

A "juvenile" is a minor, which in most states is a person under the age of 18. When a juvenile violates a criminal statute, the consequences are usually very different from those if an adult broke the same law. Sometimes the Juvenile Court process is more lenient than the adult court, but sometimes it can be more onerous. A juvenile offender can find himself in Juvenile Court if he violates a criminal statute; that is, a state or federal law that allows for violators to be punished by a sentence to jail or prison.

Generally, there are three varieties of offenses: felonies, misdemeanors and infractions, though the terms for these three categories may differ from state to state. A felony is a crime that could result in an adult being sentenced to state prison, usually a sentence of over a year. Felonies include burglary, robbery, weapons assaults, violent sex crimes, murder, grand theft, and sale of any illegal drugs, to name a few.

Misdemeanors are less serious crimes, but can still result in a sentence of up to a year in the County Jail, if committed by an adult. Petty theft, possession of small amounts of marijuana, disorderly conduct, indecent exposure, less serious assaults, and drunk driving are generally misdemeanor offenses.

The jail and prison sentences for these crimes do not usually apply to a minor, because he or she cannot be found guilty of a "crime." However, a juvenile appearing in the Juvenile Justice system will be presented with "charges" of violating those criminal statutes, as grounds for invoking the Juvenile Court's authority over the minor. Once invoked, the Court has broad control over the juvenile's life.

Infractions are even less serious offenses than misdemeanors, and include any offense that cannot result in any jail time, but only a fine or administrative consequence. Examples are speeding, parking violations, or failing to comply with administrative regulations pertaining to your home, car or business.

When a juvenile commits a crime, he is charged by a probation officer or a prosecutor in a "civil" (ie, not criminal) petition, alleging that he is subject to the Court's Jurisdiction for having violated the statute. If the charges are proved in Juvenile Court, a judicial finding is made that the minor is subject to the Court's broad control and jurisdiction. The Court's powers include returning the minor home, imposing formal or informal probation; placement with foster care; enrollment in a special school for juvenile offenders, or even commitment to the State's Juvenile detention center, sometimes called "Juvenile Hall" or the "Juvenile Jail." This can continue until the minor comes of age, or even until the age of 21 or 25, depending on each state's laws. Some states have laws allowing that minors 14 or older committing very serious offenses may even be transferred to adult court and prosecuted and punished like an adult. It is therefore a mistake to take the Juvenile Court process lightly.

When a juvenile enters the justice system, special rules govern their case. Offenders typically enter the juvenile justice system if they have not yet reached 18 years of age, but this can vary based on the crime and its severity. Below you will find information on the juvenile justice system, and tips on specific issues in juvenile criminal cases.

The procedure and organization of the juvenile court system is different from the adult system. After committing an offense, juveniles are detained rather than arrested. Next, a petition is drawn up which outlines the jurisdiction authority of the juvenile court over the offense and detained individuals, gives notice for the reason for the court appearance, serves as notice to the minor's family, and also is the official charging document.

Once in court, the juvenile case is adjudicated, and a disposition is handed down. Records from juvenile courts are sealed documents, unlike adult records which are accessible by anyone under the Freedom of Information Act. Like diversion, this measure is designed to protect the juvenile so that one mistake does not follow the juvenile for life. Juvenile records may also be expunged upon the juvenile's eighteenth birthday provided the juvenile has met certain conditions, such as good behavior. Juvenile court procedure is also far less formal than adult court procedure.

The disposition of a juvenile case is based on the least detrimental alternative, so the legacy of *parens patriae* is still evident. However, one major controversy in juvenile dispositions is the use of indeterminate sentencing, which allows a judge to set a maximum sentence. In such cases, juveniles are monitored during their sentences and are released only when the judge is satisfied that they have been rehabilitated or when the maximum time has been served. Critics argue that this arrangement allows the judge too much discretion and is, therefore, not the least detrimental punishment.

Juvenile courts are typically organized in one of three ways:

- 1) as a separate entity
- 2) as part of a lower court, such as a city court or district court
- 3) as part of a higher court, such as a circuit court or a superior court

Whether you or a loved one is facing a felony, misdemeanor, or other crime--contact the Law Office of Michael J. Davis.

What are my rights?

You have the right to be given the Miranda Warning

You have the right to receive advance notice of the charges against you within a reasonable amount of time.
You have the right to have an attorney present during your hearing.
You have the right to a trial.
You have the right against self-incrimination.
You have the right to appeal your case and have an attorney appointed to assist you.

You have the right to be given the Miranda Warning

The warning informs you that (1) you have the right to remain silent; (2) anything you say can be used against you in court.

Sometimes the police will ask you to answer questions. You do not have to speak if you don't want to.

Whoever is questioning you may say any of the following to get your cooperation:

"If you answer truthfully, you can go home."
"If you tell what your friends did, nothing will happen to you."
"If you tell the truth, you don't need an attorney."
"If you don't confess, you can go to trial as an adult."

All of these situations depend on many factors besides whether you answer questions. You can't always waive your rights.
You have the right to receive advance notice of the charges against you within a reasonable amount of time.

You receive notice of the charges against you in the form of a complaint. The complaint must list all the charges against you.
You have the right to have an attorney present during your hearing.

Sometimes the court will ask you if you want to "waive counsel". Say NO to this question if you want an attorney.

You have the right to a trial.

At court you will be asked to admit or deny the charges against you. By admitting to the charges you

You have the right against self-incrimination.

This right means you do not have to say or do anything that helps the state prove its case against you.

You have the right to appeal your case and have an attorney appointed to assist you.

At the conclusion of your case, you have the right to appeal to a court of higher power. You have this

Q: At what age can a child be tried as an adult in Ohio and what is the process?

A: A child, defined as a person under age 18, can be tried as an adult only if the child was age 14 or older at the time of the offense. Nearly all such cases begin in juvenile court with a felony charge. The court must conduct hearings and make certain determinations before the child can be transferred to another court for trial. The process is sometimes referred to as bindover, transfer, waiver, or relinquishment proceedings. In some cases, the child must be tried as an adult. In others, the child can be tried as an adult only if the court orders it.

Q: When is trial as an adult required?

A: Trial as an adult is mandatory in certain very serious cases: (1) when the charge is aggravated murder or murder, and the child is 16 or 17 and has been committed to an Ohio Department of Youth Services (DYS) facility; and (2) when the charge is a certain serious felony offense, and the child is age 16 or 17 and either has previously been committed to a DYS facility or used a firearm while committing the offense. If the court finds that these conditions exist and that there is probable cause to believe that the child committed the offense, the child must stand trial as an adult. There are also other limited circumstances in which the child must stand trial as an adult.

Q: When can a court decide whether or not to try a child as an adult?

A: When the law does not require transfer, the court has a choice whether to try a child as an adult, but may do so only if the child was 14 years or older at the time of a felony offense. First, the court conducts a hearing to determine if there is probable cause that the child committed the offense. Next, the court orders an investigation, including a mental examination, and conducts another hearing, often called an “amenability” hearing, to decide whether or not the child is likely to be rehabilitated within the juvenile system, and whether or not the community’s safety requires that the child be subject to adult penalties. Some of the factors the court considers are age, physical and mental maturity, past attempts and future potential for rehabilitation, harm suffered by the victim, use of a firearm, and public safety.

Q: What happens after a juvenile court orders the child to stand trial as an adult?

A: After the transfer is ordered, the court will set the terms of bail and order custody of the child to be transferred to the custody of the appropriate authority. The juvenile court’s authority over that case is then terminated. Once tried and if convicted, any sentence of incarceration is to an adult facility. Likewise, any probation is supervised by probation officers who supervise adult offenders.

Q: Can other measures be taken when a youth commits a serious or violent offense?

A: If a child’s case remains in juvenile court, there are other alternatives. When there are multiple charges, the court may impose consecutive sentences in a secure DYS facility. If a firearm was used in the offense and specified in the complaint, the child must be committed to DYS and must serve additional time, ranging from one to five years, for using the firearm. Lastly, in certain circumstances, the court may impose a “serious youthful offender” (SYO) sentence in which a child is given a traditional juvenile sentence as well as an “adult” sentence that is “stayed” or delayed. The child may not have to serve the adult portion of the sentence at all if he or she successfully completes the juvenile portion of the sentence. If the child is older than age 14 and commits certain conduct or offenses while serving the juvenile portion of the SYO sentence (indicating that rehabilitation in the juvenile system is not likely), the child can be sentenced to an adult correctional facility or to adult probation.

Contact the Law Office of Michael J. Davis

To talk to Michael J. Davis about your legal concerns, please contact us by calling 513-604-8391 or emailing us at davislaw01@gmail.com

Michael J. Davis is located in Mason, Ohio, and serves clients throughout Ohio, including Lebanon, Maineville, Mason, Morrow, Springboro, South Lebanon, West Chester, Warren County, Butler County, Hamilton County, Clermont County and Clinton County, Ohio.