



Time for Change:

A National Scan and Analysis of Hybrid Justice Systems for Emerging Adults

By Selen Siringil Perker and Lael E. H. Chester

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EXECUTIVE SUMMARY



 COLUMBIA UNIVERSITY | JUSTICE LAB

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Foreword

by Bruce Western

The passage from adolescence to adulthood can be the most challenging stage of life. This time of transition often brings an independence and new social roles that are somehow more mature than childhood, but less responsible than full-fledged adulthood. Research shows that the path from adolescence to adulthood involves moving away from the company of family to the company of peers, from the school to wider social world, and all this happens when a young person's capacity for decision-making is still maturing. The tumult of emerging adulthood is vividly reflected in crime statistics that show risky and harmful behaviors peak in the middle and late teenage years.

Our courts, prisons, and social policy agencies are deeply familiar with the rocky path to adulthood. Throw in conditions of poverty, neighborhood segregation, underfunded schools, and overworked families, and the period of emerging adulthood can be even more perilous. Yet the design of our criminal justice institutions takes little account of how deeply unsettled life can be for young people, particularly in very poor communities. Institutional design often ignores the reality that young people are on a developmental pathway, in which their social supports will become more stable, their decision-making will improve, and successfully navigating this pivotal time of life will have long-lasting positive effects. At the same time, ignoring the developmental path and resorting to harsh punishment can be ruinous.

Over the last decade, a criminal justice policy movement has grown that begins to recognize the challenges of emerging adulthood. The

hallmarks of this movement are greater leniency shown in prosecution and sentencing for young people, a greater reliance on rehabilitative programming, and an extension of the tools of family court to people under adult criminal jurisdiction. These are the first steps towards a different kind of policy philosophy in which the main goal is helping young people move along the developmental pathway of the life course even when they make mistakes. After all, this is how we respond in affluent communities, when young people can make even serious mistakes but nevertheless have tremendous potential for great success.

This report from the Columbia Justice Lab's Emerging Adult Justice Project is the first to systematically document the existence of an emerging adult jurisdiction—hybrid systems that combine elements of the juvenile and adult criminal legal systems for youth navigating the transition to adulthood. The report highlights the key innovations in sentencing, court processing, and record protection, among others. These changes in policy are also relatively new and, as the report shows, there is still a long way to go. For advocates, policymakers and practitioners who want to support the success of young people contending with poverty, racism, and mass incarceration, this report is a critical resource. Through a careful review of statutory and institutional conditions, we can begin to define a different kind of policy paradigm that is geared towards human development and community investment rather than punishment.

Bruce Western is the Bryce Professor of Sociology and Social Justice and Director of the Justice Lab at Columbia University

Executive Summary

Emerging adults, defined as youth between the ages of 18 through 25 in this report, are in an important developmental stage of life, sometimes referred to as an “age of opportunity.” Yet emerging adults bear the brunt of mass incarceration in the United States. Spending these critical years in a system that causes trauma, harms their development, and imposes a lifelong criminal record severely damages their prospects. Recidivism is high for emerging adults, suggesting that the current system is ineffective for their personal growth and for public safety. Further, racial disparities among emerging adults are higher than for any other age group in the criminal legal system, which research shows cannot be explained by differences in behavior among peers of different race. Though this age group is overrepresented in the criminal legal system, emerging adults are remarkably malleable and most system-involved emerging adults will age out of crime shortly if given the opportunity to do so.

For all these reasons, the past decade has seen reform efforts to more effectively and fairly deal with emerging adults accused of breaking the law. This report reviews a unique systemic reform initiative in emerging adult justice: hybrid systems that create a

distinct path for emerging adults by lessening

some of the harm imposed by the adult system and extending some of the rehabilitative opportunities of the juvenile system to support the healthy transition to adulthood. In some jurisdictions, these hybrid systems are called “youthful offender” statutes. We reject that designation because of the obvious stigmatizing nature of the phrase; throughout the report we instead use the term “hybrid” to refer to these statutes, laws, or systems unless the report is referring to a specific jurisdiction’s law (e.g., New York’s Youthful Offender Law).

Hybrid systems create a distinct path for emerging adults by lessening some of the harm imposed by the adult system and extending some of the rehabilitative opportunities of the juvenile system to support the healthy transition to adulthood.

The detailed, comparative analysis in this report *excludes* two categories of policy initiatives often confused with hybrid systems for emerging adults. First, we excluded legal provisions that allow the application of some of the protections of the juvenile system to adolescents who were below the upper age limit of juvenile court at the time of allegedly committing an offense but who were made subject to the harsher treatment of the adult system often due to the “seriousness” of the alleged offense (these are often called “serious youthful offender,” “extended jurisdiction juvenile,” or “blended sentencing” laws). These “reverse hybrid systems,” as we prefer to call them, can only partially mitigate the harmful effects of subjecting youth to the harsh, punitive adult criminal legal system. As it is the international standard, we believe that all youth under at least age 18 should be treated in the juvenile justice system. Second, we excluded from our detailed analysis the isolated, specialized practices or provisions for emerging adults, such as specialized sentencing, corrections, or parole, that apply within only a segment of the adult legal system and fall short of creating a true hybrid “system.”

Our national scan revealed seven jurisdictions that have hybrid systems for emerging adults: Alabama, District of Columbia, Florida, Michigan, New York, South Carolina, and Vermont. After conducting the scan, we analyzed the key provisions of each of these hybrid statutes, reviewed the existing, publicly available (but scarce) data on system-involved emerging adults, and conducted virtual and in-person interviews with key stakeholders to better understand the practical application of the law and the experience of emerging adults in these jurisdictions. Combining the information gleaned from our research with the existing body of research on emerging adults’ developmental needs and the adult criminal legal system’s effect on young people, we offer key elements of a model hybrid statute to serve as a resource for states that wish to adopt or expand hybrid systems.

KEY PROVISIONS OF HYBRID STATUTES

MODEL AL DC FL MI NY SC VT

ELIGIBILITY - AGE

		At least	18	14	15	14	18	13	14	12
Lower Age Limit	Birthday at which a youth becomes eligible for the hybrid statute									
Upper Age Limit	Birthday up to which a youth remains eligible for the hybrid statute		26	21	25	21	26	19	25	22
No Age Tiers for Emerging Adults	Are different age groups within the emerging adult range treated the same under the hybrid statute?		✓	✓	✓	✓	✗	✓	✗	✓

ELIGIBILITY - OFFENSE

All Offenses Included	Are all offenses eligible under the hybrid statute for emerging adults?	✓	✓	✗	✗	✗	✗	✗	✗	✓
No Exclusion for Prior Case under Hybrid Statute	Can youth with a prior case under the hybrid statute be eligible again for a subsequent offense?	✓	✓	✓	✗	✓	✗	✗	✗	✓
No Exclusion for Other Criminal History	Are youth with any other criminal history eligible for the hybrid statute?	✓	✓	✓	✓	✗	✗	✓	✓	✓

APPLICATION

Juvenile Court	Does the juvenile court decide whether to apply the hybrid statute?	✓	✗	✗	✗	✗	✗	✗	✗	✓
Presumptive Application	Is the hybrid statute presumed to apply to youth who meet the eligibility requirements?	✓	✗	✗	✗	✗	✗	✗	✗	✗
Judge Initiates	Can the judge prompt application of the hybrid statute at own initiative?	✓	✓	✓	✓	✓	✓	✓	✓	✓
Prosecutor Initiates	Can the prosecutor initiate application of the hybrid statute?	✓	✓	✓	✓	✓	✓	✓	✓	✓
Youth Initiates	Can the youth (defense) request application of the hybrid statute?	✓	✓	✓	✓	✓	✓	✓	✓	✓
No Prosecutorial Consent Requirement	Can the determination of whether to apply the hybrid statute be made without the prosecutor's consent?	✓	✓	✓	✓	✗	✓	✓	✓	✓
Final Decision: Court	Does the court have the final decision on granting the application of the hybrid statute?	✓	✓	✓	✓	✓	✓	✓	✓	✓
Criteria in Statute	Does the hybrid statute explicitly set the criteria for granting its application?	✓	✗	✓	✗	✗	✓	✗	✗	✓

PROCEDURAL PROVISIONS

No Plea Requirement	Can youth be eligible for the hybrid statute without having to enter a plea of guilty?	✓	✓	✓	✓	✗	✓	✓	✓	✓
Closed Session	Are at least some proceedings for emerging adults under the hybrid statute closed to the public?	✓	✓	✗	✗	✓	✓	✗	✗	✓
Jury Trial	Is a jury trial allowed under the hybrid statute?	✓	✗	✓	✓	✗	✓	✓	✓	✗

SENTENCING PROVISIONS

Limits on Fines & Fees	Are fines and fees prohibited or limited for youth under the hybrid statute?	✓	✗	✗	✗	✗	✗	✗	✗	✓
Limits on Incarceration	Does the hybrid statute preclude or limit the length of a term of incarceration?	✓	✓	✗	✓	✓	✓	✓	✓	✓
Limits on Probation	Does the hybrid statute limit the length of a term of probation?	✓	✓	✗	✓	✓	✗	✓	✓	✓
Mandatory Minimums Obviated	Does the hybrid statute obviate mandatory minimum sentences for eligible youth?	✓	✓	✓	✓	✓	✓	✓	✓	✓

POST-SENTENCING PROVISIONS

Special Custody	Is there a specialized correctional unit for emerging adults incarcerated under the hybrid statute?	✓	✗	✗	✓	✓	✗	✓	✓	N/A
Juvenile Custody	Can emerging adults incarcerated under the hybrid statute be committed to juvenile corrections and avoid adult corrections?	✓	✗	✗	✗	✗	✗	✗	✗	N/A
Juvenile Probation	Can emerging adults placed on community supervision under the hybrid statute remain under the supervision of juvenile probation agency?	✓	✗	✗	✗	✗	✗	✗	✗	✓
Court Involvement	Does the court maintain jurisdiction and hear any alleged post-sentencing violations?	✓	✓	✓	✓	✓	✓	✗	✗	✓
Early Termination	Is there an opportunity to shorten the period of probation or confinement if the young person is doing well?	✓	✓	✓	✓	✓	✗	✓	✓	✓
Support Services	Does the hybrid statute require mandatory provision of support services to eligible youth?	✓	✗	✓	✓	✗	✗	✓	✓	✓

RECORD PROTECTION PROVISIONS

Automatic Record Protection	Can a youth automatically avoid a formal record of conviction if the term under the hybrid statute ends successfully?	✓	✓	✗	✗	✓	✓	✗	✓	✓
Other Record Protection	If it is not automatic, does the hybrid statute offer other means of record protection, such as a petition to expunge or seal records of a conviction?	✓	N/A	✓	✓	N/A	N/A	✓	✓	N/A

Hybrid statutes vary greatly by the degree of protections they offer and present themselves on a wide spectrum between the adult criminal legal systems and juvenile justice systems. This versatile nature of hybrid systems makes them an important tool in the toolbox of policymakers that seek to transform justice responses to emerging adults. Hybrid systems are associated with enhanced public safety as indicated in some studies by lower recidivism rates of impacted youth for weapon and violent offenses. Through record protection measures, hybrid systems reduce collateral effects of a criminal record, increase employment and community engagement opportunities for youth, and can meaningfully curb incarceration. A study of gun violence in Chicago, for example, showed that employment is the most important preventative factor to keep emerging adults from carrying guns.

Though hybrid statutes present many improvements, they do have drawbacks as we found during our in-depth study of seven hybrid systems. While we define emerging adulthood as ages 18 to 25, states vary in what ages their hybrid laws address and the reach of many hybrid systems are limited. Further, the application of these statutes relies heavily on judicial and/or prosecutorial discretion and leaves many emerging adults without the benefits of the hybrid system. It is imperative that hybrid systems be used and assessed in the larger context of developmentally appropriate justice mechanisms for emerging adults and not be relied on as a single silver bullet.

As states across the country consider passing or expanding hybrid statutes, it is important to evaluate change in the context of our growing knowledge of this developmental stage.

Our overarching recommendation for these jurisdictions is to fully embrace both goals of a hybrid system for emerging adults: (1) to reduce the harm of the adult criminal legal system, especially elements that drive mass incarceration and the pervasive racial, ethnic, economic, and other inequities

The versatile nature of hybrid systems makes them an important tool in the toolbox of policymakers that seek to transform justice responses to emerging adults.

that harm individuals, families, communities, and society as a whole, and (2) to support the successful transition to healthy adulthood.

Hybrid statutes should explicitly state these goals and should avoid approaches that have been proven ineffective and harmful, such as boot camps and shock incarceration. A hybrid statute should require collection, assessment, and reporting of data so that both the system actors and the public can evaluate how the hybrid systems are being implemented and whether the systems' goals are being achieved.

Successfully applying a hybrid statute requires that all key stakeholders be well-educated in youth development. This includes defense attorneys, prosecutors, judges, probation officers, and correctional staff. In some jurisdictions, there are community service providers who have a wealth of experience and expertise working with this distinct developmental age group. The system should seek their assistance in designing trainings for the various stakeholders, as well as working as partners in delivering developmentally appropriate and effective supports, services, and opportunities.

Our recommendations for key provisions of hybrid statutes can be summarized as follows:

1. AGE

We recommend that hybrid systems serve people between their 18th and 26th birthday, a range that scientific research shows is a key stage of ongoing development. And since this is a critical and prolonged developmental stage, imposing age-based tiers within this cohort for disparate treatment are not advised. In some states children under 18 are included in these laws as a strategy to ameliorate the harm they would suffer in the adult system. We recommend that instead anyone alleged to have broken the law at least before their 18th birthday remain under juvenile court jurisdiction without exceptions and benefit from the full protections offered in the juvenile delinquency system. We also recommend that eligibility for a hybrid statute go by age at the time of alleged offense, not age at the time of conviction.

2. OFFENSE

All offenses should be eligible for disposition through the hybrid system. The type of offense does not alter a young person's developmental stage and cannot predict future behavior.

3. APPLICATION

The decision to apply a hybrid law should be made in juvenile court, and judges should have clear criteria for applying the statute. Originating the case in juvenile court places the case with professionals better trained in youth development. Multiple parties (judge, prosecution, defense, and youth) should have the right to ask for the application of the hybrid statute. Victims should have the opportunity to be heard throughout the process.

4. PROCEDURAL PROVISIONS

Youth and emerging adults are particularly susceptible to the pressures of entering a guilty plea without adequately weighing the consequences or pursuing their due process rights. Under a model hybrid statute, eligibility is not contingent upon entering a plea, nor are young people obligated to waive their right to a jury trial. Because of the lifelong collateral consequences of system involvement, our model statute includes provisions to protect a youth's privacy, especially at the early stages of the legal proceedings when the application of the hybrid system is being considered.

5. SENTENCING PROVISIONS

Incarceration harms youth. More developmentally appropriate responses focus on effective supports, services, and opportunities available in the community. Therefore, in our model hybrid statute, mandatory minimums cannot be applied, and incarceration is limited (both the use of incarceration and the length of incarceration). Even probation can create barriers to experiences that support desistance, growth, and maturity. The use of probation, including the terms and length of time, should be appropriate for the developmental stage. Imposing fines and fees on emerging adults is counterproductive, as most are financially dependent on their families.

6. POST-SENTENCING PROVISIONS

Emerging adults should receive developmentally appropriate supports and, whenever possible, in the community. If incarcerated, they should have access to special education, vocational training, and the opportunity to stay connected to family and other loved ones. Such access is much more likely to happen in a well-run juvenile facility or a specialized unit. Likewise, juvenile probation officers will be better prepared to meet the needs of young people than officers trained in the supervision of adults. Continued judicial oversight is essential to ensure that emerging adults are receiving age-appropriate treatment. Positive incentives, rather than technical violations or the threat of revocation of hybrid status, should be used to promote compliance and support maturity.

7. RECORD PROTECTION

One of the main objectives of hybrid systems is to spare emerging adults the lifelong consequences of a criminal record. Record protection should be automatic. This will free emerging adults from barriers to housing, employment, education and more and thereby contribute to their healthy growth and desistance from crime.

Part I of this report provides an introduction to emerging adult justice and hybrid systems for emerging adults, summarizes our general findings, and identifies the key provisions of the seven hybrid systems. In addition, this section includes concrete recommendations for a model hybrid statute for emerging adults. *Part II* consists of reports for each of the seven hybrid systems with a detailed analysis of the key provisions of their hybrid statutes. Preceding *Part I* and each report in *Part II* is a poem by a currently or formerly incarcerated emerging adult.

A Youth's Outlook

By Robert aka Rah-Rah



I broke the law and accept what I've done
In return I get 9 years for a lighter that looked like a gun
Listen to the outlook from one of the blessed youth
I said the blessed youth
From the blessed youth that's been fed nothing but lies
Nowhere close to the truth
The things we took up are guns, knives and bats
Yeah, we be armed and strong
But how do you know it's not right if you're being taught wrong
Who cares enough to listen and slow down?
To understand the youth's struggle?
Who really, honestly wants to help?
Is it you?
I asked, is it you?
A youth's outlook is what I'm trying to share
A youth's outlook is priceless and rare
A youth's outlook should be carefully examined
A youth's outlook is like fire from a cannon
A youth's outlook from a young inquiring mind
A youth's outlook while locked up and doing time
One thing I ask of you before I end this
Listen
I just ask that you hear me out
Try to understand

Poetry courtesy of Free Minds Book Club & Writing Workshop (<https://freemindsbookclub.org>).
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