

NATIONAL JUVENILE DEFENDER CENTER

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SENATE RESOLUTION IN SUPPORT OF *GAULT*

On June 8, 1964, fifteen-year-old Gerald Gault was accused of making a prank phone call to a female neighbor. Without ever receiving written notice of the charges against him, without formal process adhering to the rules of evidence, and without the benefit of an attorney to represent him, Gerald Gault was sentenced to state custody until his 21st birthday. Gerald Gault's challenge to this decision changed the course of legal history.

In 1967, the United States Supreme Court declared in *In re Gault* that all children have the right to counsel and due process protections in delinquency proceedings. Recognizing that kids are different, and that the judicial process must comprehend the unique nature of childhood and adolescence, the Court determined that adherence to due process principles is essential to protect a child's interests in delinquency proceedings.¹ Emphasizing that the "absence of substantive standards has not necessarily meant that children receive careful, compassionate, individualized treatment[.]" this landmark case forced states to put in place a process and system for delivering legal services for children, including the right to counsel.²

Since *Gault* was decided, Congress, national organizations and the judiciary have continued to recognize that access to counsel is a right, not a privilege. In 1974, Congress expressed its concern over the need to safeguard the rights of children in enacting the Juvenile Justice and Delinquency Prevention Act (JJDP). In reauthorizing the JJDP in 1992, 1996, and again in 2002, Congress re-emphasized the importance of defense counsel in juvenile delinquency proceedings. In an effort to establish the best juvenile justice system possible, the American Bar Association and the Institute of Judicial Administration researched and developed twenty-three volumes of juvenile justice standards and guidelines, which recognize that "[t]he participation of counsel on behalf of all parties subject to juvenile and family court proceedings is essential to the administration of justice and to the fair and accurate resolution of issues at all stages of those proceedings."³ In 2005, the National Council of Juvenile and Family Court Judges promulgated the *Juvenile Delinquency Guidelines*, holding delinquency judges responsible for providing children with access to counsel at every stage of the proceedings, from before the initial hearing through post-disposition and reentry.⁴

Despite the intentions of the United States Supreme Court, the Congress, and national organizations, the right to counsel in delinquency proceedings has yet to be fully realized. Many children still appear in court without meaningful access to well-resourced, well-trained legal counsel. Too many appear with no counsel at all. Yet, the importance of effective juvenile defense counsel has never been more important than it is today. Children are now subject to increased sanctions, longer sentences, harsher conditions, zero tolerance mandates, the erosion of confidentiality protections, transfer to adult court, and life sentences without the possibility parole. Additionally, children face tragic collateral consequences, including mandatory registration on lifelong sex offender registries, preclusion from public housing and military enrollment, and denial of employment opportunities and federal loans. These laws and policies have had a particularly negative impact on children of color, drawing large numbers of poor and minority children deeper into the justice system. Justice requires that children have high quality counsel to protect their rights in the face of these overwhelming consequences.

While improvements have occurred since *Gault*, we still have a long way to go. This Senate Resolution serves as an important renewal of our commitment to continue and build on the legacy of *Gault*, and to address the modern-day disparities that remain.

¹ *In re Gault*, 387 U.S. 1, 36 (1967).

² *Id.* at 18.

³ IJA/ABA *Juvenile Justice Standards, Standards Relating to counsel for Private Parties* 1.1 (1979).

⁴ See *Juvenile Delinquency Guidelines*, National Council of Juvenile and Family Court Judges (2005).

**The Following Organizations Have Signed On In Support of S. Res. 194
40th Anniversary of *In re Gault***

International

Penal Reform International, Washington, DC

National Organizations

Alliance for Justice, Washington, DC

American Civil Liberties Union, Washington, DC

Campaign for Youth Justice, Washington, DC

Center for Children's Law and Policy, Washington, DC

Child Welfare League of America, Washington, DC

Coalition for Juvenile Justice, Washington, DC

Council of Juvenile Correctional Administrators, Braintree, MA

Human Rights Watch, Los Angeles, CA

Justice Policy Institute, Washington, DC

Juvenile Law Center, Philadelphia, PA

Legal Action Center, Washington, DC

National Association of Counsel for Children, Denver, CO

National Association of Criminal Defense Lawyers, Washington, DC

National Center for Lesbian Rights, San Francisco, CA

National Center for Youth Law, Oakland, CA

National H.I.R.E. Network, New York, NY

National Immigration Project of the National Lawyers Guild, Boston, MA

National Juvenile Justice Network, Washington, DC

National Youth Advocate Program, Augusta, GA and Hilliard, OH

New Mexico Council on Crime and Delinquency, Albuquerque, NM

The National Youth Justice Alliance, Washington, DC

Southern Poverty Law Center, Montgomery, AL

Youth Law Center, San Francisco, CA

W. Haywood Burns Institute, San Francisco, CA

State & Local Organizations

19th Circuit Public Defender, Fort Pierce, Stuart, Vero Beach, Okeechobee, FL

Alabama Youth Justice Coalition, Montgomery, AL

Barton Child Law and Policy Clinic at Emory Law School, Atlanta, GA

Barton Juvenile Defender Clinic, Emory University School of Law, Atlanta, GA

Brooks Law Group, PLLC, New Orleans, LA

Center for Children's Advocacy, University of Connecticut School of Law,
Hartford, CT

Carey & Lillevick, PLLC, Seattle, WA

Center for Children, Law & Policy at the University of Houston Law Center,
Houston, TX

Center for Children & Youth Justice, Seattle, WA

Center for Community Alternatives, New York, NY

Center for Juvenile Law and Policy, Los Angeles, CA
Central Juvenile Defender Center, Covington, KY
Children and Family Justice Center, Northwestern University School of Law,
Chicago, IL
Children's Action Alliance, Phoenix, AZ
Children's Law Center, Inc., Covington, KY
Children's Law Center of Massachusetts, Lynn, MA
Civitas Child Law Center, Loyola University Chicago School of Law, Chicago, IL
Clark County Public Defender's Office, Juvenile Division, Las Vegas, NV
Cohen & Iaria, Seattle, WA
Connecticut Juvenile Justice Alliance, Bridgeport, CT
Defender Association of Philadelphia, Philadelphia, PA
Department of Public Advocacy, Frankfort, KY
Ella Baker Center, Books Not Bars Campaign, Oakland, CA
Franklin County Public Defender Office, Columbus, OH
Georgetown Law Center, Juvenile Justice Clinic, Washington, DC
Goodhope Youth Home, Inc., Trumansburg, NY
Harvard Law School, Criminal Justice Institute, Cambridge, MA
Illinois Juvenile Justice Initiative, Evanston, IL
Just Children Program of the Legal Aid Justice Center, Charlottesville, VA
Justice First, LLP, Oakland, CA
Juvenile Justice Advocacy Alliance, Cleveland, OH
Juvenile Justice Center, Suffolk University Law School, Boston, MA
Juvenile Justice Coalition, Bath, OH
Juvenile Justice Project of Louisiana, New Orleans, LA
Law Office of the Montgomery County, Ohio, Public Defender, Dayton, OH
Legal Aid Society, New York, NY
Legal Services for Children, San Francisco, CA
Legal Services for Prisoners with Children, San Francisco, CA
Louisville-Jefferson County Public Defender Corporation, Louisville, KY
Marion County Public Defender Agency, Indianapolis, IN
Michigan Council on Crime and Delinquency, Lansing, MI
Mid-Atlantic Juvenile Defender Center, Richmond, VA
Midwest Juvenile Defender Center, Chicago, IL
New England Juvenile Defender Center, Montpelier, VT
New Jersey Office of the Child Advocate, Trenton, NJ
New Mexico Public Defender Office, Las Cruces Juvenile Division, Las Cruces,
NM
North East Ohio Health Services, Beachwood, OH
Northeast Juvenile Defender Center, Philadelphia, PA
Office of the Ohio Public Defender, Columbus, OH
Pacific Juvenile Defender Center, CA / HI
Public Defender Service of the District of Columbia, Washington, DC
Puerto Rico Legal Aid Society, San Juan, Puerto Rico
Robert F. Kennedy Children's Action Corps, Inc., Boston, MA
Southern Juvenile Defender Center, Montgomery, AL

Southwest Juvenile Defender Center, Houston, TX
Texas After Violence Project, Austin, TX
The Children's Law Center, Washington, DC
The Maya Angelou Public Charter School, Washington, DC
The Pendulum Foundation, Denver, CO
The Stand Down Texas Project, Austin, TX
Urban Alliance Foundation, Washington, DC
Washington Association of Criminal Defense Lawyers, Seattle, WA
Washington Defender Association, Seattle, WA
Washington Jesuit Academy, Washington, DC
Western Juvenile Defender Center, Las Vegas, NV
Wisconsin State Public Defender Agency, Madison, WI
Voices for Ohio's Children Juvenile Justice Initiative, Cleveland, OH
Yakima County Department of Assigned Counsel, Yakima, WA

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