

# Juvenile Justice in NC: A Historical Perspective

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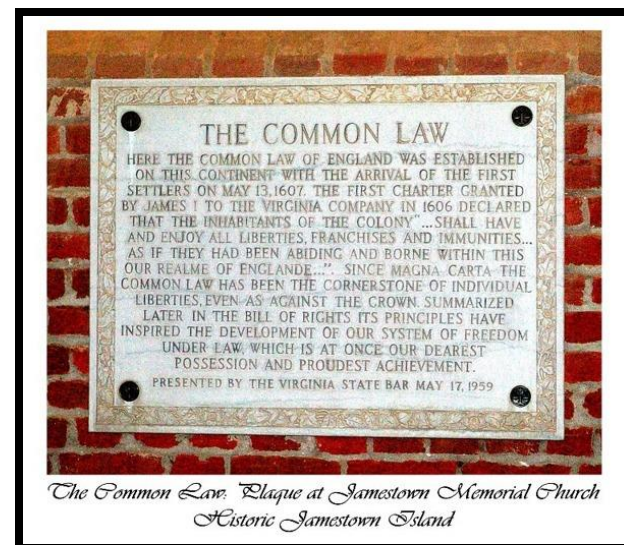


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# Early practice followed English common law:

- up to age 7 –  
conclusive presumption that child was incapable of criminal intent
- age 7 to 14 –  
rebuttable presumption that child incapable of criminal intent
- over age 14 –  
always prosecuted and punished as adult



# Treatment of Juveniles in Early America



- no separate court
- children treated much like adults

First special attention was in corrections:

- New York House of Refuge (1824)
- rehabilitation and discipline
- industrial and reform schools



## Illinois Juvenile Court - 1899

- 1<sup>st</sup> juvenile court in the world
- *Parens patriae* (state as parent) governed
  - “civil” and informal
  - rehabilitation and protective supervision
  - no constitutional legal rights
- followed by rapid increase of juvenile courts in early 20<sup>th</sup> century

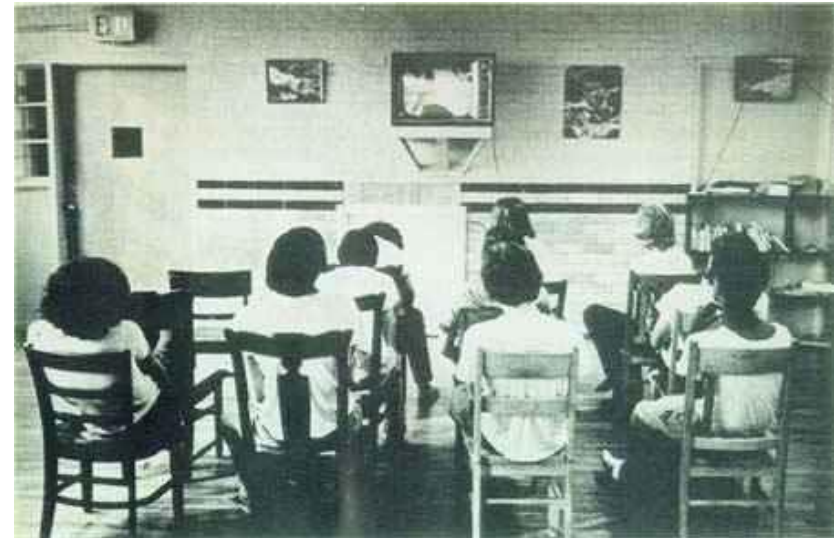
# Stonewall Jackson Manual Training and Industrial School

- Opened in 1909
- Youth still were tried in criminal court
- Judge could commit those under 16 for indefinite period of time



# 1915 – Probation Courts Act

- Relied on counties for funding
- Special jurisdiction for “delinquent” and “dependent” children under 18
- Separate juvenile probation and detention
- Separate and private trials
- Juvenile records
- Repealed in 1919



# “The Juvenile Court Statute of 1919”

## Public Laws 1919, Ch. 97

- “delinquent” defined as under age 16
  - proposed legislation recommended “under age 18”
- jurisdiction continued to age of majority
- at age 14 or 15, could be transferred to superior court for felony offense
- remained in effect for 50 years

# The 1919 Juvenile Court Act applied to children who were

- delinquent
- neglected
- dependent
- truant
- unruly
- wayward
- abandoned
- misdirected
- disobedient to parents or beyond their control
- destitute or homeless
- in danger of becoming so



# 1919 Juvenile Court Act

- In every case, the issue was:  
**“Is the child in need of the care, protection, or discipline of the state?”**
- In many respects, resembled later juvenile codes.
  - case initiated by juvenile petition
  - informal procedures
  - juvenile records were confidential



## 1919 to 1969: *Parens Patriae* Ruled

- Laws held constitutional
  - *State v. Burnett*, 179 N.C. 735 (1920)
- Juveniles viewed as wards of state
- Cases recognized as “civil,” not “criminal”
- Benevolent purposes used to justify
  - informality
  - broad judicial discretion
- Lawyers rarely involved



# U.S. Supreme Court

- 1966 **Kent v. U.S.**
  - due process in transfer hearing
  
- 1967 **In re Gault**
  - due process at adjudication
  - written notice to child and parents
  - right to counsel
  - privilege against self-incrimination
  - rights of confrontation, sworn testimony, cross-examination
  
- 1970 **In re Winship**
  - proof beyond a reasonable doubt



# Juvenile Code rewrites in 1970 and 1980

## Juvenile Code Versions

- *1919 Juvenile Court Statute*
  - Former G.S. 110-21 to 110-44 (Replacement Volume 1966)
- *1969 Revised Juvenile Code*
  - Former G.S. 7A-277 to 7A-289 and G.S. 110-21 to 110-24 (1969)
- *1979 Revised Juvenile Code*
  - Former G.S. 7A-516 to 7A-732 (Cum. Supp. 1979)

## Significant Changes

- due process protections
- cases more akin to “criminal”
- distinguished undisciplined and delinquent juveniles
- expanded dispositional options
- lowered undisciplined age to 16
- added emancipation and expungement

# 1994 Special Crime Session

1. Lowered from 14 to 13 the age at which
  - probable cause hearings required in all felony cases
  - transfer to superior court allowed
2. Allowed use of Class A – E felony adjudications in criminal cases,
  - under Rule 404(b) (other crimes, wrongs, acts)
  - as aggravating factor at sentencing



*1997-1998:  
Governor's Commission on Juvenile Crime and Justice*

- Governor's response to spike in juvenile crime
  - 172% increase in juvenile violent crime arrest rate from 1979 to 1996
  
- 61 recommendations designed to improve public safety and juvenile accountability
  - New Juvenile Code (Chapter 7B)
  
- Recommended that maximum age of juvenile jurisdiction remain at age 15
  - due to impact on already overburdened JJS

# 1999 Juvenile Code Revision

## G.S. Chapter 7B

- Separate subchapter for “delinquent and undisciplined” juveniles – Chapter 7B
- Restructured dispositional options
  - graduated sanctions similar to structured sentencing
- Raised undisciplined age back to 18
- Extended age of jurisdiction for dispositional purposes to age 21

# 2009 Governor's Crime Commission Juvenile Age Study

- Studied fiscal impact of raising maximum juvenile court age from 15 to 17
- Concluded that raising the age could result in a net benefit of \$7.1 million
  - reduced recidivism
  - reduced victim costs
  - greater earning potential for offenders w/o criminal records



# 2011 Youth Accountability Task Force

- Created by legislature to study raising juvenile delinquency age to include 16 & 17-year-olds
- Recommended raising age to 17 for misdemeanors and low-level felonies
- Estimated cost savings of \$52.3 million
- Two bills introduced
  - H 632
  - S 506



# U.S. Supreme Court

- **1989: Stanford v. Kentucky**

Capital punishment for crime committed at age 16 or 17 did not violate evolving standards of decency and did not constitute cruel and unusual punishment.

- **2005: Roper v. Simmons**

Death penalty for offenders who were under age 18 at the time of the crime is prohibited by Eighth and Fourteenth Amendments.

# U.S. Supreme Court

- **2010: Graham v. Florida**

Eighth Amendment prohibits sentencing an offender under age 18 at the time of crime to life without the possibility of parole for a non-homicide crime.

- **2011: J.D.B. v. North Carolina**

Age is a relevant factor in determining whether a juvenile is “in custody” for purposes of the *Miranda* custody analysis.

# U.S. Supreme Court

## – 2012: **Miller v. Alabama**

Eighth Amendment prohibits a sentence of *mandatory* life without parole for an offender under age 18 at the time of crime (for any offense).

- Cases reflect that Supreme Court has embraced the view that juveniles are categorically less culpable than adults and capable of change.

# Recent “Raise the Age” Bills

## 2013:

- H 725 (“Young Offenders Rehabilitation Act”)
  - to prosecute 16 and 17-year-olds in juvenile court for misdemeanors only
  - gradual increase over two years, starting 7/1/2016
  - Passed House by 77-39 bipartisan vote

## 2015:

- H 399
- same as 2013 bill

# Maximum Age Limit of Juvenile Court by State

- Age 15
    - NC and NY (\*NY has a “reverse waiver” law)
  - Age 16
    - GA, LA, MI, MO, SC, TX, WI
  - Age 17
    - all other states
- In 2014, NH became the most recent state to raise the maximum age to 17, effective 7/1/15.