

Researchers seek juvenile justice alternatives for children under 12

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Dr. Elizabeth Barnert, left, and Laura Abrams are lead authors of a paper that advocates establishing a minimum-age threshold for prosecution in California's juvenile justice system. Credit: George Foulsham/UCLA

Although Laura Abrams and Dr. Elizabeth Barnert come from opposite ends of the UCLA campus, their work in their respective academic

professions meets at the intersection of health and juvenile justice.

A recent University of California study led by Abrams, professor of social welfare in the UCLA Luskin School of Public Affairs, and Barnert, an assistant professor of pediatrics in the David Geffen School of Medicine at UCLA, offers a powerful rationale for shielding children 11 years old and younger from prosecution and incarceration in the state's [juvenile justice](#) system.

"Children in the juvenile justice system literally meet the definition of children with [special health care](#) needs," said Barnert, who worked with Abrams as members of a team affiliated with the University of California Criminal Justice and Health Consortium. Prior to their study, which was recently published in International Journal of Prisoner Health, the issue in California was not on anyone's radar, they said.

"Kids in conflict with the law are kids that typically have unmet health needs. We see a lot of undiagnosed depression, ADHD and learning disabilities—or absentee parents who can't support their children due to working three jobs, deportation, imprisonment or substance abuse," Barnert said. "When we prosecute these children or lock them away, we're putting them in a system that traumatizes them further and often makes their problems worse."

The UCLA study brought together UC experts from [social welfare](#), medicine, psychology and psychiatry, law and criminology, as well as community partners from organizations such as the Children's Defense Fund-California and the National Center for Youth Law.

"Our findings provide a rationale for why California should have a minimum age for entering the juvenile justice system and why children 11 and younger should be excluded," Barnert said. "The study recommendations are based on international human rights standards,

guidelines from organizations like the American Academy of Pediatrics, and medical evidence that children's brains do not fully mature until their mid-20s."

Added Abrams: "The United Nations Convention on the Rights of the Child has established a standard on children in conflict with the law. The convention states that every country should have a minimum age of criminal responsibility, or what we refer to as a minimum age of juvenile justice jurisdiction. The United States does not have this type of law at the federal level, however, so it is up to the states to determine."

Abrams pointed out that protections for minors already built into current state law are based on the capacity or the intent to commit a crime, as well as the competency to stand trial. California's 58 counties, however, set many of their own juvenile probation standards. Therefore, "there's no way to insure, without a minimum-age law, that state laws around capacity and competency are being implemented fairly and without geographic or racial disparities. There is no statewide oversight of these mechanisms for protecting [children](#)," Abrams said.

Findings and recommendations from the UC study and related policy briefs prepared by the researchers include:

- Children should be held less culpable under criminal law, given their expected developmental immaturity, as repeatedly recognized in recent U.S. Supreme Court decisions.
- Children have a diminished capacity to make intentional decisions regarding participation in crimes or to understand that an act was morally wrong.
- Children have less developed abilities to understand court proceedings and meaningfully participate, emotionally or cognitively, in working with attorneys to wage their own defense.

California currently has no law that specifies a minimum age for prosecuting and imprisoning minors. But a new state senate bill, SB 439, which incorporates the research and recommendations in the UC study, would change that by amending sections 601 and 602 of the California Welfare and Institutions Code related to juvenile court jurisdiction. In particular, the bill would substitute current references to "any person under 18 years of age" with language specifying individuals "ages 12 to 18."

In its first hearing on April 4, the senate's committee on public safety passed the bill, which was then referred to the senate appropriations committee, the next step in the legislative process. The bill is part of a package of criminal justice reform bills put forth by the legislators in March.

Proposed amendments and revisions to SB 439 can be found [online](#).

More information: Elizabeth S. Barnert et al. Setting a minimum age for juvenile justice jurisdiction in California, *International Journal of Prisoner Health* (2017). [DOI: 10.1108/IJPH-07-2016-0030](https://doi.org/10.1108/IJPH-07-2016-0030)

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