merril Sobie, the New York Family Court executive officer from 1971 to 1975, in which Sobie noted the need to find a better way to "screen out the few whose extreme action warrants adult-criminal treatment" while not subjecting other young adults to the harsh treatment of the adult criminal system).

304. Casey et al., *supra* note 188, at 334.

305. MANAGERS OF THE SOC'Y FOR THE REFORMATION OF JUV. DELINQS. IN THE CITY OF N.Y., SECOND ANNUAL REPORT 6 (1827), https://babel.hathitrust.org/cgi/pt?id=chi.098619877&seq=12 (on file with the *Fordham Law Review*).

306. *See supra* Part III.A.

307. *See generally* Jeffrey J. Rachlinski & Andrew J. Wistrich, *Benevolent Sexism in Judges*, 58 S.D. L. REV. 101 (2021) (highlighting judicial sentencing disparities between genders).

judicial levels. Counties and states have begun to involve community members in diversion program decisions to address similar issues.

Officials in Schenectady County, New York, recently established a community-involved diversion program.[308] Prior to the program's implementation, only probation officers made decisions about which children were eligible for diversion programs.[309] The program changed this by involving social workers, behavioral health specialists, and youth service agency staff to "discuss[] challenges the young person faced that may have led to the arrest, and what other types of interventions might steer them away from crime."[310] The probation officers benefit from the involvement of other professionals; they are able to enhance their understanding of the young adult and offer services more connected to the individual.[311]

Although sentencing determinations are made after a plea or conviction, judges can still benefit from the input of similar professionals. This can help judges "deepen their understanding of a young person's circumstances,"[312] the dangers of incarceration, and potential bias in sentencing decisions.[313] This might allow judges to make more informed decisions specific to the individual and the community that would be more effective for all parties involved.

CONCLUSION

There are clear concerns with the use of mandatory minimums in youth sentencing. They are ineffective at deterring crime, reducing bias in the youth criminal legal system, and materially keeping communities safe. Additionally, there is strong evidence that demonstrates counterintuitive outcomes for youth who are incarcerated. The Marvin Mayfield Act would be a meaningful step to improve the lives of system-impacted youth.

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308. *See* Steven Yoder, *New York Tackles Racial Disproportionality in Juvenile Justice Decisions*, IMPRINT (Nov. 14, 2024, at 02:00 ET), https://imprintnews.org/top-stories/new-york-tackles-racial-disproportionality-in-juvenile-justice-decisions/256005 (on file with the *Fordham Law Review*).

309. *See id.*

310. *See id.*

311. *See id.*

312. *See id.* (describing similar benefits for probation officers from meeting with a multidisciplinary group comprising various professionals).

313. Diversion override rates decreased after a court organization informed judges that they were overriding recommendations for youth to participate in diversion programs at much higher rates for Black children than White children. *See* RICHARD A. MENDEL, SENT'G PROJECT, PROTECT AND REDIRECT: HOW TO REDUCE RACIAL AND ETHNIC DISPARITIES IN JUVENILE DIVERSION 3 (2024), https://www.sentencingproject.org/policy-brief/protect-and-redirect-how-to-reduce-racial-and-ethnic-disparities-in-juvenile-diversion/ [https://perma.cc/R92A-Y72T].