

# The Southern Center for Human Rights

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## **Statement from the Southern Center for Human Rights on the 2008 Kids Count Essay**

Atlanta, GA—It is encouraging to see that by *the 2008 Kids Count Essay “A Roadmap to Juvenile Justice Reform”*, Georgia has made some progress in measures that impact the well-being of children. We support Georgia’s continued efforts to ensure that all children are treated fairly and are provided a safe environment in which to transition into adulthood. And when youth are confronted with the juvenile justice system, happens at a rate higher than the national average in the state of Georgia, our hope is that Georgia’s legislators use the most extensive and comprehensive research available to handle the thousands of youth that are committed to custody each day.

However, our concern is that Georgia continues to enact legislation like SB440, which promotes the practice of trying and incarcerating large numbers of youth in the adult criminal justice system. This is uninformed and dangerous policymaking that ignores research that has shown conclusively that laws like these are harmful to children and damaging to communities. While the misuse of any form of incarceration for youth is troubling, placing youth in the adult criminal justice system specifically denies them protection from adult prisoners, age appropriate educational, medical, nutritional and mental health services that would enhance their transition to adulthood, and ensure their best chance for rehabilitation. Nearly 60% of the youth arrested under SB 440 were age 15 or younger.

Children are not safe in the adult corrections system. Youth incarcerated with adults are 5 times more likely to be sexually assaulted, and 8 times more likely to commit suicide than youth held in juvenile justice facilities.

Furthermore, as alluded to in the 2008 Kids Count essay, these laws ignore their racially disproportionate impact and have allowed unequal justice to persist in the Georgia courts. African American and Latino youth are 45% of Georgia’s youth population, but comprise 77.2% of the youth arrested under laws like SB 440.

There are reasons why children can’t vote, drink or engage in contracts—they think and act differently—like children. A recent study found that a third of children aged 11 through 13, and a fifth of those aged 14 or 15, understood legal matters at a similar level as mentally-ill adults who have been found incompetent to stand trial. This report showed that the transfer of children into the adult criminal justice system almost surely leads to the adult prosecution of children who are not even competent to stand trial.

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The inability of adolescents to make reasoned decisions and to communicate effectively greatly impedes their ability to participate in the criminal justice process, including

communicating with their attorney or understanding concepts such as their Miranda rights.

Let's enact legislation that demands that the criminal justice system starts treating children like children. The people of Georgia clearly believe that the state's criminal justice system should treat youth offenders differently than adult offenders. A whopping 81% of Georgians support allowing judges greater flexibility when sentencing youth rather than applying mandatory sentences used for sentencing adult offenders.

While the adult system tends to emphasize punishment over rehabilitation, rehabilitation is at the core of the mission of the juvenile justice system. And research shows that children can change.

The Kids Count Essay says our nation's current approach to juvenile justice is costly, discriminatory, dangerous, and ineffective. We know there are less costly and more effective ways to promote public safety, and provide youth a chance at rehabilitation. Once a kid enters the adult criminal justice system, he loses all chances of being rehabilitated. Policymakers must return original jurisdiction to juvenile court to decide when a child should be tried and sentenced as an adult, with a juvenile court judge deciding after a full hearing whether a child should be transferred to the adult criminal justice system. And when we must incarcerate our children, whether tried as juveniles or adults, it must be done in a juvenile facility.

This is Georgia's chance to view the 2008 Kids Count Essay recommendations as a blueprint for building an effective justice system for youth which requires more than reducing transfers to adult courts or raising the age of majority. It also requires recognizing that children are children and are incapable of understanding complicated legal processes that leaves most adults vulnerable and incompetent. And we must insist that our children are given the chance to become contributing, law-abiding adults.

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### **Southern Center for Human Rights**

The Southern Center for Human Rights is a non-profit, public interest law firm dedicated to enforcing the civil and human rights of people in the criminal justice system in the South.