

RESOLUTION 12.2021-11 (A-22)
MINIMAL AGE OF JUVENILE JUSTICE JURISDICTION
IN THE STATE OF ILLINOIS

ISMS Board Action Taken on 06/25/2022

Adopted Resolution 12.2021-11 (A-22), as amended by the Medical Legal Council.

Medical Legal Council on Education & Health Workforce Recommendation to ISMS
Board on 06/25/2022

The Council previously reviewed this resolution at its January 2022 meeting. The Council was provided with a copy of Resolution 12.2021-11 (A-22), including the results of a member survey, a copy of the Consent by Minors to Health Care Services Act, a copy of the Emancipation of Minors Act, and two articles provided by the author: “Advocacy and Collaborative Health Care for Justice-Involved Youth” from the July 2020 American Academy of Pediatrics’ publication and “What Is the Relationship Between Incarceration of Children and Adult Health Outcomes?” from the 2018 Academic Pediatric Association’s publication. ISMS has no relevant policy on the matter.

The Council was informed that Illinois has an established process for reviewing criminal charges against minors that takes into consideration the maturity of the minor. Illinois has a number of laws allowing minors to receive services and make decisions including but not limited to an emancipation process at the age of 16. The author of the resolution participated in the Council’s review of the resolution. The Council heard an impassioned plea from the author for ISMS to take a stand. At the same time, the author recognized that more research was necessary.

With this information, the Council discussed the purpose of the resolution as being to support decriminalizing the actions of young children and to providing appropriate humane support in order to avoid measures such as the use of handcuffs and cages. Humane support would be a productive approach with positive mental and physical health outcomes for the very young of society. The Council decided it needed more information and directed to staff to do more research on the issue of minors’ involvement with the juvenile justice system and report back at the next meeting.

Staff research determined that 27 states, including Illinois, have no minimum age of juvenile adjudication. The National Governors Association provides a breakdown of the 50 states as follows:

39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70

Age	Jurisdiction
None specified	27 states: Alabama, Alaska, Delaware, Florida, Georgia, Hawai‘i, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Michigan, Missouri, Montana, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wyoming
6	1 state: North Carolina
7	2 states: Connecticut, New York
8	1 state: Washington
10	15 states and territories: American Samoa, Arkansas, Arizona, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin
11	1 state: Nebraska
12	3 states: California, Massachusetts, Utah

71 At its June meeting, the Council was informed that there is no clear international
72 standard regarding the age at which criminal responsibility can be reasonably imputed
73 to a juvenile, and there is a wide variation in minimum age of criminal responsibility
74 levels around the world. The United Nations Standard Minimum Rules for the
75 Administration of Juvenile Justice (The Beijing Rules) do not establish a minimum age
76 but provide that “In those legal systems recognizing the concept of the age of criminal
77 responsibility for juveniles, the beginning of that age shall not be fixed at too low an age
78 level, bearing in mind the facts of emotional, mental and intellectual maturity.”

79 The Council acknowledged that while prosecutors have discretion when considering the
80 charging of crimes, it expressed concern that the absence of a minimal age for juvenile
81 adjudication could result in very young children, such as six-year olds, to be brought
82 into the juvenile justice system at an inappropriate age. Additionally, the Council took
83 note that while The Beijing Rules do not set a minimum age, they set forth the
84 considerations when setting a minimum age, such as the emotional, mental and
85 intellectual maturity of the child. The Council considered the research performed by the
86 National Governors Association and took note that 15 states, including Wisconsin, set
87 the minimum age at 10 years old. The Council believes that an amended resolution is in
88 order.

89

90 The Council on Education & Health Workforce recommends that the ISMS Board of
91 Trustees adopt Resolution 12.2021-11 (A-22), as amended:

92

93 RESOLVED, that ISMS create a policy to establish minimal age of ~~12~~ 10 years
94 for juvenile justice jurisdiction in the State of Illinois; and be it further

95

96 RESOLVED, that ISMS introduce legislation to establish minimal age of ~~12~~ 10
97 for juvenile justice jurisdiction in the State of Illinois; and be it further

98

99 RESOLVED, that the ISMS delegation to AMA introduce such legislation at the
100 national level.