

No. 08-7621

In The
Supreme Court of the United States

—————◆—————
JOE HARRIS SULLIVAN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

—————◆—————
**On Writ Of Certiorari To The
District Court Of Appeal Of Florida,
First District**

—————◆—————
BRIEF FOR PETITIONER

—————◆—————
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QUESTION PRESENTED

In all of the United States, only nine human beings are incarcerated under sentences of life imprisonment without the possibility of parole for crimes committed at or before the age of 13. Only two of them are serving this sentence for non-homicide crimes, both in Florida. Petitioner Joe Sullivan is one of the two. The rarity of this kind of punishment for the Nation's youngest teenagers is demonstrated by the fact that, even when sentences for crimes committed by 14-year-olds are added, only 73 individuals in the United States are being held in prison for the remainder of their lives with no chance of ever being considered for release on parole. Is Joe Sullivan's sentence a cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments?

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ABA Model Rules of Professional Conduct, Rule 1.2(a).....	39
Jeffrey Arnett, <i>Reckless Behavior in Adolescence</i> , 12 Dev. Rev. 339 (1992).....	23
Laura A. Bazelon, <i>Note: Exploding the Super-predator Myth: Why Infancy Is the Preadolescent’s Best Defense in Juvenile Court</i> , 75 N.Y.U. L. Rev. 159 (2000).....	45
William J. Bennett, John J. DiIulio, Jr., & John P. Walters, <i>Body Count: Moral Poverty – And How to Win America’s War Against Crime and Drugs</i> (1996)	54
Lisa S. Beresford, <i>Is Lowering the Age at Which Juveniles Can Be Transferred to Adult Criminal Court the Answer to Juvenile Crime?</i> , 37 San Diego L. Rev. 783 (2000).....	45
Christine Branche et al., <i>Graduated Licensing for Teens</i> , 30 J.L. Med. & Ethics 146 (2002)	18

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Elizabeth Cauffman & Laurence Steinberg, <i>(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults</i> , 18 Behav. Sci. & Law 741 (2000)	15
Sacha Coupet, <i>What to Do with the Sheep in Wolf's Clothing: The Role of Rhetoric and Reality About Youth Offenders in the Constructive Dismantling of the Juvenile Justice System</i> , 148 U. Pa. L. Rev. 1303 (2000).....	45
Death Penalty Information Center, <i>Size of Death Row By Year</i> , http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year	52
Connie De La Vega & Michelle Leighton, <i>Sentencing Our Children to Die in Prison: Global Law & Practice</i> , 42 U.S.F. L. Rev. 983 (2008)	55
John J. DiIulio, <i>My Black Crime Problem, and Ours</i> , City Journal (1996).....	54
Steven A. Drizin & Richard A. Leo, <i>The Problem of False Confessions in the Post-DNA World</i> , 82 N.C. L. Rev. 891 (2004).....	40
Equal Justice Initiative, <i>Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison</i> (2007)	50, 51, 53, 54
G.A. Res. 61/146, ¶ 31(a), UN Doc. No. A/Res/61/146 (Dec. 19, 2006).....	56

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Charles Geier & Beatriz Luna, <i>The Maturation of Incentive Processing and Cognitive Control</i> , 93 <i>Pharmacol. Biochem. Behav.</i> 212 (2009).....	12, 17, 19
Jay N. Giedd, <i>Structural Magnetic Resonance Imaging of the Adolescent Brain</i> , 1021 <i>Annals N.Y. Acad. Sci.</i> 77 (2004).....	16, 17
Jay N. Giedd et al., <i>Brain Development During Childhood and Adolescence: A Longitudinal MRI Study</i> , 2 <i>Nature Neurosci.</i> 861 (1999)	17
Thomas Grisso et al., <i>Juveniles' Competence to Stand Trial</i> , 27 <i>L. & Hum. Behav.</i> 333 (2003)	39
Thomas Grisso, <i>The Competence of Adolescents as Trial Defendants</i> , 3 <i>Psychol. Pub. Pol'y & L.</i> 3 (1997).....	40
Samuel R. Gross et al., <i>Exonerations in the United States: 1989 Through 2003</i> , 95 <i>J. Crim. L. & Criminology</i> 523 (2005).....	40
Bonnie L. Halpern-Felsher & Elizabeth Cauffman, <i>Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults</i> , 22 <i>J. Applied Dev. Psychol.</i> 257 (2001).....	15, 17
Human Rights Watch, <i>The Rest of Their Lives: Life Without Parole for Youth Offenders in the United States in 2008</i> (2008)	60
Ann E. Kelley et al., <i>Risk Taking and Novelty Seeking in Adolescence</i> , 1021 <i>Annals N.Y. Acad. Sci.</i> 27 (2004).....	19

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Catherine C. Lewis, <i>How Adolescents Approach Decisions</i> , 52 <i>Child Dev.</i> 538 (1981)	15
B. Luna, <i>The Maturation of Cognitive Control and the Adolescent Brain</i> , in <i>From Attention to Goal-Directed Behavior</i> 249 (F. Aboitiz & D. Cosmelli eds., 2009).....	15, 16
Beatriz Luna & John A. Sweeney, <i>The Emergence of Collaborative Brain Function</i> , 1021 <i>Annals N.Y. Acad. Sci.</i> 296 (2004)	17
Leon Mann et al., <i>Adolescent Decision-Making</i> , 12 <i>J. Adolescence</i> 265 (1989)	15, 20
Marc Mauer et al., <i>The Meaning of “Life”: Long Prison Sentences in Context</i> (2004)	44
Anne T. McCartt et al., Insurance Institute for Highway Safety, <i>Graduated Licensing Laws and Fatal Crashes of Teenage Drivers: A National Study</i> (2009).....	18
NetLingo.com, <i>List of Acronyms & Text Message Shorthand</i> , http://www.netlingo.com/acronyms.php (last visited July 15, 2009)	14
Jari-Erik Nurmi, <i>How Do Adolescents See Their Future? A Review of the Development of Future Orientation and Planning</i> , 11 <i>Dev. Rev.</i> 1 (1991)	15, 22, 23, 24
Office of Juvenile Justice & Delinquency Prevention, U.S. Dep’t of Justice, <i>Juvenile Justice: A Century of Change</i> (1999)	45

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Richard A. Posner & Katharine B. Silbaugh, <i>A Guide to America's Sex Laws</i> (1996).....	31
Allison S. Redlich & Gail S. Goodman, <i>Taking Responsibility for an Act Not Committed: The Influence of Age and Suggestibility</i> , 27 L. & Hum. Behav. 141 (2003).....	40
N. Dickon Reppucci, <i>Adolescent Development and Juvenile Justice</i> , 27 Am. J. Community Psychol. 307 (1999)	20, 21, 22
Tracy Rightmer, <i>Arrested Development: Juveniles' Immature Brains Make Them Less Culpable Than Adults</i> , 9 Quinnipiac Health L.J. 1 (2005).....	17
Christine S. Scott-Hayward, <i>Explaining Juvenile False Confessions: Adolescent Development and Police Interrogation</i> , 31 Law & Psychol. Rev. 53 (2007)	40
Daniel Seagrave & Thomas Grisso, <i>Adolescent Development and the Measurement of Juvenile Psychopathy</i> , 26 L. & Hum. Behav. 219 (2002).....	21, 22, 23
Elizabeth R. Sowell et al., <i>In Vivo Evidence for Post-Adolescent Brain Maturation in Frontal and Striatal Regions</i> , 2 Nature Neurosci. 859 (1999).....	17

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Elizabeth R. Sowell et al., <i>Localizing Age-Related Changes in Brain Structure Between Childhood and Adolescence Using Statistical Parametric Mapping</i> , 9 <i>NeuroImage</i> 587 (1998).....	17
L.P. Spear, <i>The Adolescent Brain and Age-Related Behavioral Manifestations</i> , 24 <i>Neurosci. & Biobehav. Rev.</i> 417 (2000)	12, 14, 20, 21
Laurence Steinberg, <i>Adolescent Development and Juvenile Justice</i> , 5 <i>Ann. Rev. Clinical Psychol.</i> 459 (2009)	13, 25, 61
Laurence Steinberg, Sandra Graham et al., <i>Age Differences in Future Orientation and Delay Discounting</i> , 80 <i>Child Dev.</i> 28 (2009)	25, 38, 59
Laurence Steinberg, <i>A Social Neuroscience Perspective on Adolescent Risk-Taking</i> , 28 <i>Dev. Rev.</i> 78 (2008)	16, 18, 20, 23
Laurence Steinberg, Elizabeth Cauffman et al., <i>Age Differences in Sensation Seeking and Impulsivity as Indexed by Behavior and Self-Report</i> , 44 <i>Dev. Psychol.</i> 1764 (2008).....	13, 25, 59, 61
Laurence Steinberg & Kathryn C. Monahan, <i>Age Differences in Resistance to Peer Influence</i> , 43 <i>Dev. Psychol.</i> 1531 (2007)	25, 59
Laurence Steinberg, <i>Risk-Taking in Adolescence: New Perspectives from Brain and Behavioral Science</i> , 16 <i>Current Dir. Psychol. Sci.</i> 55 (2007)	16, 19, 20

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Laurence Steinberg, <i>Risk Taking in Adolescence: What Changes and Why</i> , 1021 <i>Annals N.Y. Acad. Sci.</i> 51 (2004)	21
Laurence Steinberg & Elizabeth S. Scott, <i>Less Guilty by Reason of Adolescence</i> , 58 <i>Am. Psychologist</i> 1009 (2003)	17, 26, 27
Laurence Steinberg & Elizabeth Cauffman, <i>Maturity of Judgment in Adolescence</i> , 20 <i>L. & Hum. Behav.</i> 249 (1996).....	22
Laurence Steinberg & Susan B. Silverberg, <i>The Vicissitudes of Autonomy in Early Adolescence</i> , 57 <i>Child Dev.</i> 841 (1986)	20
Victor L. Streib, <i>Death Sentences and Executions for Juvenile Crimes, January 1, 1973 – September 30, 2004</i> (2004).....	52
David S. Tanenhaus & Steven A. Drizin, “ <i>Owing to the Extreme Youth of the Accused</i> ”: <i>The Changing Legal Response to Juvenile Homicide</i> , 92 <i>J. Crim. L. & Criminology</i> 641 (2002)	46
U.N. Convention on the Rights of the Child, Art. 37, Nov. 20, 1989, 1577 <i>U.N.T.S.</i> 3, 28 I.L.M. 1448 (entered into force Sept. 2, 1990)	56
U.N. Committee Against Torture, 36th Sess., <i>Conclusions and Recommendations on the United States of America</i> , ¶ 34, U.N. Doc. No. CAT/C/USA/CO/2 (July 25, 2006)	56

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OPINIONS BELOW

The decision of the District Court of Appeal of Florida, First District, is a *fiat* order reported at 987 So. 2d 83 (table). It appears in the Joint Appendix at J.A. 73. That court's denial of rehearing, rehearing en banc, and certification to the Florida Supreme Court is unreported. It is found at J.A. 74. The order and judgment of the Circuit Court of Florida for the First Judicial Circuit is unreported and is reproduced at J.A. 54-72.



JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257(a). The judgment of the District Court of Appeal was entered June 17, 2008. On August 6, 2008, that court denied a timely motion for rehearing, rehearing en banc, and certification to the Supreme Court of Florida. Because the district court of appeal affirmed without opinion, Florida law did not permit further review. *Jackson v. State*, 926 So. 2d 1262, 1265 (Fla. 2006). On October 22, 2008, Justice Thomas extended the time for filing a petition for certiorari until December 4, 2008. The petition was filed on that date.



RELEVANT CONSTITUTIONAL PROVISIONS

The Eighth Amendment to the Constitution provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Fourteenth Amendment to the Constitution provides in pertinent part:

No State shall . . . deprive any person of life, liberty, or property, without due process of law. . . .



STATEMENT OF THE CASE

Joe Sullivan was arrested in 1989 at the age of 13 and indicted as an adult¹ for sexual battery in Florida. J.A. 1, 21, 26. After a one-day trial, he was convicted by a six-person jury and sentenced to life imprisonment with no possibility of parole. J.A. 4, 62-63, 69. He was sent to state prison. J.A. 66, 69. Appointed appellate counsel filed an *Anders*² brief and withdrew.³ The Florida First District Court of

¹ Florida law requires direct indictment in adult criminal court of a child of any age charged with a serious felony. Fla. Stat. Ann. § 985.56(1) (codified in 1989 at Fla. Stat. § 39.02(c)(1)).

² *Anders v. California*, 386 U.S. 738, 744 (1967).

³ *Sullivan v. State*, No. 1D90-190 (Fla. Dist. Ct. App.) (docket entry for Dec. 4, 1990), available at <http://199.242.69.70/>

(Continued on following page)

Appeal affirmed the conviction without opinion. *Sullivan v. State*, No. 1D90-190, 580 So. 2d 755 (table) (Fla. Dist. Ct. App. May 22, 1991). The Florida Supreme Court dismissed review without opinion. *Sullivan v. State*, No. 78,050, 583 So. 2d 1037 (table) (Fla. June 12, 1991).

With no lawyer, Joe made several unsuccessful efforts to challenge his conviction. J.A. 10-12.⁴ Then, after this Court decided *Roper v. Simmons*, 543 U.S. 551 (2005), he filed a motion for postconviction relief under Florida Rule of Criminal Procedure 3.850, contending through counsel that *Roper* rendered his life-without-parole sentence federally unconstitutional. J.A. 21-53. On October 31, 2007, the trial court dismissed the motion with prejudice in a five-page order. J.A. 54-59.

Regarding the substance of the Eighth Amendment claim, the trial court concluded that Joe's invocation of *Roper* "is meritless," citing cases in which the Florida Supreme Court declined to extend *Roper*.⁵ J.A. 58-59. The court reasoned that "the

pls/ds/ds_docket_search?pnSearchType=1 (enter docket number 1D90-190 and submit form).

⁴ In 2007, his motion for DNA testing was denied after a finding that the State of Florida had destroyed all biological evidence collected in the case. J.A. 16, 24, 26, 36.

⁵ *Grossman v. State*, 932 So. 2d 192 (Fla. 2006) (table), and *Kearse v. State*, 969 So. 2d 976 (Fla. 2007) (declining to extend *Roper* to defendants 18 and older); *Melton v. State*, 949 So. 2d 994, 1020 (Fla. 2006), and *England v. State*, 940 So. 2d 389, 406-07 (Fla. 2006) (declining to find that *Roper* prevents

(Continued on following page)

Supreme Court of Florida has made clear that a sentence of life imprisonment without parole is a perfectly acceptable penalty under *Roper*.⁶ J.A. 59. Reading *Roper* as limited to capital sentences, it found that “[b]ecause *Roper* did not establish the constitutional right Defendant alleges, Defendant does not have a valid constitutional claim.” J.A. 58.

The Florida First District Court of Appeal summarily affirmed without opinion, J.A. 73, and denied rehearing, rehearing en banc, and certification to the Florida Supreme Court. J.A. 74. In this posture of the case, Florida law precluded review by the state Supreme Court. *Jackson v. State*, 926 So. 2d 1262, 1265 (Fla. 2006). On December 4, 2008, a petition for certiorari was filed with this Court. On May 4, 2009,

consideration of juvenile convictions when imposing death sentence on adult defendant). The court held alternatively that Joe’s petition was time-barred by the two-year statute of limitations in Fla. R. Crim. P. 3.850(b). It recognized that the petition would come within an express exception to the bar, provided by Rule 3.850(b)(2), if “the law has established a new, fundamental, retroactive constitutional right” supporting Joe’s claim, J.A. 57-58; it recognized that Joe was relying on *Roper* as establishing such a right, J.A. 58; but it held that “*Roper* has established no such constitutional right” because, as it read *Roper*, “*Roper* established only one new constitutional right, the right for a juvenile not to be given the death penalty,” J.A. 58.

⁶ The court relied on *Ramirez v. State*, 909 So. 2d 862 (Fla. 2005) (table), which involved a 17-year-old convicted of first-degree murder and sentenced to life *with* the possibility of parole. See *State v. Ramirez*, 850 So. 2d 620 (Fla. Dist. Ct. App. 2003); *id.* at 623 (Fulmer, J., dissenting) (noting age at offense).

the Court granted it and authorized the case to proceed *in forma pauperis*. J.A. 76.



SUMMARY OF THE ARGUMENT

The constitutional logic of *Roper v. Simmons* controls this case and requires the invalidation of a sentence of life imprisonment without parole imposed on a 13-year-old child. To be sure, *Roper* dealt with a death sentence, and death is different from lesser sentences in many ways that are relevant to Eighth Amendment analysis. But life without parole is also different from lesser sentences in important ways. And it is precisely in regard to those specific matters which were central to *Roper's* Eighth Amendment reasoning that life without parole is most akin to death and most unlike sentences of imprisonment from which release is possible, either on parole or following a term of years.

The essential feature of a death sentence or a life-without-parole sentence is that it imposes a terminal, unchangeable, once-and-for-all judgment upon the whole life of a human being and declares that human being forever unfit to be a part of civil society. *Roper* understood and explained why such a judgment cannot rationally be passed on children below a certain age. They are unfinished products, human works-in-progress. They stand at a peculiarly vulnerable moment in their lives. Their potential for growth and change is enormous. Almost all of them

will outgrow criminal behavior, and it is practically impossible to detect the few who will not. To date they are the products of an environment over which they had no real control – passengers through narrow pathways in a world they never made.

The age at which it becomes conceivable to pass a valid final judgment that a growing child deserves or requires lifelong incarceration as a criminal depends in part upon facts about adolescent neurological, psychological, and social development. It depends in part, also, upon the ways in which the law ordinarily regulates children's lives and recognizes their need for differing degrees of protection at different ages. When these developmental facts and legal regulations are examined through the sources and methods taught by *Roper*, it becomes clear that the entry of irrevocable judgment on a child of 13, condemning him or her to be imprisoned until death, is impermissible.

There is more than one age above 13 at which the precise constitutional line could be drawn. In drawing it, *Roper* instructs the Court to take account of the extent to which contemporary standards of decency, evidenced by objective indicia, accept or reject the use of life-without-parole sentences to punish the crimes of children of various ages. Whatever may be the case for older children, life imprisonment without parole sentences for children of 13 are so vanishingly rare as to make their repudiation by contemporary American society unmistakable.

There are only nine individuals in this country serving life-without-parole sentences for crimes committed at age 13. Indeed, when crimes committed by 14-year-olds are added to those committed by 13-year-olds, the total number of individuals serving life-without-parole sentences rises to only 73. These numbers are all the more revealing when two circumstances are considered. The first is that, by their nature, life-without-parole sentences progressively accumulate. The numbers 9 and 73 are nationwide totals that are the end product of more than a quarter-century's accumulation. Second, during that period, huge numbers of 13- and 14-year-olds have been convicted of crimes for which a life-without-parole sentence could have been imposed but was not.

We will see that the eligibility of these persons for a life-without-parole sentence is not the result of legislative decisions that life in prison without parole is appropriate for children in this age range but rather results from the adventitious overlay of two legislative developments – legislation changing the boundaries of exclusive juvenile-court jurisdiction so as to make more children subject to adult-court prosecution; and legislation increasing the number of adult crimes punishable by life imprisonment without parole. The fact that, despite these developments, the total national accumulation of life-without-parole sentences for 13-year-olds has been only nine – and that even when 14-year-olds are added it has been only 73 – is as striking a demonstration as can be

imagined of the country's radical repudiation of life without parole for children of this age. And this repudiation is world-wide. Outside of the United States, life-without-parole sentences for adolescents are virtually unknown.



ARGUMENT

THE CONSTITUTIONAL LOGIC OF *ROPER V. SIMMONS* CONTROLS THIS CASE AND REQUIRES THE INVALIDATION OF A LIFE-WITHOUT-PAROLE SENTENCE IMPOSED ON A 13-YEAR-OLD CHILD.

“By protecting even those convicted of heinous crimes, the Eighth Amendment reaffirms the duty of the government to respect the dignity of all persons.” *Roper v. Simmons*, 543 U.S. 551, 560 (2005). Consistently with this basic understanding, *Roper* endorsed the Court’s earlier teachings that a punishment is “cruel and unusual” for Eighth Amendment purposes if there is a general societal consensus against its imposition or if it affronts the basic concept of human dignity at the core of the Amendment because it is disproportionate to the moral culpability of the offender. *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958) (plurality opinion).

Roper also followed the Court’s earlier precedents in gauging consensus by a thorough-going review of objective indicia, including legislative enactments and the actual practice of decisionmakers in the

criminal justice system. 543 U.S. at 564. With regard to the sentencing of children, the Court noted, as in *Thompson v. Oklahoma*, 487 U.S. 815 (1988), the importance of taking into account whether state statutes which had the effect of exposing children to a particular sentence actually reflected a specific legislative judgment that the sentence in question was appropriate for children of that age. *Roper*, 543 U.S. at 561. And *Roper* focused on the “rarity” of imposition of the sentence in actual practice, *id.* – “the infrequency of its use even where it remains on the books,” *id.* at 567 – as a crucial indicator of a cruel and unusual punishment. *Roper*, 543 U.S. at 561, 563, 564-65; see also *Thompson*, 487 U.S. at 832-33 (plurality opinion); *Atkins v. Virginia*, 536 U.S. 304, 314-16 (2002).

But, “[t]he inquiry into our society’s evolving standards of decency did not end there.” *Roper*, 543 U.S. at 563. In examining the permissibility of applying to children a punishment which, though harsh, was constitutionally acceptable for adults, the Court consulted scientific evidence about children’s biological and psychosocial development (*id.* at 569-71), the views expressed by “respected professional organizations, by other nations that share our Anglo-American heritage, and by the leading members of the Western European community,” (*id.* at 563 [quoting the *Thompson* plurality opinion, 487 U.S. at 830]), and the Court’s “own independent judgment” (*Roper*, 543 U.S. at 564). These perspectives bore on the questions whether the special circumstances of

childhood “diminish[] personal culpability” in ways that “make it less defensible” to impose a particular punishment as fitting retribution (*id.* at 563; *see id.* at 569-70) and whether the punishment is “less likely” to have “a real deterrent effect” (*id.* at 563 [citing *Atkins*, 536 U.S. at 319-20]; *see also Roper*, 543 U.S. at 571-72). *And see id.* at 561-62 (discussing the *Thompson* plurality’s conclusions that the death penalty for young adolescents was inappropriate as retribution because of the “lesser culpability of offenders under 16” and that “the low likelihood that offenders under 16 engaged in ‘the kind of cost-benefit analysis that attaches any weight to the possibility of execution’ made the death penalty ineffective as a means of deterrence” [quoting passages from 487 U.S. at 836-38]).

All of these considerations led the Court in *Roper* to conclude that “today our society views juveniles . . . as ‘categorically less culpable than the average criminal.’” *Roper*, 543 U.S. at 567 (quoting *Atkins*, 536 U.S. at 316). Objective indicia (including the pervasiveness of legislation prohibiting juveniles from voting, serving on juries, or marrying without parental consent because of their “comparative immaturity and irresponsibility” [*Roper*, 543 U.S. at 569 and Appendices B-D]) pointed to this conclusion, as did the Court’s recognition (shared by parents and neuroscientists alike), that adolescents as a class exhibit distinct characteristics – “lack of maturity and underdeveloped sense of responsibility,” vulnerability to outside pressures and influences, and

changeability – which “demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders.” *Id.* at 569-70.

A. How the Reasoning of *Roper* Applies to Young Adolescents Sentenced to Life Imprisonment Without Parole.

This Court recognized in *Roper* that the constitutional vice involved in punishing children with death was the impropriety of passing a final, condemnatory judgment on a still unformed human being. 543 U.S. at 570. Because a child is not yet what he will be, “the State cannot extinguish his life and his potential to attain a mature understanding of his own humanity.” *Id.* at 574. It violates “the duty of the government to respect the dignity of all persons” (*id.* at 560) when an unrelenting, changeless sentence is imposed upon a child whose character, identity, body and brain are in the process of changing radically. This is so because the need for such a sentence cannot be determined with any reliability while the child’s character is still in flux. And it is all the more so because children’s “struggle to define their identity” (*id.* at 570) is a struggle, bringing with it unique, temporary impairments and vulnerabilities that reduce criminal culpability to a level which cannot justify the forfeiture of their entire future lives. Everything we know about early adolescence, in particular, warns that it is both impracticable and excessively censorious to pass an unalterable sentence upon a child of 13, like Joe Sullivan,

declaring that he or she will be forever unfit to live in society.

1. The Scientific Consensus on Adolescent Development

Contemporary neurological, psychological, and sociological studies converge to demonstrate that the factors which *Roper* recognized as critical for Eighth Amendment analysis in the case of children – changeability, immature judgment, an under-developed capacity for self-regulation and responsibility, vulnerability to negative influences and outside pressures, and a lack of control over either their own impulses or their environment – are at their peak in young teens, for whom the developmental period of adolescence has just begun. Generally considered to encompass ages 12 to 17 or 18, adolescence is defined by radical transformation, including the obvious and oft-distressing physical changes associated with puberty (increases in height and weight and sex-related changes) as well as progressive gains in capacity for reasoned, mature judgment, impulse control, and autonomy.⁷ A “rapid

⁷ Charles Geier & Beatriz Luna, *The Maturation of Incentive Processing and Cognitive Control*, 93 *Pharmacol. Biochem. Behav.* 212, 212 (2009); see also L.P. Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 *Neurosci. & Biobehav. Rev.* 417, 417 (2000) (“[A]dolescence is of its essence, a period of transitions rather than a moment of attainment.”); *id.* at 434 (discussing radical hormonal changes in adolescence).

and dramatic increase in dopaminergic activity within the socioemotional system around the time of puberty” drives the young adolescent toward increased sensation-seeking and risk-taking; “this increase in reward seeking precedes the structural maturation of the cognitive control system and its connections to areas of the socioemotional system, a maturational process that is gradual, unfolds over the course of adolescence, and permits more advanced self-regulation and impulse control.”⁸ “The temporal gap between the arousal of the socioemotional system, which is an early adolescent development, and the full maturation of the cognitive control system, which occurs later, creates a period of heightened vulnerability to risk taking during middle adolescence.”⁹

These biological and psychosocial developments explain what is obvious to parents, teachers, and any adult who reflects back on his or her own teenage years: 13- and 14-year-old middle-schoolers lack the maturity, independence, and future orientation that older teens and adults have acquired over the course of adolescence. While 16- and 17-year-olds are working after-school jobs to save up for their first car and applying to college, 13- and 14-year-olds are

⁸ Laurence Steinberg, Elizabeth Cauffman et al., *Age Differences in Sensation Seeking and Impulsivity as Indexed by Behavior and Self-Report*, 44 *Dev. Psychol.* 1764, 1764 (2008).

⁹ Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 *Ann. Rev. Clinical Psychol.* 459, 466 (2009).

agonizing about who will sit with them at lunch. Graduating seniors are thinking about their future careers and families, while seventh-graders are fixated on who will be their “BFF”¹⁰ that day. Among adolescents, young teens have the least capacity to imagine consequences, regulate their wildly-shifting emotions, and resist peer pressure, and the most capacity for change, precisely because they are at the beginning of the most intense period of rapid growth in their lifetimes.¹¹

a. Young Adolescents Have Not Yet Developed the Capacity to Make Mature and Responsible Decisions.

Relative to that of adults and even older adolescents, young teenage judgment is handicapped in nearly every conceivable way: young adolescents lack life experience and background knowledge to inform their choices; they struggle to generate options and to imagine consequences; and, perhaps for good reason, they lack the necessary self-confidence to

¹⁰ Text message shorthand for, ironically, “Best Friends Forever.” NetLingo.com, *List of Acronyms & Text Message Shorthand*, <http://www.netlingo.com/acronyms.php> (last visited July 15, 2009).

¹¹ “[A]dolescence is second only to the neonatal period in terms of both rapid biopsychosocial growth as well as changing environmental characteristics and demands” Spear, *supra* note 7, at 428; *see also id.* at 429 (stress is elevated in early adolescents; incidence of depression is often highest in adolescence; and teens experience sleep problems, great extremes in mood, and peak anxiety and self-consciousness).

make reasoned judgments and stick by them.¹² Even when compared to twelfth graders (rather than adults), seventh and eighth graders show relative deficiencies in imagining risks and future consequences.¹³

Some of an early adolescent's deficits in judgment result from lack of experience, both with life generally and with responsible decision-making. But brain structure at this early developmental stage also

¹² See B. Luna, *The Maturation of Cognitive Control and the Adolescent Brain*, in *From Attention to Goal-Directed Behavior* 249, 252-56 (F. Aboitiz & D. Cosmelli eds., 2009) (cognitive functions that underlie decision-making are undeveloped in early teens: processing speed, response inhibition, and working memory do not reach maturity until about 15); Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 *Behav. Sci. & Law* 741, 756 (2000) (significant gains in psychosocial maturity take place after 16); Leon Mann et al., *Adolescent Decision-Making*, 12 *J. Adolescence* 265, 267-70 (1989) (13-year-olds show less knowledge, lower self-esteem as decision-maker, produce less choice options, and are less inclined to consider consequences than 15-year-olds); Jari-Erik Nurmi, *How Do Adolescents See Their Future? A Review of the Development of Future Orientation and Planning*, 11 *Dev. Rev.* 1, 12 (1991) (planning based on anticipatory knowledge, problem definition, and strategy selection used more frequently by older adolescents than younger ones).

¹³ Catherine C. Lewis, *How Adolescents Approach Decisions*, 52 *Child Dev.* 538, 543 (1981); see also Bonnie L. Halpern-Felsher & Elizabeth Cauffman, *Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults*, 22 *J. Applied Dev. Psychol.* 257, 271 (2001) (noting important differences in decision-making competence of early adolescents and older teenagers).

explains teens' inability to make the type of judgments at 13 that they will comfortably handle at 17. Like a car with a powerful accelerator but weak brakes, a young teenager's brain is fully developed in the part responsible for emotional arousal and sensitivity to peer pressure (the gas pedal), but the parts in the frontal lobes that control impulses and allow long-term thinking, planning, and resistance to peer pressure (the brake) are still developing.¹⁴ At 13 and 14, the major transformation in brain structure that will result in a sophisticated system of circuitry between the frontal lobe and the rest of the brain, enabling adults to exercise cognitive control over their behavior, is barely underway.¹⁵

¹⁴ See Laurence Steinberg, *A Social Neuroscience Perspective on Adolescent Risk-Taking*, 28 *Dev. Rev.* 78, 83 (2008) [hereinafter Steinberg, *Social Neuroscience*]; Laurence Steinberg, *Risk-Taking in Adolescence: New Perspectives from Brain and Behavioral Science*, 16 *Current Dir. Psychol. Sci.* 55, 56-58 (2007) [hereinafter Steinberg, *Risk-Taking*].

¹⁵ See Luna, *supra* note 12, at 257; see also Thomas J. Whitford et al., *Brain Maturation in Adolescence*, 28 *Hum. Brain Mapping* 228, 228 (2007) (adolescence is "peak period of neural reorganization"). At the core of this transformation are co-occurring increases in white matter (myelination) and decreases in gray matter (synaptic pruning). Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 *Annals N.Y. Acad. Sci.* 77, 77-83 (2004). Myelination increases the efficiency of information processing and supports the integration of the widely distributed circuitry needed for complex behavior – it is the wiring of connections among and between the frontal regions and the rest of the brain. Immature myelination is thought to make adolescents vulnerable to impulsive behavior, while the increased processing speed

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facilitated by myelination facilitates cognitive complexity. Geier & Luna, *supra* note 7, at 216; *see also* Giedd, *supra*, at 80 (during myelination transmission time between neurons is increased up to 100 times). White matter in the brain increases in a linear fashion, such that older adolescents and adults benefit from a greater number of myelinated neurons than younger teens. Giedd, *supra*, at 80.

Cortical gray matter is thickest early in adolescence. *Id.* at 82. Later in the teenage years, this cortical gray matter undergoes significant “pruning,” making more efficient that part of the brain responsible for inhibiting impulses and assessing risk. *Id.*; *see also* Tracy Rightmer, *Arrested Development: Juveniles’ Immature Brains Make Them Less Culpable Than Adults*, 9 *Quinnipiac Health L.J.* 1, 12 (2005); Spear, *supra* note 7, at 439.

Pruning typically is not complete until middle to late adolescence, and the parts of the brain that control executive functioning and process risk do not finish myelinating until late adolescence or early adulthood. Jay N. Giedd et al., *Brain Development During Childhood and Adolescence: A Longitudinal MRI Study*, 2 *Nature Neurosci.* 861, 862 (1999); *see also* Elizabeth R. Sowell et al., *In Vivo Evidence for Post-Adolescent Brain Maturation in Frontal and Striatal Regions*, 2 *Nature Neurosci.* 859, 860 (1999) (in longitudinal study of brain development, finding prefrontal cortex loses gray matter only at end of adolescence); Beatriz Luna & John A. Sweeney, *The Emergence of Collaborative Brain Function*, 1021 *Annals N.Y. Acad. Sci.* 296, 301 (2004). These “patterns of development in the prefrontal cortex, which is active during the performance of complicated tasks involving long-term planning and judgment and decision making, suggest that these higher order cognitive capacities may be immature well into late adolescence.” Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence*, 58 *Am. Psychologist* 1009, 1013 (2003). Indeed, the brain does not appear to finish growing completely until late adolescence. Elizabeth R. Sowell et al., *Localizing Age-Related Changes in Brain Structure Between Childhood and Adolescence Using Statistical Parametric Mapping*, 9 *NeuroImage* 587, 596 (1998); *see also* Halpern-Felsher & Cauffman, *supra* note 13, at

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Young adolescents daily find themselves behind the seat of this fundamentally deficient car without having taken a driver's ed course or even having spent much time in the front passenger seat paying attention to the driver. Their hunger for thrilling speed easily overwhelms their scant capacity to apprehend the possibility of a serious crash; they have weak brakes and very limited visibility ahead or behind. This is why no State permits young adolescents to drive. That older adolescents *are* issued driver's licenses reflects the fact that they are further along in development – they have more experience in making decisions; their brain circuitry is more efficient; the hormonal storm of puberty is not brand-new to them; and they have a better view of their futures.¹⁶ Sixteen- and seventeen-year-olds still are risky, bad drivers compared to adults,¹⁷ but there

271 (“[I]mportant progress in the development of decision-making competence occurs sometime during late adolescence. . . .”)

¹⁶ See *supra* notes 12 & 15; Steinberg, *Social Neuroscience*, *supra* note 14, at 86 (sensitivity to effects of pubertal hormones decreases with age).

¹⁷ Recognizing this fact, there is a recent trend to restrict teenage driving. All states but one since 1996 have enacted some sort of graduated licensing law, which “phases in unrestricted driving by allowing beginners to get their initial behind-the-wheel experiences under conditions that reduce the risk of collision.” Christine Branche et al., *Graduated Licensing for Teens*, 30 J.L. Med. & Ethics 146, 146-47 (2002) (risk for fatal motor vehicle crashes is “highest for 16-year-olds, who have a more pronounced combination of immaturity and limited driving experience”); Anne T. McCartt et al., Insurance Institute for Highway Safety, *Graduated Licensing Laws and Fatal Crashes* (Continued on following page)

is clear consensus that 13-year-olds are so lacking in maturity and decisionmaking capability that they should not even be allowed to take the wheel.

b. Young Adolescents Are Especially Susceptible to Risk-Taking Impulses and Negative Peer Influences.

Early teenagers' incapacity for responsible decisionmaking is closely related to adolescent risk-taking. It is universally recognized that adolescence is characterized by risk-taking behavior; contemporary neurological science establishes that this is a function of physical brain development as well as a socially scripted phase of the passage from childhood to maturity.¹⁸ For the purpose of understanding young adolescent behavior relative to that of older teens, the critical observations are that (1) most adolescent risk-taking is a group phenomenon and (2) young adolescents are the most vulnerable to peer-group influence.

Parents, teachers, and observers of teenagers the world over know that social interactions and

of Teenage Drivers: A National Study 2-3 (2009), available at <http://www.iihs.org/research/topics/pdf/r1122.pdf>.

¹⁸ *E.g.*, Steinberg, *Risk-Taking*, *supra* note 14, at 56-58; Geier & Luna, *supra* note 7, at 218; Ann E. Kelley et al., *Risk Taking and Novelty Seeking in Adolescence*, 1021 *Annals N.Y. Acad. Sci.* 27, 27 (2004). The literature documenting adolescents' proclivity for risk-taking is too extensive even to summarize within the compass of this brief.

affiliations with peers take on out-sized importance in adolescence. Teens spend about one-third of normal waking hours talking with peers (but only 8% with adults).¹⁹ While all adolescents are more peer-oriented than adults, the research indicates that vulnerability to peer pressure, especially for boys, increases during early adolescence to an all-time high in eighth grade.²⁰ The need to fit in with the peer group, to impress peers with daredevil antics and smart-alecky comments, exerts enormous influence on the behavior of young adolescents, more so than during pre-adolescence or late adolescence.²¹ Indeed, extreme vulnerability to peer influence (especially when it is to do something bad) is a defining characteristic of young adolescence, reflected in the fact that it is

¹⁹ Spear, *supra* note 7, at 420.

²⁰ Laurence Steinberg & Susan B. Silverberg, *The Vicissitudes of Autonomy in Early Adolescence*, 57 *Child Dev.* 841, 848 (1986); *id.* at 846 (autonomy in the face of peer pressure has been shown to decline during early adolescence, “especially for boys, and especially when the pressure is to do something wrong”); *see also* Mann *supra* note 12, at 267-268, 274 (early adolescence associated with greatest conformity to peer group pressure); Steinberg, *Risk-Taking*, *supra* note 14, at 57 (susceptibility to antisocial peer influence peaks in mid-adolescence); N. Dickon Reppucci, *Adolescent Development and Juvenile Justice*, 27 *Am. J. Community Psychol.* 307, 318 (1999) (social conformity peaks around age 15).

²¹ Steinberg, *Social Neuroscience*, *supra* note 14, at 92 (reporting results of study showing that presence of peers activated same brain circuitry that is activated by exposure to reward and led to more risky behavior).

statistically aberrant for boys to refrain from minor criminal behavior during this period.²²

Most teens grow out of this behavior as a predictable part of the maturation process.²³ Typically, resistance to peer influence and the ability to regulate internal impulses mature in middle or late adolescence.²⁴ Adolescents' capacity to extricate themselves from a group or other setting where they are likely to get into trouble also increases with age. Denied the rights and privileges that accrue at age 18, all adolescents have less ability than adults to free themselves from morally toxic or dangerous environments. But the youngest teens are, in this aspect as well, worst off. State and federal laws meant to protect young teens from exploitation and from their own underdeveloped sense of responsibility

²² Spear, *supra* note 7, at 421; Reppucci, *supra* note 20, at 319.

²³ Spear, *supra* note 7, at 421 (adolescent experimentation in risk-taking is transient for most individuals); Daniel Seagrave & Thomas Grisso, *Adolescent Development and the Measurement of Juvenile Psychopathy*, 26 L. & Hum. Behav. 219, 229 (2002) (defying rules is part of adolescent experimentation with autonomy and identity development, and many youths who manifest "deviance" in adolescence will not do so in adulthood); Reppucci, *supra* note 20, at 319 ("[D]esistance from antisocial behavior is also a predictable part of the maturation process.").

²⁴ Laurence Steinberg, *Risk Taking in Adolescence: What Changes and Why*, 1021 Annals N.Y. Acad. Sci. 51, 55 (2004) (resistance to peer influence and self-regulation do not mature until middle or late adolescence).

– including restrictions on driving, working, and leaving school – also operate conversely to disable a 13-year-old from escaping an abusive parent, a dysfunctional or violent household, or a dangerous neighborhood.²⁵

c. Young Adolescents Have Not Yet Begun to Form Their Own Identities or to Imagine Their Futures.

Young teens, to a greater extent than older teens, are also handicapped by their inability to envision who they want to be or what they want to achieve in the future. They are captive to their peer group’s opinion of them – young teens are readily distinguishable even from 15- and 16-year-olds by their excruciatingly low self-esteem and high self-consciousness – and to the instantaneous present.²⁶

²⁵ This was certainly the situation in which 13-year-old Joe Sullivan found himself. A mentally disabled boy, Joe lived in a household where he was regularly subjected to physical and sexual abuse. J.A. 26.

²⁶ See Nurmi, *supra* note 12, at 12-13; see also Laurence Steinberg & Elizabeth Cauffman, *Maturity of Judgment in Adolescence*, 20 L. & Hum. Behav. 249, 255 (1996) (moral reasoning and reflectiveness are associated with sense of identity, which does not begin to consolidate until late teens or early twenties; extreme vulnerability in self-image seen especially in younger adolescents); Seagrave & Grisso, *supra* note 23, at 229 (“[M]any adolescents focus excessively on present circumstances and weight the importance of risks differently than do adults, especially when under emotional stress or in situations where a solution is not readily apparent.”); Reppucci,
(Continued on following page)

Not until age 16 do adolescents obtain something close to a mature sense of perspective. And not until the late teens or early twenties do they begin to form a coherent identity – although teens 16 and older have a more mature sense of self than adolescents under 15.²⁷

Very few young adolescents think about their future beyond age 30.²⁸ As adolescents grow older, they become increasingly focused upon tasks of self-development, contemplating future education, occupation, and family; with this added perspective, their ability to plan and to realistically anticipate

supra note 20, at 318 (adolescents “discount the future more than adults” and “weigh more heavily the short-term versus the long-term consequences of decisions”); Jeffrey Arnett, *Reckless Behavior in Adolescence*, 12 Dev. Rev. 339, 344 (1992) (adolescents’ limited life experience impairs ability to fully apprehend possible negative consequences of their actions); Steinberg, *Social Neuroscience*, *supra* note 14, at 90 (feelings of self-consciousness increase during early adolescence, peak around age 15, then decline).

²⁷ Steinberg, *Social Neuroscience*, *supra* note 14, at 94 (future orientation and planning increase from 16-18); Seagrave & Grisso, *supra* note 23, at 226 (adolescence is time of dramatic changes in identity, during which adolescent may present an “insincere and seemingly choreographed social facade, either by attempting to manage peers’ impressions or because they are ‘trying on’ a not yet established personality style, which can be misinterpreted as the manipulative, false, and shallow features of the psychopathic offender”); *id.* at 229 (adolescents “focus excessively on present circumstances”).

²⁸ Nurmi, *supra* note 12, at 27.

long-term consequences improves.²⁹ But at 13 and 14, middle-schoolers tend to struggle with planning even of the order of getting tonight's homework done in time to watch their favorite television program.

The flip side of young adolescents' nascent sense of self is that they have, relative to older individuals, more potential to change and develop positive character traits as they grow up. A typical 13-year-old who acts irresponsibly in reaction to a thrilling impulse or succumbs to peer pressure to do something that would be against his better judgment – had he the wherewithal to form one – is not irretrievably depraved or permanently flawed. Nothing about his character is permanent, and he has years of development ahead, during which he can (and, in most cases, will) grow into a moral, law-abiding adult.³⁰

Dozens of longitudinal studies have shown that the vast majority of adolescents who commit antisocial acts desist from such activity as they mature into adulthood and that only a small percentage – between five and ten percent, according to most studies – become chronic offenders. Thus, nearly all juvenile offenders are adolescent limited. . . .

. . . [M]ost juvenile offenders mature out of crime . . . and . . . will desist whether or

²⁹ *Id.* at 27-29.

³⁰ *See supra* note 23.

not they are caught, arrested, prosecuted or sanctioned. . . .³¹

This Court has recognized that adolescents, as a class, lack the maturity, autonomy, and self-governing capacity of adults. *Roper*, 543 U.S. at 569-71; and see *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982), quoted in 543 U.S. at 569: “Even the normal 16-year-old customarily lacks the maturity of an adult.” Within that class, which is defined by the transition from childhood to adulthood, there are gradations in capability that correlate with age. As is readily observable and widely accepted, the youngest adolescents are the least mature, most susceptible to internal impulses and external influences, and have the greatest capacity for change.³²

2. The Constitutional Significance of Young Adolescents’ Diminished Cognitive Capacity and Psychosocial Immaturity

Roper explains the several ways it is relevant to Eighth Amendment analysis that “the character of a juvenile is not as well formed as that of an adult.” 543

³¹ Steinberg, *supra* note 9, at 478.

³² See, e.g., Laurence Steinberg, Sandra Graham et al., *Age Differences in Future Orientation and Delay Discounting*, 80 *Child Dev.* 28, 28 (2009) [hereinafter Steinberg, Graham et al., *Future Orientation*]; Laurence Steinberg & Kathryn C. Monahan, *Age Differences in Resistance to Peer Influence*, 43 *Dev. Psychol.* 1531, 1540 (2007); Steinberg, Cauffman et al., *supra* note 8, at 1775-76.

U.S. at 570. Because “[t]he personality traits of juveniles are more transitory, less fixed,” *id.*, it is unfair – and in most cases it will prove inaccurate – to pass final judgment on their character. “The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.” *Roper*, 543 U.S. at 570.

Most young adolescents will grow out of adolescent criminal behavior, *id.* (citing Steinberg & Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 *Am. Psychol.* 1009, 1014 (2003)), and there are no reliable means for identifying the few who won’t:

It is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption. *See* Steinberg & Scott 1014-1016. As we understand it, this difficulty underlies the rule forbidding psychiatrists from diagnosing any patient under 18 as having antisocial personality disorder, a disorder also referred to as psychopathy or sociopathy, and which is characterized by callousness, cynicism, and contempt for the feelings,

rights, and suffering of others. American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 701-706 (4th ed. text rev.2000); *see also* Steinberg & Scott 1015. If trained psychiatrists with the advantage of clinical testing and observation refrain, despite diagnostic expertise, from assessing any juvenile under 18 as having antisocial personality disorder, we conclude that States should refrain from asking jurors to issue a far graver condemnation . . . [, one which will] extinguish his life and his potential to attain a mature understanding of his own humanity.

Roper, 543 U.S. at 573-74.

“[T]he relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside.” *Id.* (quoting *Johnson v. Texas*, 509 U.S. 350, 368 (1993), and also quoting Steinberg & Scott at 1014 (“For most teens, [risky or antisocial] behaviors are fleeting; they cease with maturity as individual identity becomes settled.”)). Adolescents are capable of rehabilitation, either as a result of natural maturation or through the intervention worked by conviction and sentence. And young adolescents as a class will *necessarily* change over time. To pass a life-without-parole sentence on a young adolescent – a *final* judgment that can never be reconsidered in the fullness of time – is not merely premature but oblivious to “the duty of the

government to respect the dignity of all persons,” *id.* at 560.

Roper teaches that the special vulnerabilities and frailties of adolescence bear directly on the Eighth Amendment calculus of personal culpability. Young adolescents’ culpability is diminished because they have not yet reached the level of cognitive and psychosocial development that permits adults to make mature decisions, forecast consequences, and control their impulses. The sensation-seeking proclivity and lack of impulse control characteristic of adolescents mean that “their irresponsible conduct is not as morally reprehensible as that of an adult.” *Id.* at 561 (quoting *Thompson*, 487 U.S. at 835). “[J]uvenile offenders cannot with reliability be classified among the worst offenders” because their “lack of maturity and an underdeveloped sense of responsibility are . . . more understandable among the young [and] . . . [t]hese qualities often result in impetuous and ill-considered actions and decisions.” *Roper*, 543 U.S. at 569 (quoting *Johnson*, 509 U.S. at 367); *see also Atkins*, 536 U.S. at 318 (class-wide deficiencies such as “diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others” as well as the tendency to “act on impulse rather than pursuant to a premeditated plan” diminish personal culpability).

The characteristic inability of young teens to exercise mature judgment – including generating options and foreseeing consequences – is made worse by their sheer lack of experience with the world (or at least of experience processed through mature cognitive faculties). Even if they possessed the brain circuitry to alter their actions based on a reasoned evaluation of potential consequences and alternative courses, they lack the background knowledge and perspective to assess their immediate circumstances in context. And, juveniles “have less control, or less experience with control, over their own environment.” *Roper*, 543 U.S. at 569. This factor explains in part why youth “is a time and condition of life when a person may be most susceptible to influence and to psychological damage,” *id.* (quoting *Eddings*, 455 U.S. at 115). It also bears directly on the question of their culpability: “Their own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” *Roper*, 543 U.S. at 570.

A young teen’s foreshortened future perspective and inability to imagine consequences also undercut the incapacitative and deterrent justifications which might otherwise support an inflexible life-without-parole sentence. “The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.” *Roper*, 543 U.S. at 570. And “the

same characteristics that render juveniles less culpable than adults suggest as well that juveniles will be less susceptible to deterrence.” *Id.* at 571.

B. Hundreds of State and Federal Laws Recognize the Special Vulnerabilities and Deficiencies of Young Adolescents.

Roper does not stand alone in recognizing these special vulnerabilities and their implications for the degrees of responsibility and protection which adolescents should be given – including protection from themselves. *See Roper*, 543 U.S. at 569 (noting that the law generally distinguishes between juveniles and adults, “[i]n recognition of the comparative immaturity and irresponsibility of juveniles”); *see also id.* Appendices B-D (collecting state laws on voting, jury service, and marriage without parental consent); *Eddings*, 455 U.S. at 115-16 (“Our history is replete with laws and judicial recognition that minors, especially in their earlier years, generally are less mature and responsible than adults”). Numerous state and federal laws provide special protections for early adolescents while, at the same time, limiting their freedoms, consistent with the understanding that young teens are not mature enough for a wide range of responsibilities and privileges – from the obvious and universal (driving,³³

³³ All States issue at least restricted driver’s licenses to 16- or 17-year-olds. No State will issue even a learner’s permit to a
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marriage,³⁴ sex³⁵) to the mundane or obscure (fireworks, falconry,³⁶ tattoos³⁷). *See* App. A (collecting state laws differentiating between younger and older adolescents). These ubiquitous regulations manifest the breadth of the consensus that the capacities and vulnerabilities of young adolescents differ substantially from those of adults and even of older teens.

13-year-old, and the vast majority will not issue a learner's permit to a 14-year-old. *See generally* App. A.

³⁴ Most States do not allow persons under 18 to marry without parental consent. *See Roper*, 543 U.S. 551, App. D. However, most States *do* allow 16- and 17-year-olds, but not younger teens, to marry *with* parental consent. *See generally* App. A.

³⁵ All States differentiate between younger and older adolescents in regard to consent to sexual activity, with the majority setting the minimum age to give general consent at 16. A minority of States allow 13- or 14- or 15-year-olds to consent to sexual activity with other adolescents, but no State allows a 13-year-old child to consent to sex with an adult. *See generally* Richard A. Posner & Katharine B. Silbaugh, *A Guide to America's Sex Laws* 44 (1996) (noting that age of consent "range[d] from fourteen to eighteen" but was "either fifteen or sixteen" in "vast majority of states"); *see also* App. A.

³⁶ *See* App. A.

³⁷ *See, e.g.*, Idaho Code Ann. § 18-1523 (crime to tattoo child 13 or younger; child 14 to 17 can be tattooed only with parental consent); *see also, e.g.*, Cal. Penal Code § 653 (misdemeanor to tattoo or offer to tattoo child 17 or younger); Wis. Stat. Ann. §§ 948.01, 948.70 (16 or younger may not be tattooed except for medical reasons); S.C. Code Ann. § 44-34-60 (child 17 or younger cannot be tattooed; person 18 to 21 requires parental consent for tattoo; child 17 or younger who is given tattoo can bring action against tattoo artist for actual and punitive damages).

1. State and Federal Law Recognizes That Young Adolescents Are Especially Vulnerable and Provides Heightened Protection from Exploitation and Abuse.

Reflecting the societal judgment that young teens are especially vulnerable to exploitation, abuse, and persuasion, state and federal laws protect them by imposing enhanced criminal liability on older people who victimize them³⁸ and by obligating adults and older teens to safeguard young adolescents within their sphere of control.³⁹ Every state and the federal

³⁸ See, e.g., Ala. Code § 13A-5-40(a)(15) (murder made capital where victim 13 or younger); Ariz. Rev. Stat. Ann. § 13-751(F)(9) (victim 14 or younger); Ark. Code Ann. § 5-10-101(a)(9) (victim 14 or younger and defendant at least 18); Conn. Gen. Stat. Ann. § 53a-54b(8) (victim 15 or younger); Del. Code Ann. Tit. 11, § 4209(e)(1)(s) (victim 14 or younger and defendant at least 4 years older); 18 Pa. Cons. Stat. Ann. § 2901 (allowing conviction for kidnapping for taking of child under 14 without parental consent, even if child acquiesces); Wash. Rev. Code Ann. § 9A.40.010 (same for child 15 or younger); U.S. Sentencing Guidelines Manual § 2A2.3 (“Minor Assault”) (2008) (adding 4 offense levels where victim younger than 16).

³⁹ See, e.g., Ala. Code § 32-5A-191(n) (enhanced penalties for driving under influence of alcohol with child 13 or younger in vehicle); *id.* § 32-5-222 (operator of vehicle must require passengers 14 and younger to wear seat belts); Ark. Code Ann. § 5-65-111 (enhanced penalties for DUI with child 15 or younger in vehicle); Ariz. Rev. Stat. Ann. § 28-1383(A)(3) (same, 14 or younger); *id.* § 28-909(B) (operator of vehicle must require passenger 15 or younger to wear seat belt); Mo. Ann. Stat. § 307.179(2) (same); Wash. Rev. Code Ann. § 46.61.688(4) (same); *see also, e.g.,* Ariz. Rev. Stat. Ann. § 13-3619 (misdemeanor to endanger life of minor under 16). *See generally* App. A.

jurisdiction accords early adolescents enhanced protection from sex offenses:⁴⁰ most States provide that children under 16 are incapable of consenting to sexual activity⁴¹ and, recognizing that young teens are particularly susceptible to negative influences, criminal statutes specifically prohibit the luring or enticing of young teens for the purpose of proposing illicit conduct.⁴² The overwhelming majority of States – and this Court – acknowledge that appearing in court traumatizes young adolescents to such a degree that they require shielding from the ordinary demands of the Confrontation Clause when testifying

⁴⁰ See, e.g., Ala. Code § 13A-6-67; Ga. Code Ann. § 16-6-3; 18 U.S.C. § 2241; see also, e.g., Ark. Code Ann. § 5-14-102 (eliminating affirmative defense based on mistake of age where child 14 or younger and defendant 20 or older); Colo. Rev. Stat. § 18-1-503.5 (same, where child 14 or younger); Mo. Ann. Stat. § 566.020 (same, where child 13 or younger).

⁴¹ See *supra* note 35. Many other States set the age of consent at 17, e.g., Mo. Ann. Stat. § 566.034, and even those that set the age of general consent at 18 typically provide stricter protections for children under 16. Compare, e.g., Fla. Stat. Ann. § 800.04 (proscribing various types of sexual contact with children 12-15, without regard to age of defendant), with *id.* § 794.05 (proscribing narrower range of sexual contact with children 16 and 17, unless emancipated, and only where defendant 24 or older).

⁴² See, e.g., Ala. Code § 13A-6-69 (crime to lure or entice a child under 16); Ga. Code Ann. § 16-6-5 (same); 720 Ill. Comp. Stat. Ann. 5/10-5.1 (crime to use electronic communications to lure minor under 15); Neb. Rev. Stat. Ann. § 28-311 (crime to solicit, coax, lure or entice child under 14 into vehicle without parental consent); see also App. A.

against their abusers. *See Maryland v. Craig*, 497 U.S. 836, 853-54, n.2-4 (1990).⁴³

2. State and Federal Law Recognizes That Early Adolescents Are Immature, Impulsive, and Relatively Irresponsible, as Well as That They Are Exceedingly Susceptible to Coercion, by Limiting Their Rights and Responsibilities in Many Aspects of Life.

The law seeks to protect young adolescents from exploitation and from their own lack of judgment in diverse contexts: education, employment, economic transactions, and so forth. Thirteen- and fourteen-year-olds universally are deemed too immature and irresponsible to drive, vote, serve on juries, drink alcohol, gamble, or marry even with parental consent. *See* App. A. All States require children under 16 to attend school.⁴⁴ In contrast to older teens, all States and the federal government limit the type and amount of work young teens can do⁴⁵ and most

⁴³ *See, e.g.*, Ala. Code §§ 15-25-2, 15-25-3 (allowing alternate procedures where victim 15 or younger); Ariz. Rev. Stat. Ann. § 13-4251 (same, victim 14 or younger); Mo. Ann. Stat. § 491.075 (13 or younger); *see generally* App. A.

⁴⁴ *See generally* Mark G. Yudof et al., *Education Policy and the Law* 1 (4th ed. 2002).

⁴⁵ *See, e.g.*, Mo. Ann. Stat. §§ 294.011, 294.021, 294.030 (forbidding most employment of children under 14 and limiting employment of 14 and 15 year olds); 43 Pa. Cons. Stat. Ann. §§ 42, 44 (limiting employment of 14- and 15-year-olds more

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jurisdictions have adjudged early adolescents incapable of entering into contracts.⁴⁶

Although jurisdictions draw lines for these protective and restrictive provisions at various points in early- to mid-adolescence, they universally bar 13-year-olds from activities that require maturity and responsible judgment. *See* App. A. That these activities are permitted for many late adolescents demonstrates society's widespread recognition that early adolescents are developmentally distinct from adults and older teens, that 13-year-olds specifically lack the developmental capacity to bear such responsibilities, but that their incapacity will abate over the course of adolescence.

strictly than 16- and 17-year-olds); 29 U.S.C. §§ 203(l), 212, 213(c) (regulating child labor and distinguishing between teens younger than 16 and teens 16 or 17 years old). *See generally* App. A.

⁴⁶ *See, e.g.*, Ala. Code § 27-14-5 (minors 15 and older can contract for certain kinds of insurance); Ariz. Rev. Stat. Ann. § 20-1106 (same); Colo. Rev. Stat. § 10-4-104 (same, 16 and older); Mich. Comp. Laws § 500.2205 (same); N.Y. Educ. Law § 281 (children 16 and older cannot disaffirm education loans).

C. The Distinctive Characteristics of Young Adolescents Recognized in State, Federal, and Constitutional Law Undermine the Legitimacy and Utility of Life-Without-Parole Sentences for Young Teens.

Precisely the same reasoning that dictated this Court's decision in *Roper* compels the conclusion that a sentence of life imprisonment without parole for a 13-year-old child violates the Eighth Amendment. As we have seen, *Roper's* analysis centers on the disjunction between a punishment that declares an offender finally and forever unfit to exist in society and the uniquely transitory characteristics of youth that preclude any such declaration. *Roper* identifies those characteristics, the kinds of scientific and legal sources from which additional information about them can be obtained, and the ways in which that information bears upon the Eighth Amendment's guiding principles. When *Roper's* constitutional methodology is applied to the signature characteristics of young adolescents – spelled out in the preceding pages of this brief – a firm basis emerges for the finding that a child of 13 cannot legitimately be consigned to lifelong incarceration with no possibility of ever being considered fit for release on parole.

1. Some of These Characteristics Bear Directly on the Degree of Culpability That Is Appropriate to Attach to Adolescent Criminal Behavior.

Children of 13 and even 14 are especially vulnerable to each of the frailties and limitations that *Roper* regarded as relevant to a youthful offender's degree of culpability. They are neurologically and emotionally hard-wired for sensation-seeking, impulsivity, poor foresight, worse judgment, and control failure. They are uniquely sensitive to peer pressure and bad external influences. They did not and cannot choose the conditions of upbringing that make them what they are, and the very protective laws that recognize their incapacities have the correlative effect of limiting their ability to escape from those conditions. Their existence is dominated by the "struggle to define their identity" (*Roper*, 543 U.S. at 570) which they are not yet equipped to win. Even for older teens, "the case for retribution is not as strong with a minor as with an adult." *Id.* at 571. And it is still more true of younger teens that their "culpability or blameworthiness is diminished, to a substantial degree, by reason of youth and immaturity." *Id.*

2. Some of These Characteristics Bear on the Inutility of Life Without Parole as a Deterrent.

Roper explained that the "same characteristics that render juveniles less culpable than adults

suggest as well that juveniles will be less susceptible to deterrence.” *Id.* at 571. Because “adolescents are less oriented to the future than are adults,”⁴⁷ far-future consequences are less meaningful to them, and it is difficult to imagine them planning their current actions by assigning heavier deterrent weight to a life-without-parole sentence than to a life-with-eligibility-for-parole sentence. Moreover, testing of individuals between 10 and 30 years of age shows “significantly lower planning scores among adolescents between 12 and 15 than among younger or older individuals.”⁴⁸

3. Some of These Characteristics Bear on the Risks of Wrongful Conviction (Or Degree of Conviction) and on the Even More Serious Risks of Erroneous Judgment Regarding Appropriate Sentence.

Roper observes that “[i]t is difficult even for expert psychologists to differentiate between . . . [corrigible and incorrigible] juvenile offender[s].” *Roper*, 543 U.S. at 573. We have argued above that this difficulty is one of the considerations that make life-without-parole sentences inherently unsuitable for young adolescents. It also means that if such

⁴⁷ Steinberg, Graham et al., *Future Orientation*, *supra* note 32, at 39.

⁴⁸ *Id.* at 36.

sentences are permitted, there is a significant risk that they will be imposed on the wrong adolescents.

This danger is greater in the case of young adolescents because this age group as a whole is cognitively and psychosocially impaired in ways that undermine the fairness and reliability of criminal proceedings against them. These impairments not only enhance the risk of erroneous sentencing decisions; they also enhance the risk of erroneous convictions. Thirteen-year-old children, like mentally retarded adults, are at relatively high risk because they are “less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse for their crimes.” *Atkins v. Virginia*, 536 U.S. 304, 320-21 (2002); *see also Kennedy v. Louisiana*, 128 S. Ct. 2641, 2663 (2008) (noting as a “serious systemic concern[.]” the unreliability of child witnesses).

In adult criminal proceedings, critical decisions – such as whether to accept a plea agreement, waive a jury trial, or testify – must be made by the defendant. *See* ABA Model Rules of Professional Conduct, Rule 1.2(a). The scientific and sociological evidence raises doubts about the capacity of a significant number of 13-year-olds to make these decisions.⁴⁹ And

⁴⁹ *See, e.g.,* Thomas Grisso et al., *Juveniles’ Competence to Stand Trial*, 27 L. & Hum. Behav. 333, 356 (2003) (finding that one of every three 11- to 13-year-olds and one of every five 14- to 15-year-olds showed impairments in competency that would

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unsurprisingly, young adolescents are particularly susceptible to giving false confessions. Of young adolescents who have been exonerated in the United States, 69% had confessed falsely, as compared to 25% of older teens and 8% of adults.⁵⁰ Because young adolescents more readily perceive short-term benefits than hard-to-imagine future outcomes, they tend to give inculpatory statements in order to be allowed to go home.⁵¹ Young adolescents rarely question information provided to them by adults and are quick to comply with the wishes of authority figures, making them highly susceptible to police suggestions and pressure.⁵²

result in mentally ill adult being found incompetent to stand trial); *id.* at 357 (young adolescents cannot recognize risks or consider long-term consequences of legal decisions); Thomas Grisso, *The Competence of Adolescents as Trial Defendants*, 3 Psychol. Pub. Pol'y & L. 3, 11 (1997) (noting that over half of adolescents studied thought judges would penalize defendants for exercising rights).

⁵⁰ See Samuel R. Gross et al., *Exonerations in the United States: 1989 Through 2003*, 95 J. Crim. L. & Criminology 523, 545 (table 4) (2005); see also Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. Rev. 891, 944 (2004); Allison S. Redlich & Gail S. Goodman, *Taking Responsibility for an Act Not Committed: The Influence of Age and Suggestibility*, 27 L. & Hum. Behav. 141, 148 (2003).

⁵¹ See Christine S. Scott-Hayward, *Explaining Juvenile False Confessions: Adolescent Development and Police Interrogation*, 31 Law & Psychol. Rev. 53, 65-66 (2007).

⁵² See Redlich & Goodman, *supra* note 50, at 150-52.

4. The Severe, Terminal Sanction of Life Without Parole Is Inappropriate for Young Adolescents Because the Retributive, Deterrent, and Incapacitative Virtues of Such a Punishment Are Attenuated in Their Cases.

“[L]ife without parole for a juvenile, like death, is a sentence different in quality and character from a sentence to a term of years subject to parole.” *Hampton v. Commonwealth*, 666 S.W.2d 737, 741 (Ky. 1984). Life without parole was enacted “to deal with dangerous and incorrigible individuals who would be a constant threat to society.” *Workman v. Commonwealth*, 429 S.W.2d 374, 378 (Ky. 1968).⁵³ There is no sound basis for finding incorrigibility in the case of an as-yet-undeveloped young teen. *Id.* Plainly put, “incorrigibility is inconsistent with youth.” *Id.*⁵⁴

The California Court of Appeal recently held in *In re Nunez*, 93 Cal. Rptr. 3d 242 (Cal. Ct. App. 2009),

⁵³ Life without parole may be an appropriate sentence for an aggravated non-homicide offense committed by an adult. See *Harmelin v. Michigan*, 501 U.S. 957 (1991); but see *Solem v. Helm*, 463 U.S. 277 (1983).

⁵⁴ Life without parole is not necessary to serve the penological goal of incapacitation. Life *with* possibility of parole would permit review and evaluation of an offender, as an adult, to determine whether dangerousness or incorrigibility should preclude his or her release – a determination that cannot reliably or accurately be made at sentencing, when a child’s character has not formed. The availability of parole can identify those members of the small subset of juvenile offenders who do not grow out of criminal behavior and should remain incarcerated.

that a life-without-parole sentence imposed for a kidnapping offense at age 14 “amounts to a penalty so arbitrary that it constitutes cruel and unusual punishment” and violates the Eighth Amendment. *Id.* at 265. The court reasoned that a sentence to life without parole “is the harshest the state may impose on teenage offenders almost four years older than . . . [fourteen] (*Roper, supra*).” *Id.* at 263. Nunez’s age was considered constitutionally “relevant because the harshness of the penalty must be evaluated in relation to the particular characteristics of the offender.” *Id.*

When imposed on a 13-year-old child, a life-without-parole sentence is a “denial of hope” because “it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the defendant], he will remain in prison for the rest of his days.” *Naovarath v. State*, 779 P.2d 944, 944 (Nev. 1989). It “extinguish[es] his life and his potential to attain a mature understanding of his own humanity.” *Roper*, 543 U.S. at 574.

D. Objective Indicia Demonstrate That There Is a Consensus Against Imposing Sentences of Life Imprisonment Without Parole upon Young Adolescents.

In gauging the acceptance or rejection of a particular criminal punishment by contemporary society, the Court looks to both legislative enactments and the actual sentencing practices of judges and jurors. *Roper*, 543 U.S. at 564-67. “Part of the

rationale for this index of constitutional value lies in the very language of the construed clause: whether an action is ‘unusual’ depends, in common usage, upon the frequency of its occurrence or the magnitude of its acceptance.” *Thompson*, 487 U.S. at 822 n.7 (plurality opinion).

Thompson relied in part on a finding that juries had imposed the death penalty on offenders under 16 with exceeding rarity; no adolescent offenders below that age had been executed in the preceding 40 years. 487 U.S. at 832-33. Subsequently, “*Atkins* emphasized that even in the 20 States without formal prohibition, the practice of executing the mentally retarded was infrequent”; from 1989 to 2002, “only five States had executed offenders known to have an IQ under 70.” *Roper*, 543 U.S. at 564. On the basis of these indicia, this Court determined that executing mentally retarded offenders “has become truly unusual, and it is fair to say that a national consensus has developed against it.” *Atkins*, 536 U.S. at 316. And *Roper* based its finding of “sufficient evidence that today our society views juveniles . . . as ‘categorically less culpable than the average criminal’” (*Roper*, 543 U.S. at 567) partly on the observations that “even in the 20 States without a formal prohibition on executing juveniles, the practice is infrequent. . . . [In the past 16 years], six States have executed prisoners for crimes committed as juveniles. In the past 10 years, only three have done so.” *Id.* at 564-65.

The touchstone of actual use makes particularly good sense in the context of life-without-parole

sentences for young adolescents because the statutory authorization for these sentences are largely the result of the unplanned interplay of two independent legislative developments: (i) the expansion of life-without-parole sentences for adult crimes; and (ii) modifications of juvenile-court jurisdiction that bring a larger number of adolescents into adult court. These developments cannot be read as expressing any legislative judgment on the appropriateness of life without parole for adolescents specifically.

1. Life Without Parole for Young Adolescents Is an Unconsidered Consequence of Two Distinct Legislative Developments.

In the last few decades, politically popular “tough on crime” policies like “truth in sentencing” have greatly circumscribed parole, resulting in a dramatic increase in the availability of life-without-parole sentences *for adults*.⁵⁵ Florida abolished parole for all non-capital offenses in 1983. 1983 Fla. Laws, ch. 87, § 2 (initially codified at Fla. Stat. § 921.001(8)).⁵⁶

⁵⁵ See Marc Mauer et al., *The Meaning of “Life”: Long Prison Sentences in Context* 1, 5-8, 12 (2004), available at http://sentencingproject.org/Admin/Documents/publications/inc_meaning_oflife.pdf.

⁵⁶ In 1995, the statute was expanded to include capital offenses. 1995 Fla. Laws, ch. 294, § 4 (eff. Oct. 1, 1995) (now codified at Fla. Stat. Ann. § 775.082(1)). Prior to that time, it had the bizarre result of making offenders sentenced to life

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Simultaneously with the trend to increase penalties for adult offenders by expanding the availability of life-without-parole sentences, States responded to concerns about the perceived inadequacy of the juvenile justice system to deal with violent youth crime by lowering the age at which children could be prosecuted in adult court.⁵⁷ This change in inter-court jurisdictional boundaries or in transfer provisions reflected fears that detention in a juvenile facility until age 18 or 21 would be insufficient to address a falsely-prophesied wave of “super-predators.”⁵⁸ But there is no evidence of any

imprisonment for capital murder parole-eligible while lesser offenders were condemned to die in prison without the possibility of parole.

⁵⁷ See Office of Juvenile Justice & Delinquency Prevention, U.S. Dep’t of Justice, *Juvenile Justice: A Century of Change* 4-5 (1999), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/178995.pdf>.

⁵⁸ See, e.g., Lisa S. Beresford, *Is Lowering the Age at Which Juveniles Can Be Transferred to Adult Criminal Court the Answer to Juvenile Crime?*, 37 San Diego L. Rev. 783-86, 792 (2000) (observing general frustration resulting from belief that powers of juvenile courts were inadequate to punish, deter, and incapacitate juveniles convicted of high-profile violent crimes). “Super-predator” language was commonly used in conjunction with dire predictions that a vast increase in violent juvenile crime was occurring or about to occur. See, e.g., Sacha Coupet, *What to Do with the Sheep in Wolf’s Clothing: The Role of Rhetoric and Reality About Youth Offenders in the Constructive Dismantling of the Juvenile Justice System*, 148 U. Pa. L. Rev. 1303, 1307 (2000); Laura A. Bazelon, *Note: Exploding the Superpredator Myth: Why Infancy Is the Preadolescent’s Best Defense in Juvenile Court*, 75 N.Y.U. L. Rev. 159 (2000). The predictions proved wildly inaccurate. Lower rates of juvenile

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significant legislative consideration of the specific question whether a permanent punishment like lifelong imprisonment without parole is appropriate for young adolescents. For the most part, life-without-parole sentencing for young adolescents became technically possible in many jurisdictions as an adventitious consequence of the overlay of two distinct movements, neither directed to the question.

Thompson teaches that a legislative judgment about the appropriate penalty for a child offender cannot be inferred from a statute that simply regulates the boundary between juvenile-court and adult-court jurisdictions.⁵⁹ The wisdom of this teaching is illustrated by the fact that, when Florida

crime from 1994 to 2000 despite simultaneous increases in the juvenile population led many academics who had originally supported the “super-predator” theory to back away from their predictions; it also led the Surgeon General of the United States to release a report in 2001 stating that there was no evidence that the young people involved in crime during the early 1990’s were more frequent or more vicious offenders than youth in previous years. David S. Tanenhaus & Steven A. Drizin, “*Owing to the Extreme Youth of the Accused: The Changing Legal Response to Juvenile Homicide*,” 92 *J. Crim. L. & Criminology* 641, 642-43 (2002).

⁵⁹ 487 U.S. at 829 n.24 (plurality opinion) (that some States had “set a 15-year-old waiver floor for first-degree murder tells us that the States consider 15-year-olds to be old enough to be tried in criminal court for serious crimes (or too old to be dealt with effectively in juvenile court), *but tells us nothing about the judgment these States have made regarding the appropriate punishment for such youthful offenders*” [emphasis in original]); accord *id.* at 850-51 (O’Connor, J., concurring).

adopted legislation requiring direct indictment in adult criminal court of a child of any age charged with a crime “punishable by death or life imprisonment,” Fla. Stat. Ann. § 985.56(1), the State had not yet enacted a life-without-parole statute. 1969 Fla. Laws, ch. 146, § 1 (initially codified at Fla. Stat. § 39.02, now codified at Fla. Stat. Ann. § 985.56). Its legislation exposing some children (of any age) to adult-court prosecution clearly cannot be read as contemplating life-without-parole sentences for those children.

2. No State That Has Expressly Addressed the Question of the Minimum Age of Eligibility for a Life-Without-Parole Sentence Has Set the Age as Low as 13.

Where States have expressly addressed the minimum age at which life imprisonment without parole may be imposed, they almost universally have set that age above 13 or 14. *See, e.g.*, La. Child. Code Ann. art. 857(B) (“[n]otwithstanding any other provision of law to the contrary, a fourteen-year-old who is transferred pursuant to this Article and subsequently convicted shall not be confined for such conviction beyond his thirty-first birthday”); Colo. Rev. Stat. § 17-22.5-104(2)(d)(IV) (minimum age for life without parole is 18); Cal. Penal Code § 190.5 (minimum age for life without parole for first-degree

murder is 16)⁶⁰; Ind. Code § 35-50-2-3 (minimum age for life without parole for murder is 16); D.C. Code § 22-2104 (minimum age for life without parole for murder is 18); Kan. Stat. § 21-4622 (minimum age for life without parole for capital murder is 18); Ky. Rev. Stat. § 640.040 (minimum age for life without parole for murder is 18); Or. Rev. Stat. § 61.620 (prohibiting imposition of life-without-parole sentence on any child under 18); Tex. Penal Code § 12.31(a)(1), amended by 2009 Tex. Sess. Law Serv. 765 (S.B. 839, approved June 19, 2009, eff. Sept. 1, 2009) (minimum age for life without parole is 18). The outlier, Massachusetts, sets the minimum age at 14 (for life without parole for murder). Mass. Gen. Laws ch. 119, § 72B.⁶¹

⁶⁰ The California Court of Appeal recently struck down the code provision that permitted a juvenile kidnapper under age 16 to be sentenced to life without parole, Cal. Penal Code § 209(a), as violative of the United States and California Constitutions. *In re Nunez*, 93 Cal. Rptr. 3d 242, 258 (Cal. Ct. App. 2009) (finding “state’s sentencing scheme makes a perverse distinction between juvenile offenders under 16 years old, providing for harsher punishment for those who do not harm a victim kidnapped for ransom than for those who commit murder with special circumstances” and thus “shocks the conscience and violates human dignity”).

⁶¹ Some death-penalty States explicitly abolished the death penalty for juveniles by provisions that arguably authorize life without parole. *See, e.g.*, 730 Ill. Comp. Stat. Ann. 5/5-8-1; Md. Code Ann., Crim. Law § 2-202(b)(2); Nev. Rev. Stat. Ann. § 176.025 (maximum sentence for person under 18 is “life,” which could be with or without parole); N.J. Stat. Ann. § 2C:11-3(b); N.C. Gen. Stat. Ann. § 14-17; Ohio Rev. Code Ann. § 2929.03(E) (provides

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The complete absence of legislative enactments expressly approving life imprisonment without parole for 13-year-olds – and the near-complete absence of express legislative approval of such a sentence even for 14-year-olds – reflects a consensus that the sentence would be excessively harsh punishment as applied to a young adolescent.

3. In Actual Practice, the Imposition of a Life-Without-Parole Sentence on a Young Teenager Is an Aberrant, Vanishingly Rare Occurrence.

Although not explicitly addressing the issue of the propriety of life-without-parole sentences for the youngest teens, statutes in 27 States have the effect of exposing 13-year-olds to such a sentence,⁶² and

for life with or without parole); Va. Code Ann. § 18.2-10(a); *cf.* Mo. Stat. Ann. § 565.020 (amended 1990) (amending Missouri's death-penalty statute to comply with *Thompson* by eliminating the death penalty and substituting life without parole for children under 16).

⁶² Del. Code Ann. tit. 10, § 1010, *id.* tit. 11, § 4209; Fla. Stat. Ann. §§ 775.082, 985.557, 985.56(1); Ga. Code Ann. §§ 16-3-1, 16-5-1(d), 15-11-28(b); Haw. Rev. Stat. Ann. §§ 571-22, 706-656(1); Idaho Code Ann. §§ 18-4004, 20-509(1); 705 Ill. Comp. Stat. Ann. 405/5-130, 730 Ill. Comp. Stat. Ann. 5/5-8-1(a)(1); Me. Rev. Stat. Ann. tit. 15, § 3101; *id.* tit. 17-A, § 1251; Md. Code Ann., Cts. & Jud. Proc. § 3-8A-06, *id.* Crim. Law §§ 2-201, 2-202, 2-203, 2-304; Mich. Comp. Laws §§ 712A.2d, 750.316, 791.234(6)(a); Miss. Code Ann. §§ 43-21-151(3), 43-21-157, 97-3-21; Mo. Ann. Stat. §§ 211.071, 565.020; Mont. Code Ann. §§ 41-5-206(1), 45-5-102; Neb. Rev. Stat. Ann. §§ 28-105, 28-303, 43-247; Nev. Rev. Stat. Ann. §§ 62B.330, 94.010, 200.030; N.H. Rev. Stat. Ann.

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statutes in an additional 13 States make the sentence possible for 14-year-olds.⁶³ In the light of this broad theoretical availability, the infrequency with which 13-year-olds – or even 14-year-olds – are actually sentenced to life without parole is striking. It evidences nationwide repudiation, not acceptance, of the sentence for children of these young ages.

There are only nine persons in the United States under life-without-parole sentences for offenses committed at age 13, and only 64 more serving life without parole for offenses at 14.⁶⁴ These numbers are

§§ 169-B:24, 628:1, 630:1-a; N.C. Gen. Stat. Ann. §§ 7B-2200, 14-17; Okla. Stat. Ann. tit. 10, § 7306-1.1; *id.* tit. 21, § 701.9; 42 Pa. Cons. Stat. Ann. §§ 1102, 6302, 6355, 9711; R.I. Gen. Laws, §§ 11-23-2, 14-1-7; S.C. Code Ann. §§ 16-3-20, 63-19-1210(6); S.D. Codified Laws §§ 22-6-1, 22-16-12, 26-11-4; Tenn. Code Ann. §§ 37-1-134, 39-13-202, 39-13-204; Vt. Stat. Ann. tit. 33, §§ 5102(2)(C), 5204; *id.* tit. 13, § 2303; Wash. Rev. Code Ann. §§ 10.95.030, 13.40.110; W. Va. Code Ann. §§ 49-5-10, 61-2-2, 62-3-15; Wis. Stat. Ann. §§ 938.18, 938.183, 940.01, 939.50(3)(a); Wyo. Stat. Ann. §§ 6-2-101, 14-6-203, 14-6-237.

⁶³ Ala. Code §§ 12-15-203, 13A-5-39(1); Ariz. Rev. Stat. Ann. §§ 13-501(B), 13-752(A); Ark. Code Ann. §§ 5-4-104(b), 9-27-318; Conn. Gen. Stat. Ann. § 46b-127 (amended in nonpertinent part eff. Jan. 1, 2010), 53a-35a, 53a-54a; Iowa Code §§ 232.45(6)(a), 902.1; Mass. Gen. Laws ch. 119, § 74, *id.* ch. 265, § 2; Minn. Stat. Ann. §§ 260B.125, 609.106; N.J. Stat. Ann. §§ 2A:4A-26, 2C:11-3; N.M. Stat. Ann. §§ 31-18-14 (as amended by 2009 N.M. Laws, ch. 11, § 1), 32A-2-3, 32A-2-20; N.D. Cent. Code §§ 12.1-04-01, 12.1-16-01, 12.1-32-01; Ohio Rev. Code Ann. §§ 2152.10, 2929.03; Utah Code Ann. §§ 76-2-301, 76-3-206, 78A-6-602(3); Va. Code Ann. §§ 16.1-269.1, 18.2-10.

⁶⁴ J.A. 27; Equal Justice Initiative, *Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison* 20

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especially indicative of nationwide repudiation when one considers that 9 and 73 represent the total *accumulations* of life-without-parole sentences imposed on 13- and 14-year-olds over the last 30 years or so. (Young inmates serving life without parole do not, of course, routinely cycle out of the data base until claimed by death.) During the same time period, no less than a quarter million adolescents under age 15 have been arrested for crimes for which a life-without-parole sentence could have been imposed.⁶⁵

(2007) [hereinafter *Cruel and Unusual*] (reporting results of nationwide study identifying 73 children nationwide serving life-without-parole sentences for offenses at age 13 or 14). No one in the country is serving life without parole for an offense committed below the age of 13. The actual practice of sentencing young adolescents to life without parole is even more rare for offenses not involving a killing: only two people in the country are sentenced to life without parole for a non-homicide at age 13 (including Joe Sullivan), and only three additional people are serving life without parole for a non-homicide at 14. All five of these sentences were imposed in the State of Florida. *Id.* at 24 (reporting seven such sentences, of which one has been vacated, *In re Nunez*, 93 Cal. Rptr. 3d 242 (Cal. Ct. App. 2009) (14-year-old), and one is life *with* parole, *State v. Green*, 502 S.E.2d 819, 822 (N.C. 1998); N.C. Gen. Stat. Ann. § 15A-1371(a1) (West 1988)).

⁶⁵ Between 1978 and 2007, according to the federal government's Uniform Crime Reports, 290,188 children 14 and younger were arrested for murder or nonnegligent manslaughter, rape, or robbery. See U.S. Dep't of Justice, Fed. Bureau of Investigation, *Uniform Crime Reports for the United States*, Table 38 (2007), <http://www.fbi.gov/ucr/cius2007/arrests/>; *id.* (2006), <http://www.fbi.gov/ucr/cius2006/arrests/>; *id.* (2005), <http://www.fbi.gov/ucr/05cius/arrests/>; *id.* at 290 (2004), available at <http://www.fbi.gov/ucr/ucr.htm>; *id.* at 280 (2003); *id.* at

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The numbers 9 and 73 bear comparison with the parallel figures for the classes involved in *Roper* and *Atkins*. When *Roper* recognized a national consensus against death sentences for juveniles, 72 juvenile offenders were under that sentence.⁶⁶ When *Atkins* found a national consensus against death sentences for persons with mental retardation, it was estimated that one to three percent of the death-row population – roughly 71 people – were mentally retarded.⁶⁷

The overwhelming majority of jurisdictions in this country – 44 States, the District of Columbia, and the federal government – have not sentenced a single child as young as 13 to life imprisonment without parole. Indeed, the vast majority of jurisdictions nationwide – 32 States, D.C., and the

244 (2002); *id.* (2001); *id.* at 226 (2000); *id.* at 222 (1999); *id.* at 220 (1998); *id.* at 232 (1997); *id.* at 224 (1996); *id.* at 218 (1995); *id.* at 227 (1994); *id.* (1993); *id.* (1992); *id.* at 223 (1991); *id.* at 184 (1990); *id.* at 182 (1989); *id.* at 178 (1988); *id.* at 174 (1987); *id.* (1986); *id.* (1985); *id.* at 172 (1984); *id.* at 179 (1983); *id.* at 176 (1982); *id.* at 171 (1981); *id.* at 200 (1980); *id.* at 196 (1979); *id.* at 194 (1978).

⁶⁶ Victor L. Streib, *Death Sentences and Executions for Juvenile Crimes, January 1, 1973-September 30, 2004* 3 (2004), available at <http://www.demaction.org/dia/organizations/ncadp/Affiliate/Toolkit/Resources/DeathPenalty/JuvDeathSept302004.pdf>.

⁶⁷ See *Atkins*, 536 U.S. at 309 n.5; Death Penalty Information Center, *Size of Death Row By Year*, <http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year> (last visited July 14, 2009) (showing 3557 death row inmates in 2002).

federal government – have not sentenced a single child of either 13 or 14 to life imprisonment without parole. Only six States have 13-year-old offenders serving life-without-parole sentences,⁶⁸ and only 12 additional States have 14-year-olds serving such sentences.⁶⁹ Most of the 18 States nationwide that have imposed life-without-parole sentences on young adolescents have done so rarely; only six States have more than two or three children serving such sentences.⁷⁰ Most of the sentences are for murder.

Another measure of the level and nature of public toleration of these sentences is the race of the people who get them. All but one of the 13-year-olds sentenced to life imprisonment without parole in this

⁶⁸ J.A. 27; *Cruel and Unusual*, *supra* note 64, at 20 (Florida, Illinois, Nebraska, North Carolina, Pennsylvania, and Washington). Since publication, reported cases show that the offender in Illinois was 14, not 13, at the time of the offense, which eliminates Illinois from this cohort. *See People v. Davis*, 904 N.E.2d 149, 151 (Ill. App. Ct. 2009). However, Mississippi takes its place. *See Banyard v. State*, No. 2006-KA-01843-COA, 2009 WL 596013 (Miss. Ct. App. Mar. 10, 2009).

⁶⁹ *Cruel and Unusual*, *supra* note 64, at 20 (14 or younger serving life without parole in 19 states: Alabama, Arkansas, Arizona, California, Colorado, Delaware, Florida, Illinois, Iowa, Michigan, Missouri, Mississippi, Nebraska, North Carolina, Pennsylvania, South Dakota, Tennessee, Washington, and Wisconsin). The current number is 18 states because California has no people serving life without parole for offenses committed at 14 or younger. *See In re Nunez*, 93 Cal. Rptr. 3d 242 (Cal. Ct. App. 2009) (reversing unconstitutional life-without-parole sentence for aggravated kidnapping at 14).

⁷⁰ *Cruel and Unusual*, *supra* note 64, at 20.

country are Black or Latino.⁷¹ All of the 13- and 14-year-olds serving that sentence for non-homicide offenses are African American.⁷² Of the 73 people nationwide serving life-without-parole sentences for offenses committed at ages 13 or 14, 70% are racial minorities.⁷³

Most of these sentences were imposed during the height of the racially charged “super-predator” mythology that fueled public fears about youth crime.⁷⁴ In the last decade, those predictions proved false, the fearful theorists have been discredited,⁷⁵ and the rate of sentencing middle-schoolers to life imprisonment with no chance of release has declined dramatically. No 13-year-old has been sentenced to

⁷¹ *Id.* at 21.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ See *supra* note 58. Illustrative of the racial coding of the mythology is John J. DiIulio, *My Black Crime Problem, and Ours*, City Journal (1996), available at http://www.city-journal.org/html/6_2_my_black.html (warning about “270,000 more young predators on the streets than in 1990, coming at us in waves over the next two decades . . . as many as half of these juvenile super-predators could be young black males”); see also, e.g., William J. Bennett, John J. DiIulio, Jr., & John P. Walters, *Body Count: Moral Poverty – And How to Win America’s War Against Crime and Drugs* 27-28 (1996).

⁷⁵ See Franklin E. Zimring, *The Youth Violence Epidemic: Myth or Reality?*, 33 Wake Forest L. Rev. 727, 728 (1998) (analyzing juvenile crime statistics and concluding “there never was a general pattern of increasing adolescent violence in the 1980s and 1990s”).

life without parole for a non-homicide offense in 18 years; only two 13-year-olds have been given such sentences for any offense in the past decade. The broad social context for and “the consistency of the direction of change,” *Roper*, 543 U.S. at 566 (quoting *Atkins*, 536 U.S. at 315), support a finding that standards of decency have now evolved to the point that they clearly repudiate the imposition of a permanent, hopeless sentence on inherently changeable, still-developing young adolescents – particularly where the practice disproportionately condemns children of color.

The determination that life imprisonment with no possibility of parole is an excessive punishment for adolescent offenders “finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction” to this punishment. *Roper*, 543 U.S. at 575. The United States stands alone in sentencing children to die in prison without hope of ever winning release; no other country is known to have any offenders serving life-without-parole sentences for crimes as children.⁷⁶ Sentencing juveniles to life without parole is banned by international conventions signed by almost every member of the world community of nations. The Convention on the Rights of the Child, ratified by every country in the world except the United States

⁷⁶ See Connie De La Vega & Michelle Leighton, *Sentencing Our Children to Die in Prison: Global Law & Practice*, 42 U.S.F. L. Rev. 983, 990 (2008).

and Somalia, expressly forbids sentencing juveniles to spend the rest of their lives in prison,⁷⁷ and the United States was alone in opposing a resolution in the United Nations General Assembly calling on all states to abolish life sentences without parole for juveniles. The motion passed by a vote of 176 to 1.⁷⁸ The United States has been found to be in potential violation of two treaties to which it *is* a signatory, the International Covenant on Civil and Political Rights and the Convention Against Torture, Inhumane or Degrading Treatment or Punishment, due to its imposition of life imprisonment without parole on children.⁷⁹

When the actual practice of imposing life-without-parole sentences on young adolescents is examined, it amounts to a powerful demonstration of domestic and global unacceptability. Most jurisdictions in this Nation have had a chance to use life without parole extensively in the sentencing of adolescents but have “voted with their feet” against

⁷⁷ U.N. Convention on the Rights of the Child, Art. 37, Nov. 20, 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1448, 1468-70 (entered into force Sept. 2, 1990).

⁷⁸ G.A. Res. 61/146, ¶ 31(a), UN Doc. No. A/Res/61/146 (Dec. 19, 2006).

⁷⁹ See U.N. Human Rights Committee, 87th Sess., Concluding Observations on the United States of America, ¶ 34, U.N. Doc. CCCPR/C/SR.2395 (Dec. 18, 2006); U.N. Committee Against Torture, 36th Sess., Conclusions and Recommendations on the United States of America, ¶ 34, U.N. Doc. No. CAT/C/USA/CO/2 (July 25, 2006).

this form of punishment. It is shunned world-wide. What emerges is a solid consensus that the passing of irrevocable judgment on a child of 13, condemning him or her to be imprisoned until death, is an intolerable aberration.

E. Appropriate Categorical Lines Can Readily Be Drawn.

Roper recognized that a categorical preclusion of death sentences for juveniles was constitutionally necessary, and the same necessity exists, for even greater reason, in the case of life-without-parole sentences for young adolescents. Reliance on individualized sentencing or a case-by-case approach is still less feasible in this context than in the context of capital sentencing, because a substantial percentage of adolescents' life-without-parole sentences were dictated by mandatory-minimum-sentencing provisions that permit no consideration of the individual adolescent's character, life history, and circumstances. In the remaining cases, where judges do have discretion to impose a sentence less than life without parole, the same "unacceptable likelihood [that was found in *Roper*] exists that the brutality or cold-blooded nature of any particular crime would overpower mitigating arguments based on youth as a matter of course, even where the juvenile offender's objective immaturity, vulnerability, and lack of true depravity" should require the lesser sentence. *Roper*, 543 U.S. at 573. If the crime seems inexplicable for a child of the defendant's age, "a defendant's youth may

even be counted against him.” *Id.* And as discussed above, *supra* at pp. 38-40, the same developmental deficits of young adolescents that diminish their personal culpability also impair their ability to participate effectively in the adult criminal-trial and criminal-sentencing processes and to defend themselves against the harshest result at sentencing. Because the “differences between juvenile and adult offenders are too marked and well understood” to risk allowing a 13-year-old offender to be sentenced to life in prison without the possibility of parole “despite insufficient culpability,” *id.* at 572-73, a categorical rule barring the infliction of a life-without-parole sentence on any offender under a certain age is necessary.

The question, then, is not whether to draw a category boundary but only where to draw it. This is, of course, familiar territory for the Court. *See Roper*, 543 U.S. at 574 (despite “the objections always raised against categorical rules . . . , a line must be drawn”); *Thompson*, 487 U.S. at 828 (plurality opinion) (finding it “self-evident” that the Constitution would not permit the execution of a 10-year-old child and acknowledging the consequent necessity of drawing some categorical line in terms of age); *accord id.* at 848 (O’Connor, J., concurring). The accepted process of locating the line through a consideration of “objective indicia of consensus” (*Roper*, 543 U.S. at 567) and the exercise of “the Court’s independent judgment” (*id.* at 563) is fully adequate to the task.

The Court could discern a satisfactory basis for drawing the line at any one of several different ages. To a considerable extent, the vulnerabilities and limitations of adolescence are common to a 13-year-old like Joe Sullivan and to a 16-year-old like Terrance Graham in *Graham v. Florida*, No. 08-7412. For that reason, and because of the widespread recognition that full adult responsibilities requiring maturity of judgment should be withheld from adolescents below the age of 18 (see Appendices B-D to the *Roper* opinion), the line could properly be drawn at 18.

However, as the scientific data we have summarized at pp. 12-25 *supra* and the common-sense observations of parents the world over attest, 13- and 14-year-olds as a class are *much* less mature than 17-year-olds.⁸⁰ And numerous state statutes

⁸⁰ See, e.g., Steinberg, Graham et al., *Future Orientation*, *supra* note 32, at 39 (reporting “significantly lower planning scores among adolescents between 12 and 15 than among younger or older individuals”); Steinberg & Monahan, *supra* note 32, at 1538-41 (documenting that “resistance to peer influence increases linearly over the course of adolescence, especially between ages 14 and 18. In contrast, there is little evidence of growth in this capacity between 10 and 14 or between 18 and 30.” [*id.* at 1538]); Steinberg, Cauffman et al., *supra* note 8, at 1776 (“The first half of the adolescent decade – between 10 and 15 – appears to be a time of growing vulnerability to risky behavior, as this period is characterized by relatively higher sensation seeking in the context of relatively lower impulse control; heightened sensation seeking impels adolescent toward risky activity, and immature self-regulatory capabilities do not restrain this impulse. . . . [V]ulnerability

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recognize this plain fact of life by providing special protections for children of 13 and 14 and by restricting their freedoms in ways that are thought unnecessary in the case of older teenagers. *See* pp. 30-35 *supra* and Appendix A *infra*. An additional – indeed, independently sufficient – basis for drawing the line between 14 and 15 would be the indisputable numerical evidence of repudiation of sentences of life imprisonment without the possibility of parole for 13- and 14-year-olds: a nationwide total of only 73 such sentences having been imposed in a quarter of a million cases where they could have been. *See* pp. 49-53 *supra*. While we do not have access to precise data regarding the comparable figure for older adolescents, the available indications are that the numbers rise sharply from age 15 upwards.⁸¹

There is also justification for drawing the line between 15 and 16. Many state statutes group 15-year-olds with 13- and 14-year-olds for purposes of the special protections and restrictions that they prescribe for younger teens but not older ones. And in the ordinary course of adolescent development, the

toward risky behavior would be expected to decline from age 15 on, since both sensation seeking and impulsivity diminish linearly after this age.”).

⁸¹ As of 2008, Human Rights Watch estimates there are 2484 offenders serving juvenile life-without-parole sentences in the United States. Human Rights Watch, *The Rest of Their Lives: Life Without Parole for Youth Offenders in the United States in 2008* (2008), available at <http://www.hrw.org/sites/default/files/reports/us1005execsum.pdf>.

growth of some capabilities that are crucial for mature judgment appears to level off at 16. *See, e.g.*, Laurence Steinberg, Elizabeth Cauffman et al., *Age Differences in Sensation-Seeking and Impulsivity as Indexed by Behavior and Self-Report: Evidence for a Dual Systems Model*, 44 *Dev. Psychol.* 1764, 1771 (2008) (“sensation seeking increases during the first half of adolescence and then declines steadily from age 16 on”); *id.* at 1174 (“heightened sensation seeking is most clearly and consistently seen among individuals between the ages of 12 and 15”); Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 *Ann. Rev. Clin. Psychol.* 459, 467 (2009).

But wherever the line is drawn, there is no defensible constitutional logic consistent with *Roper* and with the basic Eighth Amendment command of respect for every individual’s “potential to attain a mature understanding of his own humanity” (*Roper*, 543 U.S. at 574), that allows a State to condemn a 13-year-old child to die in prison with no opportunity ever to demonstrate that he has grown into an adult human being who is fit to live in human society.



CONCLUSION

The judgment below should be reversed and Joe Sullivan's sentence of life imprisonment without the possibility of parole should be held unconstitutional.

Respectfully submitted,

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APPENDIX A*

ALABAMA

Laws establishing minimum age for rights and responsibilities: Ala. Code § 13A-6-70 (West) (child 15 or younger incapable of consent to sexual activity). *Id.* §§ 30-1-4, 30-1-5 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may do so only with parental consent). *Id.* § 8-17-222 (sale of fireworks to child 15 or younger prohibited unless accompanied by adult). *Id.* § 26-1-3.1 (child 15 or younger not permitted to donate blood; 16-year-old may donate blood, but only with parental consent). *Id.* § 32-5A-282 (child 15 or younger required to wear helmet when riding bicycle). *Id.* §§ 32-6-7, 32-6-8, 32-5-64 (child 14 or younger cannot drive; 15-year-old eligible for learner's permit only). *Id.* § 16-28-3 (child 17 or younger must attend school). *Id.* § 25-8-33 (child 15 or younger cannot be employed, with exceptions for certain agricultural work and limited work for 14- or 15-year-old outside school hours); *see also id.* § 25-8-36 (limiting hours 14- and 15-year-olds permitted to work). *Id.* §§ 34-5-5, 34-7A-22, 34-13-130 (child 15 or younger ineligible to be licensed as barber, cosmetologist, or embalmer's apprentice). *Id.* §§ 27-14-5, 27-34-21 (child 14 or younger incapable of contracting for insurance or joining fraternal benefit society). *Id.* § 22-8-4 (child 13 or younger cannot consent to

* All statutes are current per Westlaw as of July 16, 2009. This appendix provides examples of relevant statutes and is not an exhaustive listing.

health services). *Id.* § 26-10A-7 (child 13 or younger can be adopted without his or her consent).

Laws extending extra protection to young adolescents: Ala. Code § 13A-5-40 (murder of child 13 or younger subject to capital punishment). *Id.* § 13A-6-69 (children 15 and younger protected from enticement for immoral purposes). *Id.* §§ 13A-6-62 to 13A-6-67 (children 15 and younger but older than 12 protected from sexual contact with older persons through various crimes criminalizing such contact regardless of consent). *Id.* § 13A-6-40 (children 15 and younger protected from kidnapping through provision stating that restraint is “without consent” even if child acquiesces, unless parent or guardian has given consent). 2009 Ala. Laws 745 (S.B. 120, approved by governor May 22, 2009) (children 15 and younger protected while using internet by creation of several felonies relating to use of computers to entice or lure children). Ala. Code § 32-5A-191 (enhanced penalty for driving under influence of alcohol when child 13 or younger in vehicle). *Id.* § 32-5-222 (penalizing driver of vehicle when child 14 or younger does not wear seat belt). *Id.* § 13A-13-6 (crime to cause child 15 or younger to engage in occupation with substantial risk to life or health). *Id.* §§ 15-25-2, 15-25-3 (child 15 or younger who is victim of sex crime protected through provision authorizing victim’s videotaped deposition or closed-circuit testimony in criminal prosecution for sexual offense). *Id.* § 15-3-5 (no statute of limitations for sex offense against child 15 or younger).

ALASKA

Laws establishing minimum age for rights and responsibilities: Alaska Stat. Ann. § 11.41.436 (West) (child 15 or younger cannot consent to sex, except that child 13 to 15 can consent with person less than 4 years older). *Id.* § 25.05.171 (child 13 or younger cannot marry; child 14 or 15 may marry only with judicial and parental consent; child 16 or 17 may marry only with parental consent). *Id.* § 13.52.173 (child 15 or younger incapable of consenting to organ donation, unless emancipated); *cf. id.* § 09.55.590 (child 15 or younger ineligible for emancipation). *Id.* § 08.13.217 (minor may not receive tattoo, and may not receive body piercing without consent and presence of parent during procedure). *Id.* §§ 25.15.051, 25.15.057 (child 13 or younger cannot drive; child 14 or 15 may receive learner's permit or special/temporary license only). *Id.* § 14.30.010 (children 16 and younger must attend school, with certain limited exemptions). *Id.* §§ 23.10.330, 23.10.335 (child 13 or younger may not work, except in domestic work, baby-sitting, newspaper delivery, casing cans in canneries, or under direct supervision of parents); *see also id.* § 23.10.340 (limiting work hours for children 15 and younger); *id.* § 23.10.350 (child 15 or younger may not work in hazardous jobs; child 16 or 17 requires written exemption from state official to do so). *Id.* § 21.84.025 (child 14 or younger ineligible for adult membership in fraternal benefit society).

Laws extending extra protection to young adolescents: Alaska Stat. Ann. § 11.41.100 (homicide

elevated to first-degree murder where death of child 15 or younger occurs during sex offense, kidnapping, or course of physical abuse on child). *Id.* § 11.41.110 (negligent homicide elevated to second-degree murder where victim is child 15 or younger and defendant previously convicted of felony against child of such age). *Id.* §§ 11.41.452, 11.61.128 (protecting children 15 and younger from adult internet predators by punishing persons 18 or older who electronically distribute sexually explicit material to such children or use a computer to entice such children to engage in sexual conduct). *Id.* §§ 11.41.458, 11.41.460 (enhancing culpability for indecent exposure where done in presence of child 15 or younger). *Id.* § 11.41.260 (enhancing culpability for stalking where victim 15 or younger). *Id.* § 11.41.370 (for purposes of kidnapping, restraint is “without consent” even if child 15 or younger acquiesces, unless parent or guardian has given consent). *Id.* § 11.56.765 (protecting children 15 and younger by making it crime for witness to fail to report kidnapping, murder, or certain sex crimes against such children). *Id.* § 12.45.046 (child 15 or younger who is victim or witness to crime protected from mental or emotional strain of open-court testimony in criminal prosecution by provision allowing testimony by closed-circuit television or through one-way mirror).

ARIZONA

Laws establishing minimum age for rights and responsibilities: Ariz. Rev. Stat. Ann. §§ 13-1405,

13-1407 (West) (child 14 or younger incapable of consenting to sex, with exception for marriage; child 15 to 17 capable of consent only with spouse, person under 19, or person less than 2 years older than child with whom child attends high school). *Id.* § 25-102 (child 15 or younger cannot marry without parental consent and judicial approval; child 16 or 17 requires parental consent). *Id.* § 44-134 (child 15 or younger incapable of consenting to donate blood; child 16 or 17 may not do so without parental consent). *Id.* § 36-843 (child too young to apply for driver's license cannot consent to organ donation, unless emancipated); *cf. id.* § 28-3153 (child 14 or younger cannot drive; children 15 to 17 progressively eligible for learner's permits and restricted licenses); *id.* § 12-2451 (child 15 or younger ineligible for emancipation). *Id.* § 15-802 (children between ages 6 and 16 must attend school). Ariz. Const. art. 18 § 2 (child 13 or younger may not be employed during school hours; child 15 or younger may not be employed in mines, hazardous occupations, or for more than 8 hours a day). Ariz. Rev. Stat. Ann. § 32-322 (child 15 or younger ineligible for barber's license). *Id.* §§ 20-865, 20-1106 (child 14 or younger incompetent to contract for insurance or adult membership in fraternal benefit society). Ariz. R. Civ. P. 4.1 (summons for child 15 or younger must be served on child and parent or guardian). Ariz. Rev. Stat. Ann. § 36-881 (for purposes of regulating day care centers, child defined as person 14 or younger).

Laws extending extra protection to young adolescents: Ariz. Rev. Stat. Ann. § 13-705 (providing

enhanced penalties for dangerous crimes committed by adults against children, including specific category of enhanced penalties where victim is child 12 to 14). *Id.* § 13-751 (enhanced mandatory minimum sentence for murder of child 14 or younger). *Id.* §§ 13-1402 to 13-1406, 13-1410, 13-1419, 13-3206 (enhancing culpability for various sexual offenses where victim is child 14 or younger). *Id.* § 13-3407.01 (separate crime to manufacture methamphetamine under circumstances causing physical injury to child 14 or younger). *Id.* § 28-1383 (enhanced penalty for driving while intoxicated when child 14 or younger in vehicle); *see also id.* § 5-396 (same for operation of watercraft). *Id.* § 28-909 (penalizing driver of vehicle when child 15 or younger fails to wear seat belt). *Id.* §§ 13-4251, 13-4253 (child 14 or younger who is victim of or witness to crime may be permitted to testify in criminal prosecution via closed-circuit television or videotape instead of in open court).

ARKANSAS

Laws establishing minimum age for rights and responsibilities: Ark. Code Ann. §§ 5-14-103, 5-14-124 to 5-14-27 (West) (child 15 or younger cannot consent to sexual activity with person 20 or older, with exception for marriage; child 13 or younger cannot consent to sexual activity with person more than 3 years older). *Id.* §§ 9-11-102, 9-11-103 (males 16 and younger and females 15 and younger cannot contract for marriage; others 17 and younger cannot do so without parental consent; exception allowed upon

court order where couple has child or female is pregnant). *Id.* § 20-27-301 (child 15 or younger prohibited from donating blood; 16-year-old requires parental consent). *Id.* § 20-17-1204 (child 15 or younger incapable of consenting to organ donation, unless emancipated minor); *cf. id.* § 9-27-362 (child 16 or younger may not be emancipated). *Id.* § 27-16-604 (child 13 or younger cannot drive; eligible for learner's permit at 14, intermediate driver's license at 16); *see also id.* § 27-101-602 (child 15 or younger may not operate personal watercraft unaccompanied). *Id.* § 6-18-201 (children 17 and younger must attend school). *Id.* § 11-6-104 (child 13 or younger barred from work in remunerative occupation, except employment by parents during school vacation). *Id.* §§ 11-6-105, 11-6-106 (children 15 and younger barred from employment in certain dangerous activities). *Id.* § 23-89-511 (child 15 or younger cannot operate amusement park ride). *Id.* § 17-26-304 (child 15 or younger cannot be licensed as cosmetologist, manicurist, or esthetician); *see also id.* § 17-20-302 (minimum age 16.5 for barber's license). *Id.* § 23-74-201 (child 14 or younger cannot hold adult membership in fraternal benefit society). *Id.* § 9-26-104 (court cannot remove disability of minor to transact business for children 15 and younger). *Id.* § 12-61-101 (male children 16 and younger not eligible for mandatory state militia). *Id.* § 28-1-113 (child 13 or younger not competent to waive interest in probate hearing). Ark. R. Civ. P. 4 (child 13 or younger not competent to accept service for another at their place of residence; if person to be

served is 13 or younger, parent or guardian must be served instead).

Laws extending extra protection to young adolescents: Ark. Code Ann. § 5-10-101 (homicide elevated to capital murder where victim 14 or younger and defendant 18 or older). *Id.* § 5-10-102 (homicide elevated to first-degree murder where victim 14 or younger). *Id.* §§ 5-4-501, 5-14-103 (enhanced penalties for sexual offenses against child 13 or younger). *Id.* § 5-14-110 (crime for person 18 or older to cause child 14 or younger to expose himself, or to solicit such child for sexual activity). *Id.* § 5-16-102 (enhanced penalty for voyeurism where victim 16 or younger). *Id.* § 5-14-129 (children 15 and younger protected by provision prohibiting sex offenders from employment involving interaction with such children). *Id.* § 5-27-306 (protecting children 15 and younger from internet stalking). *Id.* § 5-11-101 (restraint of child 13 or younger can be kidnapping regardless of child's acquiescence, unless parent or guardian has given consent). *Id.* § 5-65-111 (enhanced penalty for operating motor vehicle while intoxicated when child 15 or younger in car). *Id.* § 16-10-130 (criminal trials involving victims 13 or younger shall be given precedence). *Id.* § 16-44-203 (child 16 or younger who is victim of sex offense protected through rule authorizing testimony of child by videotaped deposition in criminal prosecution). *Id.* § 9-27-510 (child 15 or younger cannot be transported to adult prison even when serving adult sentence). Ark. R.

Crim. P. 11.2 (child 13 or younger incompetent to consent to individual search).

CALIFORNIA

Laws establishing minimum age for rights and responsibilities: Cal. Penal Code § 261.5 (West) (child 17 or younger incapable of consenting to sexual intercourse except with spouse). Cal. Fam. Code § 302 (child 17 or younger requires judicial and parental consent to marry). Cal. Health & Safety Code § 12689 (sale of “safe and sane” fireworks to child 15 or younger prohibited; sale of “dangerous” fireworks or “rocket” to child 17 or younger prohibited). *Id.* § 1607.5 (child 14 or younger incapable of donating blood; 15- or 16-year-old requires parental consent). *Id.* § 7150.15 (child 14 or younger incapable of consenting to organ donation, unless emancipated minor; child between 15 and 18 requires parental consent). Cal. Veh. Code § 12509, 12512-12514, 12814.6 (child 13 or younger cannot drive; 14-year-old eligible for junior permit under extraordinary circumstances; child 15 years, six months eligible for instruction permit; 16- and 17-year-olds eligible for provisional license only); *see also* Cal. Harb. & Nav. Code § 658.5 (child 15 or younger prohibited from operating certain vessels). Cal. Educ. Code § 48200 (children 6 or older but not older than 17 must attend school, with some exemptions); *see also, e.g., id.* § 48232 (child 15 or older may take leave of absence from school). Cal. Labor Code §§ 1290, 1292, 1293, 1294.5, 1297 (children 15 or younger prohibited from employment in dangerous jobs or

tasks); *see also id.* § 1294.3 (children 14 or 15 allowed only limited employment); *id.* § 1391 (limiting hours of employment for all minors, with extra limitations for children 15 and younger). Cal. Bus & Prof. Code §§ 2866, 7321, 7321.5, 7326 (child 16 or younger ineligible to be licensed as vocational nurse, cosmetologist, barber, manicurist). *Id.* § 22706 (child 13 or younger prohibited from using tanning bed; child 14 to 17 must have parental consent). *Id.* § 3365.6 (child 16 or younger cannot buy hearing aid without recommendation from doctor or audiologist). *Id.* § 18702 (child 15 or younger ineligible to be licensed as contestant in boxing, wrestling, or martial arts match; child 16 to 18 may compete as amateur only). Cal. Ins. Code § 10112 (child 15 or younger requires parental consent to contract for insurance); *see also id.* § 11023 (child 14 or younger ineligible for admission to fraternal benefit society). Cal. Fam. Code § 7120 (child 13 or younger ineligible to become emancipated minor).

Laws extending extra protection to young adolescents: Cal. Penal Code § 653j (protecting children 15 and younger from vulnerability to influence by making it a crime for person 18 or older to solicit, induce, or encourage child of such age to commit certain violent felonies). *Id.* §§ 207, 288, 288.5 (protecting children 13 and younger from sexual abuse by criminalizing lewd and lascivious conduct or enticement or persuasion of child to another place with intent to commit such conduct); *see also id.* § 272 (crime for person 21 or older to persuade, lure, or transport child 13 or younger away from home

without express parental consent); *id.* §§ 208, 667.8 (enhanced punishment for kidnapping of child 13 or younger); *id.* § 190.2 (enhanced penalty for murder if during commission of lewd and lascivious act on child 13 or younger). *Id.* §§ 266h-266k (enhanced penalties for pimping, pandering with, or procuring for purposes of prostitution child 15 or younger); *see also id.* §§ 269, 288.5 (enhanced punishment for certain sexual offenses against child 13 or younger). *Id.* § 271a (criminalizing parental abandonment or neglect of child 13 or younger). *Id.* § 152.3 (protecting children 13 and younger by making it crime for witness to fail to report rape, murder, or certain sexual abuse of such children). *Id.* § 14205 (missing person report for child 15 or younger given special priority). *Id.* § 310 (crime to admit child 15 or younger to prizefight or cockfight). Cal. Labor Code § 1308 (crime to cause child 15 or younger to engage in dangerous employment). Cal. Civ. Proc. Code § 36 (child 13 or younger entitled to have personal injury suit given preference on court calendar); *id.* § 1219.5 (child 15 or younger protected by special procedures before court may impose contempt for refusal to testify or take oath). Cal. Penal Code §§ 1346, 1347 (adolescent victims of sex crime protected from emotional trauma through provisions authorizing use of videotaped deposition of victim 15 or younger or closed-circuit testimony of victim 13 or younger in criminal prosecution). Cal. Veh. Code § 23572 (enhanced penalty for driving under influence of alcohol when child 13 or younger in vehicle). *Id.* § 27360.5 (penalizing driver of vehicle when child 15 or younger does not wear seat

belt). Cal. Welf. & Inst. Code § 211 (children 15 and younger not to be housed in Department of Corrections facility; children 13 and younger not to be transferred to state prison).

COLORADO

Laws establishing minimum age for rights and responsibilities: Colo. Rev. Stat. Ann. § 18-3-402 (West) (child 14 or younger incapable of consent to sexual activity except with persons less than four years older; child 15, 16 or 17 incapable of consent except with persons less than ten years older). *Id.* §§ 14-2-108, 14-2-106, *amended in nonpertinent part by* 2009 Colo. Legis. Serv. 264 sec. 5 (West) (S.B. 09-068, approved May 15, 2009, eff. July 1, 2009) (child 16 or 17 may not contract for marriage without parental consent; child 15 or younger may not marry without parental and judicial consent). *Id.* § 12-28-102 (child 15 or younger prohibited from purchasing fireworks). Colo. Rev. Stat. Ann. § 13-22-104, *amended by* 2009 Colo. Legis. Serv. 27 (H.B. 09-1023, approved Mar. 19, 2009, eff. Aug. 5, 2009) (child 15 or younger incapable of donating blood; child 16 or 17 may not do so without parental consent). Colo. Rev. Stat. Ann. §§ 12-34-104, 13-22-103 (child 17 or younger incapable of making anatomical gift decision, unless child 15 or older is financially independent and living separately from parents). *Id.* §§ 42-2-104, 42-2-106, *amended in nonpertinent part by* 2009 Colo. Legis. Serv. 281 sec. 24 (H.B. 09-1026, approved May 20, 2009, eff. Oct. 1, 2009) (child 14 or younger cannot

drive; 15-year-old eligible for learner's permit only). *Id.* § 22-33-104, *amended in nonpertinent part by* 2009 Colo. Legis. Serv. 290 sec. 3 (H.B. 09-1243, approved May 21, 2009) (children between 6 and 16 years old must attend school). *Id.* § 8-12-105 (child 13 or younger cannot be employed except in very limited occupations; child 15 or younger prohibited from working during certain nighttime hours). *Id.* § 8-12-108 (child 14 or 15 limited in permissible occupations). *Id.* § 8-12-109 (child 15 or younger prohibited from employment involving operation of a motor vehicle). *Id.* § 12-8-114 (child 15 or younger ineligible to be licensed as a barber or cosmetologist). *Id.* § 10-4-104 (child 15 or younger incapable of contracting for insurance). *Id.* § 10-14-201 (child 14 or younger incapable of joining fraternal benefit society). *Id.* § 27-10-103 (child 14 or younger may not consent to mental health services). *Id.* § 12-9-107 (child 13 or younger may not assist in the conduct of bingo or pull tabs).

Laws extending extra protection to young adolescents: Colo. Rev. Stat. Ann. § 18-3-305 (children 14 and younger protected from enticement). *Id.* § 18-3-306, *amended in nonpertinent part by* 2009 Colo. Legis. Serv. 341 sec. 2 (H.B. 09-1132, approved June 1, 2009, eff. July 1, 2009) (children 14 and younger protected from internet luring by persons more than four years older). *Id.* § 18-3-405 (children 14 and younger protected from sexual assault by persons at least four years older). *Id.* § 16-11-301 (when juvenile is sentenced to department of corrections,

executive director must consider child's safety and well-being in determining where to house child and with whom child has contact). *Id.* § 18-3-413 (child 14 or younger who is the victim of sex crime protected through provision authorizing victim's videotaped deposition in criminal prosecution for sexual offense).

CONNECTICUT

Laws establishing minimum age for rights and responsibilities: Conn. Gen. Stat. Ann. § 53a-73a (West) (child 13, 14, or 15 incapable of consenting to sexual intercourse with person more than 3 years older). *Id.* § 46b-30 (child 15 or younger cannot marry without judicial consent; child 16 or 17 must have parental consent). *Id.* § 29-357 (repealed and replaced with provision identical in pertinent part eff. Jan. 1, 2011, *see* 2009 Conn. Legis. Serv. 09-177 sec. 17 (West)) (child 15 or younger may not purchase or use sparklers or fountains). *Id.* § 19a-285a (child 16 or younger may not donate blood without parental consent). *Id.* § 17a-79 (child 13 or younger not competent to admit self voluntarily to mental hospital). *Id.* § 14-286d (child 15 or younger prohibited from riding bicycle without helmet on public highway). *Id.* § 14-36, *amended by* 2009 Conn. Legis. Serv. 09-187 sec. 2 (West) (child 15 or younger prohibited from driving motor vehicle, child aged 16 and 17 may drive with learner's permit when accompanied by licensed adult over 20). *Id.* § 31-25 (child 15 or younger may not operate elevator). *Id.* §§ 31-23 to 31-24 (placing various restrictions on employment of children 13 or

younger, children 14 or 15, and, to lesser extent, children 16 or 17). *Id.* § 19a-102a (child 15 or younger may not sign form necessary to buy turtle; parent or guardian must sign). *Id.* § 7-172 (child 15 or younger may not sell or promote bazaar or raffle tickets).

Laws extending extra protection to young adolescents: Conn. Gen. Stat. Ann. § 53a-90a (child 15 or younger protected while using internet through laws prohibiting enticement or luring via interactive computer service). *Id.* §§ 53a-86 to 53a-88 (enhanced culpability for promoting prostitution where victim 15 or younger and, to lesser extent, where victim 16 or 17). *Id.* § 14-100a (driver required to ensure all passengers 15 and younger wear seat belt); *see also id.* § 14-272a (penalizing driver who allows child 15 or younger to ride in open bed of truck without appropriate safety belt). *Id.* § 10-197 (mandating fine for any person who employs child 13 or younger during school hours). *Id.* § 17-408 (child 15 or younger may not be committed to community correctional center or almshouse).

DELAWARE

Laws establishing minimum age for rights and responsibilities: Del. Code Ann. tit. 11, § 761 (West) (child 15 or younger incapable of consent to sexual act with person more than 4 years older). *Id.* tit. 13, § 709 (child 16 or younger may not donate blood without parental permission). *Id.* tit. 21, § 2710 (child 15 or younger cannot drive; 16-year-old eligible

for learner's permit only). *Id.* tit. 14, § 2702 (children 15 and younger must attend school). *Id.* tit. 19, § 505 (child 13 or younger cannot be employed); *see also id.* § 506 (children 15 and younger prohibited from certain hazardous occupations and hours of employment).

Laws extending extra protection to young adolescents: Del. Code Ann. tit. 11, § 783 (taking or enticing child 15 or younger from custody of parents punishable as kidnapping). *Id.* § 1112A (children 15 and younger protected from sexual solicitation of a child). *Id.* §§ 764, 765 (enhanced penalty for indecent exposure when in presence of child 15 or younger). *Id.* § 787 (enhanced penalty for sexual servitude of minor if victim 13 or younger). *Id.* § 1101 (enhanced penalty for child abandonment if child 13 or younger). *Id.* tit. 21, § 4177 (enhanced penalties for driving under influence of alcohol or drugs when child 16 or younger in car). *Id.* § 4803 (penalizing driver of car when child 15 or younger does not wear seat belt). *Id.* tit. 11, § 4204A (children 15 and younger protected from incarceration with adults).

DISTRICT OF COLUMBIA

Laws establishing minimum age for rights and responsibilities: D.C. Code §§ 22-3001, 22-3008, 22-3009 (West) (child 15 or younger incapable of consent to sexual activity, except with persons less than 4 years older). *Id.* §§ 46-403, 46-411 (child 15 or younger incapable of consenting to marriage; child 16

or 17 may do so only with parental consent). *Id.* § 7-1531.03 (child 15 or younger cannot consent to organ donation, unless emancipated). *Id.* § 2-1542, 2-1543 (children 16 and younger subject to mandatory curfew). *Id.* § 50-1605 (children 15 and younger required to wear bicycle helmets; parents may be fined for violation). *Id.* § 50-1401.01 (child 15 or younger cannot drive; 16-year-old eligible for learner's permit only). *Id.* § 32-201 (child 13 or younger cannot be employed, with exceptions for agricultural work, domestic work, and newspaper delivery); *see also id.* § 32-202 (limiting hours that 14- or 15-year-olds may work, and to lesser extent limiting hours that 16- and 17-year-olds may work); *id.* § 32-204 (children 15 and younger prohibited from employment in occupations involving power machinery).

Laws extending extra protection to young adolescents: D.C. Code §§ 22-3008 to 22-3011 (children 15 and younger protected from sexual contact with persons at least 4 years older through various crimes criminalizing such contact regardless of consent). *Id.* § 22-1312 (elevating punishment for indecent exposure and lewdness when committed in presence of child 15 or younger). *Id.* § 22-1102 (criminalizing neglect of a child 13 or younger). *Id.* § 50-1802 (if vehicle has more passengers than seat belts, driver shall insure that children 15 and younger have preference to positions with seat belts).

FLORIDA

Laws establishing minimum age for rights and responsibilities: Fla. Stat. Ann. §§ 794.05, 800.04 (West) (child 15 or younger may not consent to sexual activity; unemancipated child 16 or 17 may not consent to sexual activity with a person 24 or older). *Id.* § 741.0405 (child 15 or younger may not get married, with limited exception that judge may issue license for child who is pregnant or has given birth; child 16 or 17 may not marry without written notarized parental consent, unless parents are deceased or child has been married previously). *Id.* § 743.06 (child 16 or younger not eligible to consent to donation of his blood or tissue without parental consent). *Id.* § 316.2065 (bicycle rider or passenger 15 or younger must wear helmet). *Id.* §§ 322.05, 322.16 (child 14 or younger prohibited from driving; 15-year-old eligible for learner's permit only; 16- or 17-year-old subject to limitations on hours and circumstances under which he or she may drive). *Id.* §§ 316.2068, 316.2074, 261.20, 316.211 (children 15 and younger required to wear helmets and other appropriate safety gear when riding on or operating all-terrain vehicle, off-highway vehicle, electric assistive mobility device, or moped). *Id.* §§ 316.003, 316.2085 (child 15 or younger may not operate motorized bicycle or motorcycle with more than 150 cubic centimeter displacement). *Id.* § 316.212 (child 14 or younger may not operate golf cart on public street). *Id.* § 316.2127 (child 13 or younger may not operate utility vehicle on public street). *Id.* § 327.39 (child 13 or younger

may not operate personal watercraft). *Id.* § 1003.21, *amended by* 2009 Fla. Sess. Law Serv. 164 sec. 7 (West) (C.S.H.B. 597, approved June 11, 2009, eff. July 1, 2009) (children between ages 6 and 16 must attend school). *Id.* § 450.021 (child 13 or younger cannot be employed except for certain agricultural and domestic work, in the entertainment industry, or as page for Florida Legislature); *see also id.* § 450.061 (child 15 or younger barred from working in wide range of occupations and industries, including meat packing, power-operated laundry, power-operated baking, dry cleaning, spray painting, alligator wrestling, door-to-door sales except for non-profit organization such as the Boy Scouts or Girl Scouts of America, elevator repair, working with meat and vegetable slicing machines, and working in meat freezers or coolers, with limited exceptions); *id.* § 450.081 (regulating and restricting work hours for children 15 and younger and, to lesser extent, children 16 and 17). *Id.* § 476.114 (child 15 or younger ineligible to be licensed as barber). *Id.* § 627.406 (child 14 or younger at nearest birthday not competent to contract for life, health, property, or other insurance). *Id.* § 48.031 (child 14 or younger not competent to receive service of process for another person residing at child's residence in that person's absence); *see also* Fla. R. Civ. P. 1.080; Fla. R. Crim. P. 3.030, Fla. R. Juv. P. 8.085 (same). Fla. Prob. R. 5.636, 5.690 (in certain civil actions involving children 13 or younger, child not entitled to service of court papers). Fla. Stat. Ann. § 381.89 (child 13 or younger prohibited from using tanning device unless accompanied by parent).

Id. § 381.0075 (child 15 or younger may not undergo body piercing unless accompanied by parent or guardian; child 16 or 17 must have written notarized parental consent). *Id.* § 877.04 (body of child 17 or younger shall not be tattooed without written notarized consent by parent or legal guardian). *Id.* § 548.069 (child 15 or younger may not attend professional boxing match or other pugilistic exhibition unless accompanied by adult). *Id.* § 744.312 (when court appoints guardian for child 13 or younger, child not entitled to have his or her preferences considered as to who should be appointed).

Laws extending extra protection to young adolescents: Fla. Stat. Ann. § 784.048 (enhanced penalties for stalking or cyberstalking of child 15 or younger). *Id.* § 800.04 (protecting children 15 and younger from sexual contact with older persons through variety of restrictions on such contact). *Id.* § 794.05 (protecting children aged 16 and 17 from sexual activity with adults 24 and older, unless child has had disabilities of nonage removed). *Id.* § 796.045 (enhanced penalties for sexual trafficking of child 13 or younger). *Id.* § 810.145 (enhanced penalties for video voyeurism offense involving certain adult offenders where victim is child 15 or younger). *Id.* § 827.04 (person 21 or older who impregnates child 15 or younger commits act of child abuse regardless of consent and in addition to separately-charged offense under Fla. Stat. § 800.04). *Id.* § 742.107 (girl 15 or younger who gives birth to child must reveal identity of father and cooperate with paternity

testing to facilitate criminal prosecution of individuals age 21 or older). *Id.* § 893.13 (enhanced penalties for certain narcotics offenses where offense takes place in the presence of child 15 or younger or causes great bodily harm to such child). *Id.* §§ 92.53, 92.54 (child witness or victim who is 15 years old or younger may provide videotaped testimony or testify via closed-circuit television in lieu of testifying in open court where there is a substantial likelihood that child would otherwise suffer at least moderate emotional or mental harm.) *Id.* §§ 92.55, 914.16, 918.16 (authorizing additional protections for child witnesses aged 15 or younger); *see also* Fla. R. Crim. P. 3.220, Fla. R. Juv. P. 8.060 (same). *Id.* § 918.0155 (special provision for expeditious handling of criminal cases involving allegations of child abuse or unlawful sexual contact with child 15 or younger). *Id.* § 394.4785 (child 13 or younger who is admitted to mental health treatment facility may not be placed in bedroom or ward or share common areas with adult patients, unless doctor finds medical necessity or for reasons of safety). *Id.* § 316.614 (unlawful to operate motor vehicle unless passengers 17 and younger wear safety belt or child restraint device). *Id.* § 784.05 (felony offense for individual to negligently leave loaded firearm within reach or easy access of child 15 or younger, where child obtains firearm and uses it to inflict injury or death upon himself or another, with some limited exceptions). *Id.* § 847.013 (protecting children 16 and younger from motion pictures or similar presentations harmful to minors by imposing criminal liability on person who knowingly exhibits or

rents to child 16 or younger a movie or videocassette depicting nudity or certain sexual conduct).

GEORGIA

Laws establishing minimum age for rights and responsibilities: Ga. Code Ann. § 16-6-3 (West) (child 15 or younger cannot consent to sex except with spouse). *Id.* § 19-3-2 (child 15 or younger may not marry; child 16 or 17 may not marry without parental consent). *Id.* § 44-5-89 (child 16 or younger ineligible to donate blood without parental consent). *Id.* § 44-5-142 (child 15 or younger ineligible to make anatomical gift, unless emancipated); *cf. id.* §§ 15-11-200 to 15-11-202 (child 15 or younger ineligible for emancipation). *Id.* § 40-6-296 (child 15 or younger must wear helmet when riding bicycle). *Id.* § 40-5-24 (child 14 or younger may not drive; 15-year-old eligible for instruction permit only). *Id.* § 20-2-690.1 (children 15 and younger must attend school). *Id.* §§ 39-2-1, 39-2-2 (child 15 or younger prohibited from working in any mill, factory, laundry, manufacturing establishment, workshop, or any occupation designated hazardous by Commissioner of Labor as being dangerous to life and limb or injurious to health or morals of child); *see also id.* § 34-13-12 (child 15 or younger prohibited from operating carnival rides); *id.* §§ 39-2-3, 39-2-4, 39-2-6 (limiting work hours for children 15 and younger). *Id.* § 19-8-5 (child 13 or younger may be adopted without his consent).

Laws extending extra protection to young adolescents: Ga. Code Ann. § 16-5-21 (enhanced

penalties for aggravated assault of child 13 or younger). *Id.* § 16-6-22.1 (enhanced penalty for sexual battery of child 15 or younger). *Id.* § 16-6-5 (protecting children 15 and younger from enticement for indecent purposes). *Id.* § 16-6-4 (protecting children 15 and younger from molestation, from exposure to indecent or immoral acts, and from images of such acts). *Id.* § 40-6-391 (enhanced culpability for driving while impaired by alcohol or drugs with child 13 or younger in vehicle; driver may be separately charged with both DWI and endangering child). *Id.* § 17-3-2.1 (for enumerated crimes against children 15 and younger, statute of limitations does not begin to run until child reaches age of 16 or offense is reported to the authorities, whichever is earlier).

HAWAII

Laws establishing minimum age for rights and responsibilities: Haw. Rev. Stat. Ann. § 707-730 (West) (child 13 or younger incapable of consent to sexual activity). *Id.* § 707-732 (child 14 or 15 incapable of consent to sexual activity with person 5 or more years older). *Id.* §§ 572-1, 572-2 (unlawful for child 14 or younger to marry under any circumstances; 15-year-old child may marry with approval from family court judge and parental consent; child 16 or 17 may do so with parental consent only). *Id.* § 327-4 (child incapable of consenting to donate organs unless emancipated or old enough to apply for driver's license); *cf. id.* § 286-102.6 (child 16 or older may apply for provisional driver's license). *Id.* § 291C-150

(child 15 or younger required to wear helmet when riding bicycle). *Id.* §§ 286-102.6, 286-110 (child 14 or younger cannot drive; child 15 years, 6 months eligible for instruction permit only; child 16 eligible for provisional license only). *Id.* § 302A-1132 (children 17 or younger must attend school). *Id.* § 390-2 (regulating employment and labor by all children 17 and younger with greater restrictions on children 14 and 15 and still greater restrictions on children 13 and younger, who are ineligible for employment with exceptions for theatrical performances and coffee harvesting).

Laws extending extra protection to young adolescents: Haw. Rev. Stat. Ann. §§ 707-730, 707-732, 707-733.6 (children 15 and younger protected from sexual contact with older persons through various crimes criminalizing such contact regardless of consent). *Id.* § 626-1, Haw. R. Evid. 804 (statements of children 15 and younger regarding sexual abuse permitted as evidence if child is unavailable as witness). *Id.* ch. 626, Haw. R. Evid. 616 (protecting child victim of sexual offense 17 or younger from emotional distress and impairment of ability to communicate by allowing child to testify in criminal prosecution via two-way closed-circuit television). *Id.* § 291-11.6, *amended by* 2009 Haw. Sess. Laws 151 sec. 5 (S.B. 1142, approved June 25, 2009) (providing penalty for operating motor vehicle with child 8 to 14 not wearing seat belt). *Id.* § 709-902 (children 13 and younger protected from abandonment).

IDAHO

Laws establishing minimum age for rights and responsibilities: Idaho Code Ann. § 18-1506 (West) (child 15 or younger incapable of consent to sexual activity with any person over 18). *Id.* § 18-1508A (child aged 16 or 17 incapable of consent to sexual activity with person 5 or more years older). *Id.* § 32-202 (child 15 or younger may not marry unless parents consent and judge satisfied that both parties are capable of assuming full marital duties; child 16 or 17 may not marry without parental consent). *Id.* § 39-3701 (child 16 or younger ineligible to donate blood without parental consent). *Id.* § 39-3404 (child 15 or younger incompetent to make decision to donate organs unless emancipated minor; child 15 or 17 may not make such decision without written parental consent). *Id.* § 18-1523 (child 13 or younger prohibited from obtaining tattoo or body piercing; child 14 to 17 may not do so without parental consent). *Id.* § 46-307 (child aged 14 and a half to 17 eligible for training instruction and temporary driving permit); *see also id.* § 46-307A (child aged 14 or 15 eligible for limited school attendance driving permit only if no school bus service available). *Id.* § 33-202 (children between the ages of 7 and 15 must attend school). *Id.* § 44-1301 (no child 13 or younger may be employed in a factory, mine, store, restaurant or hotel, nor be employed during school hours); *see also id.* § 44-1304 (no child 15 or younger may be employed for more than 9 hours in a day or 54 hours in a week, or before 6 a.m. or

after 9 p.m.). *Id.* § 37-3102 (information concerning the drug treatment of any person aged 16 or older will not be disclosed to a parent or legal guardian without consent). *Id.* § 39-3801 (any person aged 14 or older who may have come into contact with a contagious disease may give consent to medical care, without consent of parents). *Id.* § 41-1807 (child 14 or younger not competent to contract for life, health, or property insurance). *Id.* § 16-2428 (in the pursuance of mental health services, no person may disclose confidential statements made by a child over 14 to the child's parents or others without the child's written permission, unless such information is needed for a treatment plan or required by a court of law).

Laws extending extra protection to young adolescents: Idaho Code Ann. § 18-1508 (protecting children 15 and younger from subjection to lewd or lascivious conduct). *Id.* § 18-1508A (protecting children 16 and 17 from sexual contact with any person at least 5 years older). *Id.* § 18-1509 (protecting children 15 and younger from solicitation). *Id.* § 18-1509A (protecting children 15 and younger from solicitation over internet). *Id.* § 6-701 (tort action may be brought against any person who has committed lewd or lascivious acts on child 15 or younger). *Id.* § 18-3308 (crime to sell or give explosives, most types of ammunition, or firearms to any child 15 or younger without written parental consent).

ILLINOIS

Laws establishing minimum age for rights and responsibilities: 720 Ill. Comp. Stat. Ann. 5/12-15 (West) (child 16 or younger incapable of consent to sexual activity). 750 Ill. Comp. Stat. Ann. 5/203, 5/208 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may do so only with parental consent). 210 Ill. Comp. Stat. Ann. 15/1 (child 15 or younger incapable of donating blood; 16-year-old requires parental consent). 625 Ill. Comp. Stat. Ann. 5/6-103 (child 14 or younger cannot drive; 15-year-old eligible for instruction permit only). 105 Ill. Comp. Stat. Ann. 5/26-1 (children between the ages of 7 and 17 must attend school). 820 Ill. Comp. Stat. Ann. 205/1, 205/13, 205/7 (limiting hours and occupations that 14- or 15-year-old permitted to work). 225 Ill. Comp. Stat. Ann. 85/9, 320/3, 410/2-2, 410/3-2, 410/3A-2, 410/3C-2 (child 15 or younger ineligible to be licensed as a pharmacy technician, plumber's apprentice, barber, cosmetologist, aesthetician, or nail technician). 215 Ill. Comp. Stat. Ann. 5/242, 5/287.1 (child 14 or younger incapable of contracting for insurance or joining fraternal benefit society). 750 Ill. Comp. Stat. Ann. 50/12 (child 13 or younger can be adopted without his or her consent).

Laws extending extra protection to young adolescents: 720 Ill. Comp. Stat. Ann. 5/10-5.1 (children 14 and under protected while using internet by creation of felony relating to use of electronic communications to lure children). *Id.* 5/11-19.2 (children 15 and younger protected from criminal child exploitation).

625 Ill. Comp. Stat. Ann. 5/11-501 (enhanced penalty for driving while intoxicated when child 15 or younger in car). 730 Ill. Comp. Stat. Ann. 5/5-8-6 (children 16 and younger protected from placement in adult correctional facility).

INDIANA

Laws establishing minimum age for rights and responsibilities: Ind. Code Ann. § 35-42-4-9 (West) (children 14 and 15 incapable of consent to sexual activity with persons 18 or older). *Id.* §§ 31-11-1-5, 31-11-1-6, 31-11-2-1 to 31-11-2-3 (child 16 or younger incapable of contracting for marriage, except with judicial consent in case of pregnancy when both male and female are at least 15; child 17 may not marry without parental consent). *Id.* § 22-11-14-8 (child 15 or younger may not sell fireworks). *Id.* § 16-36-1-3 (child 13 or younger cannot consent to health services; child 16 or younger may not donate blood). *Id.* § 29-2-16.1-3 (child 14 or younger incapable of making anatomical gift decision unless emancipated minor). *Id.* §§ 9-24-3-2, 9-24-7-1 (child 14 or younger cannot drive; 15-year-old eligible for learner's permit; 16-year-1-month-old eligible for driver's license). *Id.* §§ 31-37-3-2, 31-37-3-3 (children 14 and younger subject to curfew; prohibited from being in a public place between 11 p.m. and 5 a.m. on any day; children 15 to 17 also prohibited except that they may be in a public place until 1 a.m. on Saturday or Sunday). *Id.* § 20-33-3-31 (children 14 and younger cannot be employed, with exceptions for certain agricultural

work and limited work outside school hours). *Id.* § 20-33-3-22 (limiting hours 14- and 15-year olds are permitted to work). *Id.* § 25-7-10-3 (child 16 or younger ineligible to be licensed as a barber; person aged 17 must have graduated high school to obtain license). *Id.* § 25-28.5-1-18.1 (child 16 or younger ineligible to be registered as an apprentice plumber). *Id.* § 27-1-12-15 (child younger than 15-½ incapable of contracting for insurance). *Id.* § 27-11-3-1 (child 14 or younger incapable of joining fraternal benefit society). *Id.* § 25-8-15.4-15 (children 15 and younger must be accompanied by a parent when using a tanning device at a tanning facility). *Id.* § 31-19-9-1 (child 13 or younger can be adopted without his or her consent). *Id.* § 22-15-7-8 (child 15 or younger cannot operate regulated amusement device). Ind. Const. Art. 12, § 1 (children 16 and younger not included in state militia). Ind. Trial Proc. R. 4.2 (personal service not required for child 13 or younger, only required for child's next friend, guardian ad litem, or either parent).

Laws extending extra protection to young adolescents: Ind. Code Ann. § 35-42-4-3 (children 13 and younger protected from child molestation). *Id.* § 35-42-4-4 (elevating punishment for possession of child pornography when child depicted is 15 or younger). *Id.* § 35-42-4-5 (elevating punishment for vicarious sexual gratification when child involved is 13 or younger). *Id.* § 35-42-4-6 (children 15 and younger protected from solicitation of sexual acts, with elevated punishments when solicited using a

computer). *Id.* §§ 35-37-4-6, 35-37-4-8 (child 13 or younger who is a victim of certain serious offenses protected through provisions allowing admission of out-of-court statement or videotape or closed-circuit testimony in criminal prosecution for serious offense). *Id.* § 9-19-11-3.6 (failure of vehicle operator to restrain child 15 or younger but older than 8 constitutes traffic violation). *Id.* § 35-42-2-1 (enhancing penalties for battery when victim is a child 13 or younger or battery is committed in presence of child 15 or younger). *Id.* § 35-42-2-1.3 (enhancing penalty for domestic battery when committed in presence of child 15 or younger). *Id.* § 11-10-2-10 (committed delinquent 16 or younger may not be transferred to adult facility). *Id.* § 11-13-3-4 (parole board may require released sex offender to avoid contact with children 15 and younger absent board approval or completion of specified treatment program). *Id.* § 36-8-10-5 (county prison matron for each county shall care for all female prisoners and male children 13 and under in any detention center in county).

IOWA

Laws establishing minimum age for rights and responsibilities: Iowa Code Ann. § 709.4 (West) (child 13 or younger incapable of consent to sex; child 14 or 15 incapable of such consent, except with person less than 4 years older). *Id.* § 595.2 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may do so only with parental consent and judicial approval), *invalidated in part on other*

grounds by Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009). *Id.* § 599.6 (child 15 or younger incapable of donating blood; 16-year-old may do so with parental consent). *Id.* § 321.177 (child 13 or younger cannot drive; 14-year-old eligible for instruction permit only; 16-year-old eligible for intermediate license; 17-year-old eligible for full driver's license); *see also id.* § 321 G.9 (child 15 or younger must be under direct adult supervision to operate snowmobile on public highway). *Id.* § 299.1A (child 15 or younger must attend school). *Id.* § 232.11 (child 15 or younger incompetent to waive right to counsel when questioned by peace officer or probation officer without written parental consent). *Id.* §§ 92.5, 92.6 (child 14 or 15 years old may only be employed in certain occupations); *see also id.* § 92.7 (limiting hours child 15 or younger permitted to work). *Id.* § 633.280 (child 15 or younger incompetent to be attesting witness to will). Iowa Admin. Code rr. 185-4.25, 185-17.5 (child 15 or younger may not sell beer or wine or serve liquor). *Id.* r. 441-109.8 (child 15 or younger may not work in day care center). *Id.* rr. 641-46.5, 875-62.18 (child 15 or younger not permitted to operate tanning bed or kiddie ride at amusement park). *Id.* r. 111-9.2 (child 15 or younger not eligible for enrollment in adult orientation and adjustment center for the blind.)

Laws extending extra protection to young adolescents: Iowa Code Ann. § 702.5 (defining child as person 13 or younger for purpose of criminal code). *Id.* §§ 709.1, 709.8, 709.12 (child 13 or younger protected from sexual contact with older persons).

Id. § 710.5, amended in nonpertinent part by 2009 Iowa Legis. Serv. 340 sec. 58 (West) (approved May 21, 2009) (child 13 or younger protected from being enticed away from parent or guardian). *Id.* § 707.2, amended in nonpertinent part by 2009 Iowa Legis. Serv. 340 sec. 48 (approved May 21, 2009) (homicide elevated to first-degree murder where victim is child killed while committing child endangerment or assault on child, or under circumstances manifesting extreme indifference to human life). *Id.* § 205.9 (crime to sell any poison to child 15 or younger). *Id.* § 356.16 (child 15 or younger may not be imprisoned at hard labor).

KANSAS

Laws establishing minimum age for rights and responsibilities: Kan. Stat. Ann. §§ 21-3502, 21-3504 (West) (child 15 or younger incapable of consent to sex except with spouse if married). *Id.* § 23-106 (child 14 or younger ineligible for marriage license; 15-year-old only eligible for marriage license with judicial authorization; child 16 or 17 eligible for marriage license only with parental consent). *Id.* § 38-123a (child 15 or younger may not donate blood without parental consent). *Id.* § 65-3223 (child 15 or younger incapable of consenting to donate organs, unless emancipated). *Id.* § 38-123b (child 15 or younger not authorized to consent to hospital, medical, or surgical treatment and procedures without parental consent). 2009 Kan. Sess. Laws 34 sec. 5 (H.B. 2143, approved Mar. 27, 2009) (amending Kan. Stat. Ann.

§ 8-237) (child 16 or younger ineligible for drivers license; children 14 to 16 may apply for instruction permit). Kan. Stat. Ann. §§ 38-601, 38-614 (child 13 or younger may not work, with exceptions for non hazardous work for parents, domestic work, house or yard work, delivery work, agricultural work, or acting; exempt services not to be performed during school hours); *see also id.* § 38-603 (limiting work hours for 14- and 15-year-olds); *id.* § 38-602 (prohibiting child 17 or younger from working in trade injurious to life, health, safety, morals or welfare of the child). *Id.* § 72-1111 (child 17 or younger must attend school).

Laws extending extra protection to young adolescents: Kan. Stat. Ann. § 21-3439 (murder of child 13 or younger in commission of kidnapping with intent to commit sexual offense punishable by death). *Id.* §§ 21-3503 to 21-3505 (children 14 and 15 protected from sodomy, lewd touching, and sexual intercourse). *Id.* §§ 21-3506, 21-3511 (children 13 and younger protected from indecent solicitation and sodomy by enhanced penalties). 2009 Kan. Sess. Laws 70 sec. 1 (H.B. 2098, approved Apr. 8, 2009) (amending Kan. Stat. Ann. § 21-3523) (children 15 and younger protected from electronic solicitation for sexual act). 2009 Kan. Sess. Laws 143 sec. 3 (S.B. 336, approved May, 22, 2009) (amending, eff. July 1, 2009, Kan. Stat. Ann. § 8-1567) (enhancing penalty for driving under influence of alcohol or drugs when child 13 or younger in vehicle). *Id.* § 8-1344 (children 13 and younger protected by requirement that driver properly secure child with seat belt or passenger safety

restraint). *Id.* § 21-3604 (children 15 and younger protected from abandonment). *Id.* § 38-2366 (children 15 and younger convicted and sentenced as adults protected from placement in adult correctional facility).

KENTUCKY

Laws establishing minimum age for rights and responsibilities: Ky. Rev. Stat. Ann. § 510.020 (West) (child 15 or younger incapable of consent to sexual activity). *Id.* § 402.020 (child 15 or younger incapable of contracting for marriage except in case of pregnancy with judicial consent; child 16 or 17 may do so only with parental consent). *Id.* § 227.715 (no sale of fireworks to child 15 or younger). *Id.* § 214.468 (child 15 or younger incapable of donating blood; 16-year-old may do so only with parental consent). *Id.* §§ 186.450, 186.452, 186.454 (child 15 or younger cannot drive; 16-year-old eligible for learner's permit or intermediate license; 17-year-old eligible for full license). *Id.* § 159.010 (child 15 or younger must attend school). *Id.* § 339.220 (child 13 or younger cannot be employed, with exceptions for employment in connection with school-sponsored program); *see also id.* § 339.230 (child 15 or younger may not be employed during regular school hours unless he or she has graduated from high school). *Id.* § 315.136 (child 15 or younger ineligible for registration as pharmacy technician). *Id.* §§ 304.14-070, 304.29-061 (child 14 or younger incapable of contracting for insurance or adult membership fraternal benefit

society). *Id.* § 217.922 (child 13 or younger must be accompanied by a parent or legal guardian when using tanning device). *Id.* § 217.450 (children 14 or younger shall not be sold or given any poisonous medicine without parental consent). *Id.* § 645.030 (child 15 or younger cannot voluntarily admit self to hospital for treatment of mental illness without parental consent).

Laws extending extra protection to young adolescents: Ky. Rev. Stat. Ann. §§ 510.110, 510.120, 510.060, 510.090 (children 15 and younger protected from sexual contact with older persons through various crimes criminalizing such contact). *Id.* §§ 510.050, 510.080 (children 13 and younger protected from sexual contact with older persons through various crimes criminalizing such contact). *Id.* § 509.010 (children 15 and younger protected from kidnapping through provision stating that restraint of such children is “without consent” even where child acquiesces). *Id.* § 454.050 (children 15 and under excluded from courtroom in civil actions for slander, seduction or breach of promise of marriage, unless witnesses in the case or next of kin to party); *see also* Ky. R. Crim. P. 9.50 (children 15 and under may be excluded from courtroom in criminal prosecutions for rape and other sexual offenses, unless witnesses in the case or kin to party).

LOUISIANA

Laws establishing minimum age for rights and responsibilities: La. Rev. Stat. Ann. § 14:80, 14:80.1 (West) (child 16 or younger incapable of consenting to sex with person 17 or older, unless age difference less than 2 years). La. Child. Code Ann. art. 1545 (child 15 or younger may not marry without consent of both parents and judge; child 16 or 17 may not marry without consent of either parents or judge). La. Rev. Stat. Ann. § 51:654 (sale of fireworks to child 14 or younger prohibited). *Id.* § 40:1097 (children 16 and under may not consent to blood donation without consent of parent or guardian). *Id.* § 32:405.1 (child 16 or younger cannot obtain driver's license). *Id.* § 32:402.1 (children 14 or younger cannot participate in any driver education course or driver training program). *Id.* § 23:162 (no child 13 or younger permitted to work, unless specified exceptions are met).

Laws extending extra protection to young adolescents: La. Rev. Stat. Ann. § 14:45 (simple kidnapping defined as intentional taking, enticing or decoying away, for an unlawful purpose, any child 13 or younger without consent of parent or custodian). *Id.* § 14:81.2 (protecting children 16 or younger from molestation by person more than 2 years older). *Id.* § 14:81 (protecting children 16 or younger on the internet by punishing lewd and lascivious acts or electronic transmissions by persons more than 2 years older). *Id.* § 15:469.1 (providing for closed chambers testimony by victim in criminal prosecution

for certain sex offenses where victim is child 15 or younger).

MAINE

Laws establishing minimum age for rights and responsibilities: Me. Rev. Stat. Ann. tit. 17-A, §§ 253, 254 (West) (child 13 or younger incapable of consent to sexual activity except with spouse; child 14 or 15 may consent to activity only with persons less than 5 years older). *Id.* tit. 19-A, § 652 (child 15 or younger incapable of contracting for marriage without parental and judicial consent). *Id.* tit. 22, § 1502-A (child 16 or younger incapable of consenting to give blood). *Id.* § 2944 (child 15 or younger incapable of consent to donate organs, unless emancipated minor); *cf. id.* tit. 15, § 3506-A (child 15 or younger ineligible for emancipation). *Id.* tit. 29-A, § 2323 (child 15 or younger required to wear helmet when riding bicycle). *Id.* §§ 1251, 1256, 1304 (children 14 and younger cannot drive; 15-year-old eligible for learner's permit or restricted license only). *Id.* tit. 20-A, § 5001-A (child 16 or younger must attend school). *Id.* tit. 26, § 775 (child 15 or younger may not be employed without work permit signed by superintendent of school district); *see also id.* §§ 771, 774 (limiting work hours and permissible occupations for children 15 and younger). *Id.* tit. 32, §§ 1231-A, 14226 to 14229 (child 16 or younger ineligible to be registered as electrologist, cosmetologist, barber, esthetician, or manicurist); *see also id.* § 14233 (child 15 or younger ineligible to be licensed as barbering or cosmetology

student). *Id.* tit. 24-A, §§ 2407, 4110 (child 14 or younger incapable of contracting for life insurance or joining fraternal benefit society). *Id.* tit. 18-A, § 9-302 (child 13 or younger may be adopted without his or her consent). *Id.* tit. 12, § 6505-A (child 14 or younger may not fish or take elvers). *Id.* tit. 17, § 319 (children 15 or younger prohibited from playing bingo).

Laws extending extra protection to young adolescents: Me. Rev. Stat. Ann. tit. 17-A, §§ 253, 255-A, 256, 258 to 261 (children 13 and younger protected from sexual contact and other offenses committed by older persons through various crimes criminalizing such contact regardless of consent). *Id.* § 254 (children 14 and 15 protected from sexual abuse by adults). *Id.* § 553 (child 13 or younger protected from abandonment by parent or guardian). *Id.* tit. 22, § 1549 (smoking in vehicle prohibited when child 15 or younger present). *Id.* tit. 15, § 1205 (hearsay statement of child 15 or younger describing sexual contact admissible as evidence in criminal prosecution, if child would be harmed by testifying in open court and statement made in presence of judicial officer and subject to cross-examination). *Id.* tit. 17-A, § 8 (no statute of limitations for certain sex offenses against child 15 or younger).

MARYLAND

Laws establishing minimum age for rights and responsibilities: Md. Code Ann., Crim. Law

§§ 3-307, 3-308 (West) (children 15 and younger cannot consent to sexual activity, except with persons less than 4 years older). Md. Code Ann., Fam. Law § 2-301 (child 14 or younger may not marry; child 16 or 17 may do so with either parental consent or medical certification of pregnancy; child 15 may do so only with parental consent and medical certification of pregnancy). Md. Code Ann., Pub. Safety Law § 10-112 (sale of sparklers or sparkling devices to child 15 or younger prohibited). Md. Code Ann., Health-Gen. Law § 20-101 (child 15 or younger may not donate blood; 16-year-old may do so only with parental consent). Md. Code Ann., Transp. Law § 21-1207.1 (children 15 and under required to wear helmets when riding bicycles). 2009 Md. Laws 184 sec. 1 (eff. Oct. 1, 2009; amending Md. Code, Transp. Law § 16-103) (child younger than 15-years, 9-months cannot drive; child 15-years, 9-months eligible for learner's permit only; child 16-years, 6-months to 18 eligible for provisional license). Md. Code Ann., Educ. § 7-301 (children 15 and younger must attend school). Md. Code Ann., Lab. & Empl. §§ 3-203, 3-209 (child 13 and younger cannot be employed, with exceptions for agricultural work and other limited work); *see also id.* § 3-211 (limiting hours 14- and 15-year olds are permitted to work); *id.* § 3-213 (children 14 or 15 prohibited from working in certain hazardous occupations).

Laws extending extra protection to young adolescents: Md. Code Ann., Crim. Law §§ 3-303, 3-305 (elevating maximum punishments for first degree

rape and first degree sexual offense to life without parole if committed while kidnapping child 15 or younger). *Id.* § 3-304, 3-306, 3-307 (children 13 and younger protected from sexual contact with persons 4 or more years older). *Id.* § 3-503 (children 15 and younger protected from child kidnapping). Md. Code Ann., Transp. Law § 22-412.3 (penalizing driver of car when child 15 or younger does not wear seat belt).

MASSACHUSETTS

Laws establishing minimum age for rights and responsibilities: Mass. Gen. Laws Ann. ch. 265, § 23 (West) (child 15 or younger incapable of consenting to sexual intercourse); *cf. Com. v. Smith*, 728 N.E.2d 272, 276 (Mass. 2000) (noting, despite possible ambiguity in statute, that lack of consent conclusively presumed by law for child of such age). Mass. Gen. Laws Ann. ch. 111, § 184C (child 15 or younger ineligible to donate blood; 16-year-old may not donate blood without parental consent). *Id.* ch. 113, § 8 (child 17 or younger incompetent to make decision to donate organs at death). *Id.* ch. 85, § 11B (child 16 or younger operating bicycle or being carried as passenger must wear helmet). *Id.* ch. 207, §§ 7, 24, 25 (child 17 or younger incapable of contracting for marriage without parental consent and judicial order). *Id.* ch. 90, §§ 8, 8B (child 15 or younger cannot drive; 16-year-old may apply for learner's permit; child 16 and a half but not yet 18 eligible for restricted junior operator's license upon meeting certain requirements). *Id.* 23, § 11H (child 15 and under ineligible to

enter into apprentice agreement). *Id.* ch. 149, § 60 (no person shall employ child age 15 or younger, subject to limited exceptions). *Id.* ch. 176, § 9 (child 14 or younger not to be admitted into fraternal benefit society). *Id.* ch. 111, § 211 (child 13 or younger may only use tanning device when accompanied by parent; children 14 to 17 may not use tanning device without written consent of parent).

Laws extending extra protection to young adolescents: Mass. Gen. Laws Ann. ch. 265 § 13B (enhancing penalties for indecent assault and battery when victim is child 13 or younger). *Id.* § 23 (protecting children 15 and younger from sexual intercourse or abuse). *Id.* § 23A (enhancing penalties for sexual abuse of a child aged 12 to 15 when offender is at least 10 years older). *Id.* § 23A (protecting children 15 and younger from assault with intent to commit rape). *Id.* § 26C (enhancing penalties for kidnapping when victim is child 15 or younger). *Id.* § 26C (protecting children 15 and younger from enticement). *Id.* ch. 90, § 24V (driving while intoxicated with child passenger 14 or younger constitutes child endangerment and grounds for revocation of license). *Id.* ch. 278, § 16D (child 14 or younger who is witness or victim in criminal case protected through provision authorizing child's videotaped testimony if found that child would suffer from trauma by testifying in live court).

MICHIGAN

Laws establishing minimum age for rights and responsibilities: Mich. Comp. Laws Ann. § 750.520d (West) (child 15 or younger incapable of consent to sexual activity). *Id.* §§ 551.51, 551.103 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may not do so without parental consent). *Id.* § 722.41 (child 16 or younger incompetent to consent to donate blood). *Id.* § 333.10104 (child 15 or younger incompetent to make decision to donate organs unless emancipated). *Id.* § 333.13102 (child 17 or younger not permitted to obtain tattoo or body piercing without parental consent). *Id.* § 257.310e (child under 14 years 9 months cannot drive; child 16 or younger eligible only for graduated licenses). *Id.* § 380.1561 (children between 6 and 16 must attend school). *Id.* § 409.103 (child 13 or younger cannot be employed except in limited occupations); *see also id.* § 409.110 (limiting hours child 15 or younger permitted to work). *Id.* §§ 339.1108, 339.1207 (child 16 or younger ineligible to be licensed as barber or cosmetologist). *Id.* § 722.752 (establishing curfew for children 15 and younger). *Id.* § 500.2205 (child 15 or younger incapable of contracting for life insurance). *Id.* § 710.43 (child 13 or younger may be adopted without his or her consent).

Laws extending extra protection to young adolescents: Mich. Comp. Laws Ann. § 750.145a (children 15 and younger protected from immoral enticement and solicitation). *Id.* § 750.350 (children 13 and younger protected from kidnapping).

Id. §§ 750.520b to 750.520e (children 15 and younger but older than 12 protected from sexual contact with older persons through various crimes criminalizing such contact regardless of consent). *Id.* § 257.625 (enhanced penalty for operation of motor vehicle under influence of alcohol or controlled substance when child 15 or younger in car). *Id.* § 600.2163a (child 15 or younger who is victim of abuse or sex crime protected through provision authorizing victim's videotaped deposition to be used for pretrial proceedings, impeachment purposes, sentence determination, or factual basis for a no contest plea or to supplement a guilty plea); *see also id.* (child may use anatomically correct dolls or mannequins to assist in testimony).

MINNESOTA

Laws establishing minimum age for rights and responsibilities: Minn. Stat. Ann. §§ 609.342, 609.343, 609.345 (West) (child who is 13, 14, or 15 incapable of consenting to sexual activity with person more than 48 months older). 2009 Minn. Sess. Law Serv. 129 (S.F. 548, approved May 20, 2009) (amending Minn. Stat. § 517.02) (child 15 or younger incapable of contracting for marriage; child who is 16 or 17 may marry only with parental consent and judicial approval). Minn. Stat. Ann. § 624.20 (child 17 or younger prohibited from purchasing fireworks). *Id.* § 145.41 (child 15 or younger not eligible to donate blood; 16-year-old may donate blood only with parental consent). *Id.* § 525A.04 (child 15 or younger not permitted to donate organ unless child is emancipated;

parent may donate organ on child's behalf). *Id.* § 609.2246 (child 17 or younger not permitted to obtain tattoo without parental consent). *Id.* § 171.05, *amended by* 2009 Minn. Sess. Law Serv. 165 (H.F. 108, approved May 21, 2009) (child 14 or younger may not drive; child who is 15, 16 or 17 eligible for learner's permit). *Id.* § 120A.22, *amended by* 2009 Minn. Sess. Law Serv. 96 (H.F. 2, approved May 16, 2009) (child 15 or younger required to attend school). *Id.* §§ 181A.04 & 181A.07 (child 13 or younger may not work, with limited exceptions for entertainers, newspaper carriers, babysitters, referees for children's sports games and certain agricultural work; child 15 or younger may only work for limited hours, child 17 or younger may not work in hazardous occupation).

Laws extending extra protection to young adolescents: Minn. Stat. Ann. §§ 609.342, 609.343, 609.345 (protecting children who are 13, 14 and 15 from sexual contact with older persons though various crimes criminalizing such contact regardless of consent). *Id.* § 609.352, *amended by* 2009 Minn. Sess. Law Serv. 59 (H. F. 1301, approved May 11, 2009, eff. Aug. 1, 2009) (children 15 and younger protected while using internet by felonies related to use of computer to solicit or communicate for sexual purposes). *Id.* § 169A.03, *amended by* 2009 Minn. Sess. Law Serv. 96 (H.F. 2, approved May 16, 2009) (enhanced penalty for driving while impaired by alcohol when child 15 or younger was in vehicle at time of offense and driver was at least 36 months older than child).

Id. § 169.686, amended by 2009 Minn. Sess. Law Serv. 82 (S.F. 99, approved May 15, 2009) (penalizing driver of car when child of driver 14 or younger does not wear seat belt). *Id.* § 609.25 (protecting children 15 and younger from kidnapping through provision requiring parental consent for confinement and removal of child).

MISSISSIPPI

Laws establishing minimum age for rights and responsibilities: Miss. Code. Ann. §§ 97-3-65, 97-3-95 (West) (child 14 or 15 incapable of consent to sexual activity with person, not spouse, 36 months older than child; child 13 or younger incapable of consent to sexual activity with person, not spouse, 24 months older than child). *Id.* § 93-1-5 (female child 14 or younger and male child 16 or younger incapable of obtaining marriage license, with exception for judicial approval). 2009 Miss. Laws 551 sec. 1 (H.B. 150, approved Apr. 17, 2009, eff. July 1, 2009) (amending Miss. Code § 41-41-15) (child 15 or younger incompetent to consent to donate blood; 16-year-old may not donate blood without parental consent; 17-year-old may consent to donate blood notwithstanding parental consent). 2009 Miss. Laws 488 sec. 1 (S.B. 2280, approved Apr. 6, 2009, eff. July 1, 2009) (amending Miss. Code § 63-1-9) (child 14 or younger not permitted to drive; 15-year-old eligible for temporary driving permit; 16-year-old eligible for intermediate license; child 16 years, 6 months may receive driver's license if certain special conditions are met); *cf.*

id. sec. 3 (amending Miss. Code § 63-1-21) (describing limitations on holders of temporary permit or intermediate license). 2009 Miss. Laws 526 sec. 1 (H.B. 525, approved Apr. 13, 2009, eff. July 1, 2009) (amending Miss. Code § 37-13-91) (children 6 to 16 must attend school). Miss. Code Ann. § 71-1-17 (child 13 or younger prohibited from working in mill, cannery, workshop, factory, or manufacturing establishment); *see also id.* § 71-1-21 (child 14 or 15 employed in mill, cannery, workshop, factory, or manufacturing establishment prohibited from working between 7 p.m. and 6 a.m., more than 8 hours per day, or more than 44 hours per week). *Id.* § 73-61-1 (unlawful for any person to place tattoo upon body of child 17 or younger). *Id.* § 43-21-505 (service on child 13 or younger effectuated by making service upon parent, guardian or custodian and guardian ad litem).

Laws extending extra protection to young adolescents: Miss. Code Ann. § 45-33-25 (sexual offender registration not required for offender 13 or younger). *Id.* § 97-3-95 (protecting children 15 and younger from sexual exploitation by older persons and children 17 and younger from sexual exploitation by persons in position of trust or authority over child). *Id.* § 45-33-47 (offender 21 or older, who is convicted of any sex offense where victim was 14 or younger shall be subject to lifetime registration and shall not be relieved of duty to register). *Id.* § 97-5-5 (children 13 and younger protected from enticement for purposes of prostitution, concubinage, or marriage). *Id.* § 97-5-41 (children 14 through 17 protected

from sexual acts with step-parent or adopted parent). *Id.* § 13-1-407, 13-1-411 (children 15 and younger protected from emotional trauma when testifying in child abuse case through provision allowing such testimony via videotaped deposition, with accused abuser required to watch through two-way mirror or other screening device, if substantial likelihood shown that child would suffer traumatic emotional or mental distress if required to testify in open court).

MISSOURI

Laws establishing minimum age for rights and responsibilities: Mo. Ann. Stat. § 566.032 (West) (child 13 or younger incapable of consenting to sexual intercourse). *Id.* § 566.034 (child 16 or younger incapable of consenting to sexual intercourse with individual 21 years of age or older). *Id.* § 566.062 (child 13 or younger incapable of consenting to sodomy). *Id.* § 566.064 (child 16 or younger incapable of consenting to sodomy with individual 21 years of age or older). *Id.* § 451.090 (child 14 or younger cannot obtain marriage license without judicial finding of good cause; child 15 to 17 may do so only with parental consent). *Id.* § 320.151 (no sale of fireworks to child 13 or younger unless accompanied by adult). *Id.* § 431.068 (child 15 or younger not eligible to donate blood; 16-year-old requires parental consent). *Id.* § 194.220 (child 15 or younger incapable of making anatomical gift decision). *Id.* § 167.031 (mandatory school attendance for children between ages of 7 and 16; school board in individual districts may

increase compulsory attendance age to 17 by adopting resolution). *Id.* § 324.520 (prohibiting tattooing or body piercing of child 17 or younger without parental consent). *Id.* §§ 302.060, 302.130 (child 14 or younger cannot drive; 15-year-old eligible for temporary instruction permit only). *Id.* § 294.021 (child 13 or younger cannot be employed, with limited exceptions); *see also id.* § 294.040 (child 15 or younger prohibited from being employed in certain hazardous occupations). *Id.* §§ 328.075, 329.050 (child 16 or younger ineligible to be licensed as barber or cosmetologist). *Id.* § 453.030 (child 13 or younger can be adopted without his or her consent).

Laws extending extra protection to young adolescents: Mo. Ann. Stat. § 566.151 (child 14 or younger protected from enticement for purpose of engaging in sexual conduct by persons 21 or older). *Id.* § 573.025 (elevating punishment for promoting child pornography if obscene material portrays child 13 or younger). *Id.* § 565.100 (children 13 and younger incapable of forming consent to activity proscribed by kidnapping statute). *Id.* §§ 565.149, 565.156 (children 16 and younger protected from child abduction). *Id.* § 566.067 (providing enhanced penalty for crime of child molestation involving child 13 or younger). *Id.* § 566.083 (child 14 or younger protected from sexual misconduct). *Id.* § 307.179 (penalizing driver of car when child 15 or younger does not wear seat belt). *Id.* §§ 491.678, 491.680 (child victim 16 or younger protected by provision authorizing admissibility of child's in-camera videotaped deposition in lieu of

live testimony in certain criminal prosecutions). *Id.* § 217.345 (incarcerated children 16 and younger must be kept physically separated from persons 17 and older).

MONTANA

Laws establishing minimum age for rights and responsibilities: Mont. Code Ann. § 45-5-501 (West) (child 15 or younger incapable of consent to sexual activity). *Id.* §§ 40-1-202, 40-1-213 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may do so only with parental consent and judicial approval). *Id.* § 72-17-201 (child 14 or younger incapable of consenting to organ donation, unless emancipated); *cf. id.* § 41-1-501 (child 15 or younger ineligible for emancipation). *Id.* § 61-5-105 (child 14 or younger cannot receive full driver's license; 13-year-old eligible for restricted license upon showing of hardship). *Id.* § 20-5-102 (children must attend school until 16th birthday or graduation from 8th grade). *Id.* §§ 41-2-104 to 41-2-110 (establishing employment restrictions for minors, with heightened restrictions for children 15 and younger, and further increased restrictions for children 13 and younger).

Laws extending extra protection to young adolescents: Mont. Code Ann. §§ 45-5-502, 45-5-503, 45-5-507 (enhanced penalties for sexual offenses against children 15 or younger, subject to close-in-age exceptions). *Id.* § 45-5-212 (children 13 and younger protected from assault on minor if offender is 18 or

older). *Id.* § 41-5-206 (child 15 or younger may not be incarcerated with adults).

NEBRASKA

Laws establishing minimum age for rights and responsibilities: Neb. Rev. Stat. Ann. § 28-319 (West) (child 12 to 15 incapable of consent to sexual activity with person 19 or older). *Id.* §§ 42-102, 42-105 (child 16 or younger incapable of contracting for marriage; 17-year-old requires parental consent). *Id.* § 71-4808 (child 16 or younger incapable of consenting to donate blood). *Id.* § 71-4802 (child 17 or younger incapable of consenting to donate organs). *Id.* §§ 38-108; 38-10,165 (children 17 and younger cannot obtain body art, defined to include tattoos and body piercings, without parental consent). *Id.* §§ 60-4,118.05 to 60-4,126 (child 13 or younger cannot drive; 14-year-old eligible for learner's permit or school or farm permit only; child 16 or older eligible for provisional license; child 17 or older eligible for driver's license). *Id.* § 79-201 (all children under 18 must attend school, except that child 16 or older may unenroll in school with notarized parental permission); *see also id.* § 79-203 (superintendent of school district may issue permit for employment of child 14 or 15 who has completed 8th grade, where employment necessary for child's own support or support of dependents). *Id.* § 48-310 (child 15 or younger restricted from working certain hours). *Id.* §§ 71-204; 38-1062 (child 16 or younger ineligible to be licensed as

barber, cosmetologist, electrologist, aesthetician, or nail technician).

Laws extending extra protection to young adolescents: Neb. Rev. Stat. Ann. § 28-311 (children 13 and younger protected from criminal child enticement). *Id.* § 28-320.01 (children 14 and younger protected from sexual contact with adults). *Id.* § 28-320.02 (children 16 and younger protected from sexual offenses over internet). *Id.* § 28-311.04 (enhanced penalty for stalking if victim 15 or younger). *Id.* §§ 29-1925, 29-1926 (child victim or witness to any felony protected through provision authorizing videotaped depositions rather than live testimony in criminal prosecution).

NEVADA

Laws establishing minimum age for rights and responsibilities: Nev. Rev. Stat. Ann. § 200.364 (West) (child 15 or younger incapable of consenting to sexual activity with person 18 or older). *Id.* §§ 122.020; 122.025 (child 15 or younger incapable of contracting for marriage except parental consent and judicial authorization, to be given in extraordinary circumstances; child 16 or 17 years old capable of marriage only with parental consent). *Id.* § 460.040 (child 16 or younger not eligible to donate blood without parental consent). *Id.* § 451.556 (child 15 or younger incapable of making anatomical gift decision). *Id.* §§ 483.250, 483.2521 to 483.2529, 483.280 (child under 13 cannot drive; child 15 years,

six months eligible for learner's permit; child 16 or 17 eligible for restricted license only; but child 14 or 15 eligible for restricted license where extenuating circumstances present). *Id.* §§ 392.040, 392.100, 392.110 (child 17 or younger required to attend school, but child 14 or older may be exempted with board of trustees approval). *Id.* § 609.245 (child 13 or younger cannot be employed without permission of district judge, with certain exceptions); *see also id.* §§ 609.190; 609.200; 609.221 (prohibiting children 15 and younger from working in certain occupations); *id.* § 609.240 (limiting hours children 15 and younger permitted to work). *Id.* § 687B.070 (child 15 or younger cannot contract for insurance). Nev. R. Civ. P. 4 (if child 13 or younger is to be served, child's parent or guardian must also be served). Nev. Rev. Stat. Ann. § 127.020 (child 13 or younger can be adopted without his or her consent). *Id.* § 412.026 (child 16 or younger cannot join the Nevada National Guard and is not included in Nevada National Guard Reserve, composed of all able-bodied residents 17 to 64). *Id.* § 475.110 (child 15 or younger not subject to mandatory firefighting duty required of able-bodied males 16 to 50).

Laws extending extra protection to young adolescents: Nev. Rev. Stat. Ann. § 200.366 (enhanced penalty for sexual assault if victim 15 or younger). *Id.* § 200.508 (enhanced penalty for abuse or neglect if victim 13 or younger and harm results from sexual abuse or exploitation). *Id.* § 200.730 (penalty for possession of pornography depicting

children 15 and younger). *Id.* §§ 200.750, 200.710, 200.720 (enhanced penalties and mandatory minimum incarceration for promotion of sexual performance of children 13 and younger). *Id.* § 201.230 (children 13 and younger protected from lewdness). *Id.* § 201.540 (enhanced penalties for teachers who engage in sexual activity with students 15 and younger). *Id.* § 174.227 (child 13 or younger who is witness in criminal prosecution protected through provision authorizing witness's videotaped deposition with judicial consent). *Id.* § 484.3795 (aggravated circumstance in conviction for driving under influence of intoxicating liquor if child 14 or younger in car).

NEW HAMPSHIRE

Laws establishing minimum age for rights and responsibilities: N.H. Rev. Stat. Ann. § 457:4 (West) (male child 13 or younger and female child 12 or younger incapable of contracting for marriage). *Id.* § 571-C:1 (child 15 or younger may not donate blood unless married; child aged 16 may not donate without parental consent, unless married). *Id.* § 265:144 (children 15 and younger must wear helmets when riding bicycles in public roadways). *Id.* §§ 263:16, 263:19, 263:25 (child under 15 and a half may not drive; child 15 and a half or older may drive with licensed driver while being taught to drive; child 16 or 17 may receive license upon meeting instructional requirements). *Id.* § 193:1 (children aged 6 to 17 required to attend school). *Id.* § 276-A:4 (child 15 or younger permitted to work only subject to certain

restrictions). *Id.* § 167:82 (child 15 or younger exempted from employment requirement for welfare assistance program). *Id.* § 179:19 (child 16 or younger prohibited from working as entertainer in cocktail lounge where liquor or beverages are sold). *Id.* § 313-A:24 (child 15 or younger prohibited from apprenticing as barber, esthetician, or cosmetologist). *Id.* § 326-C:5 (child 16 or younger unqualified to obtain license for occupational therapy). *Id.* § 31:43-c (child 15 or younger prohibited from any public street after 9 p.m. unless accompanied by parent or guardian). *Id.* § 418:5 (child 14 or younger ineligible to join fraternal benefit society). *Id.* § 313-A:31 (child 17 or younger prohibited from using tanning salon without parental consent; child 14 or younger prohibited from same without physician's note). *Id.* § 207:2-a (child 15 or younger prohibited from hunting using firearm, bow and arrow, or crossbow and bolt, except when accompanied by properly licensed adult). *Id.* § 270:30 (child 15 or younger may not operate motorized vessel having power in excess of 25 horsepower on public waters unless accompanied by adult). *Id.* § 605:1 (child 16 or younger may not waive right to counsel and plead guilty or go to trial without parental consent). *Id.* § 141-C:18 (child 13 or younger may not be tested for sexually transmitted diseases without knowledge or consent of parent or guardian).

Laws extending extra protection to young adolescents: N.H. Rev. Stat. Ann. §§ 632-A:2 to 632-A:4 (protecting children who are 13, 14 or 15 years

old from sexual activity with older persons). *Id.* § 633:2 (protecting child 15 or younger from being confined and exposed to risk of serious bodily injury without consent of child's parent or guardian). *Id.* § 639:3 (protecting children 15 and younger from being solicited to engage in sexual activity). *Id.* § 645:1 (protecting children age 15 and younger from indecent exposure). *Id.* § 649-A:1 et seq. (protecting children 15 and younger from being used as subjects of sexual visual images). *Id.* § 265-A:3 (enhanced penalty for driving while intoxicated when carrying passenger age 15 or younger). *Id.* § 517:13-a (authorizing use of videotaped testimony of child victim or witness where child was 16 or younger at time of crime). *Id.* § 517:13 (prohibiting discovery deposition of child victim or witness in criminal case where child is 15 or younger). *Id.* § 632-A:8 (in sexual assault prosecution involving child victim age 15 or younger, child's testimony shall be heard in camera unless defendant shows good cause to the contrary). *Id.* § 354-B:2 (where child 16 or younger is civil defendant in civil rights action, special confidentiality provisions apply). *Id.* § 618:6 (children 16 and younger exempt from confinement for nonpayment of fine). *Id.* § 650-C:1 (prohibiting adult from storing firearms where adult knows or should know child age 15 or younger could find them).

NEW JERSEY

Laws establishing minimum age for rights and responsibilities: N.J. Stat. Ann. § 2C:14-2

(West) (child 13 to 15 incapable of consent to sexual activity, except with person within 4 years of own age). *Id.* § 9:17A-6 (child 15 or younger incapable of consenting to donate blood; 16-year-old requires parental consent). *Id.* § 26:6-80 (child incapable of making decision to donate organs unless emancipated or old enough to apply for driver's license); *cf. id.* § 39:3-3 to 39:3-42 (16-year age minimum to apply for restricted license). *Id.* § 39:4-10.1 (child 16 or younger required to wear helmet when riding bicycle). *Id.* §§ 39:3-3 to 39:3-42 (child 15 and younger cannot drive; 16-year-old eligible for learner's permit and restricted license only; 17-year-old eligible for provisional license only); *see also* N.J. Dept. of Motor Vehicles, <http://www.state.nj.us/mvc/Licenses/EarlyBird.htm> (last visited July 11, 2009). *Id.* § 17B:24-2 (minor 14 or younger not competent to contract for life or health insurance). *Id.* § 26:2D-82.1 (child 13 or younger not permitted to use tanning facility; child 14 to 17 must have parental consent). *Id.* § 18A:38-25 (children 15 and younger must attend school). *Id.* § 2C:40-21 (child 17 or younger may not consent to tattooing or body piercing without parental consent). *Id.* §§ 34:2-21.2; 34:2-21.15; 34:2-21.17; 34:2-21.58 (establishing heightened employment restrictions for children 15 and younger).

Laws extending extra protection to young adolescents: N.J. Stat. Ann. § 2C:13-1 (enhanced penalty for kidnapping if victim 15 or younger). *Id.* § 2C:11-3 (enhanced punishment for murder if victim 13 or younger). *Id.* § 2C:24-4 (protecting children

15 and younger from activity by parent or guardian that endangers their welfare or exposes them to inappropriate sexual conduct). *Id.* (protecting children 15 and younger from exploitation through provision criminalizing production or distribution, including internet distribution, of pornography involving such children). *Id.* § 39:3-76.2f (driver of vehicle responsible for ensuring that passengers 8 to 17 wear seat belts). *Id.* § 2C:40-21 (crime to tattoo or body-pierce child 17 or younger without parental consent). *Id.* § 2A:84A-32.4 (protecting child witness 15 or younger from severe emotional or mental distress through provision authorizing testimony of such child via closed-circuit television in criminal prosecution of certain sex crimes).

NEW MEXICO

Laws establishing minimum age for rights and responsibilities: N.M. Stat. Ann. § 30-9-11 (West) (child 16 or younger incapable of consenting to sex with adult over 19, with exception for marriage). *Id.* §§ 40-1-5, 40-1-06 (child 15 or younger incapable of contracting for marriage except with judicial authorization where couple has child or female is pregnant; child 16 or 17 can marry only with parental consent). *Id.* § 60-2C-8 (sale of fireworks to child 15 or younger prohibited). *Id.* § 24-10-6 (child 16 or younger incapable of donating blood). *Id.* § 24-6B-4 (child 14 or younger incapable of consenting to organ donation, unless emancipated); *cf. id.* § 32A-21-4 (child 15 or younger may not be emancipated). *Id.* § 32A-24-3

(bicycle helmet required for child 17 or younger to operate bicycle, skates, scooter or skateboard). *Id.* § 66-5-5 (child 14 or younger cannot drive; 15-year-old eligible for learner's permit only). *Id.* § 22-12-2 (child 17 or younger must attend school). *Id.* §§ 50-6-1 to 50-6-4, 50-6-17 (child 13 or younger ineligible for employment; 14- or 15-year-old ineligible to work in certain hazardous occupations, may work only limited hours, and must have permit, with exceptions for employment by parent, as actor, or to deliver newspapers). *Id.* §§ 61-17A-8, 61-17A-9 (child 16 or younger ineligible to be licensed as barber or cosmetologist). *Id.* §§ 59A-18-7, 59A-44-6 (child 14 or younger incapable of contracting for insurance or adult membership in fraternal benefit society). N.M. Rules Ann., R. 1-004 (child 14 or younger incompetent to accept service of process for another at their residence). N.M. Stat. Ann. § 32A-6A-15 (child 13 or younger cannot consent to mental health services). *Id.* § 32A-5-17 (child 13 or younger can be adopted without his or her consent).

Laws extending extra protection to young adolescents: N.M. Stat. Ann. §§ 30-6A-4, 30-9-1, 30-37-3.2, 30-37-3.3 (children 15 and younger protected from sexual exploitation by prostitution, enticement for sex acts, and sexual solicitation and communication through an electronic device); *see also id.* §§ 30-9-11, 30-9-13 (establishing additional crimes protecting young adolescents from sexual offenses). *Id.* § 66-7-369 (prohibiting operation of most vehicles unless children 17 and younger wear seat belts). *Id.* § 30-3A-3.1 (enhanced punishment for stalking where victim

15 or younger). *Id.* § 30-9-17 (child 15 or younger who is victim of sex crime may testify by videotaped deposition in criminal prosecution).

NEW YORK

Laws establishing minimum age for rights and responsibilities: N.Y. Penal Law § 130.05 (McKinney) (child 16 or younger incapable of consenting to sexual activity). N.Y. Dom. Rel. Law §§ 15, 15-a (child 13 or younger prohibited from getting married; child who is 14 or 15 may only marry with both parental and judicial consent; 16- or 17-year-old may only marry with parental consent). N.Y. Pub. Health Law § 3123 (child 16 or younger not eligible to donate blood without parental consent). N.Y. Veh. & Traf. Law § 1238 (child 13 or younger must wear helmet when riding bicycle). *Id.* § 1265 (child 13 or younger must wear helmet when riding horse). *Id.* § 502 (child 15 or younger not eligible for driver's license; child of 16 eligible for junior license only; child of 17 only eligible for license after successful completion of approved driver education course). N.Y. Educ. Law § 3205 (children between ages of 6 and 16 must attend school). N.Y. Lab. Law § 142 (restricting working hours for children age 14 and 15); *see also id.* § 143 (restricting, to lesser extent, working hours of children age 16 and 17); *cf.* N.Y. Educ. Law § 3226 (limited farm work permit available for children 12 years old or older). N.Y. Lab. Law § 133 (children 15 and younger may not be employed painting or cleaning the exterior of

buildings, in any occupation in connection with factory, in any job involving dangerous machinery, or in any job related to mental hygiene). N.Y. Gen. Bus. Law § 434 (child 17 and younger not eligible to apply for barber's license). *Id.* § 406 (child 16 or younger not eligible for license in nail specialty, waxing, natural hair styling, esthetics or cosmetology). N.Y. Educ. Law §§ 6608-b, 6609 (child 16 or younger not qualified to be certified dental assistant or dental hygienist). *Id.* § 6906 (child 16 or younger not eligible for license as practical nurse). N.Y. Env'tl. Conserv. Law § 13-0311 (child 16 or younger who wishes to apply for shellfish digger's permit must obtain signed consent from parent or legal guardian). *Id.* § 13-0328 (child 15 and younger not eligible for commercial food fish license). N.Y. Ins. Law § 4507 (child 14 or younger "at nearest birthday" not eligible for adult membership in fraternal benefit society). *Id.* § 3207 (child younger than 14 years, 6 months not eligible to contract for life insurance). N.Y. C.P.L.R. 309 (child 13 or younger not entitled to receive service of process in civil action involving child). N.Y. Pub. Health Law § 3555 (child 13 or younger not permitted to use ultraviolet radiation at tanning facility; child 14, 15, 16 or 17 may only use facility with parental consent). N.Y. Nav. Law § 49 (child 13 or younger may not operate personal watercraft). N.Y. Env'tl. Conserv. Law § 6811 (child 13 or younger ineligible for any license which authorizes hunting of big game; child 15 or younger ineligible for certain other hunting licenses). N.Y. C.P.L.R. 4508 (child 15 or younger not entitled to same confidentiality protections as adult

when speaking to social worker; if social worker obtains information from child indicating child has been victim of crime, social worker may be required to testify regarding said information). N.Y. Gen. Bus. Law § 396-k (toy may not be sold or distributed for use by children 13 or younger if, when subjected to reasonably foreseeable damage or abuse, toy could present electrical, mechanical or thermal hazard). N.Y. Penal Law § 265.05 (child 15 or younger may not possess air-gun). N.Y. Dom. Rel. Law § 111 (child 13 or younger may be adopted without child's consent). N.Y. Mental Hyg. Law § 9.13 (patient who is 15 or younger may not apply for voluntary admission to hospital for mental health treatment; child's parent, guardian or next-of-kin may apply for admission on child's behalf). N.Y. Parks Rec. & Hist. Preserv. Law § 25.19 (restrictions on use of snowmobiles by children 13 and younger and by children 14-17). N.Y. Mil. Law § 2 (male children 16 and younger excluded from militia). N.Y. Unconsol. Law § 8921 (child 15 or younger may not attend professional boxing or wrestling match unless accompanied by parent or guardian).

Laws extending extra protection to young adolescents: N.Y. Penal Law § 130.30 (protecting children 14 and younger from sexual intercourse with adults). *Id.* § 130.60 (protecting children 13 and younger from sexual contact with adults). *Id.* §§ 100.05, 100.08, 100.13, 105.05, 105.10, 105.13, 105.17 (protecting children 15 and younger from being drawn into criminal conduct by adults and/or

from participation in criminal conspiracies with adults). *Id.* §§ 115.00, 115.01, 115.08 (providing enhanced penalties for adult who helps child 15 or younger commit crime). *Id.* § 120.70 (protecting children 16 and younger from being lured into motor vehicles, watercraft, aircraft, buildings or isolated areas for the purposes of committing certain crimes against children). *Id.* § 220.74 (enhanced penalty for manufacture of methamphetamine if offense committed in presence of child age 15 or younger and offender is at least 5 years older than child). *Id.* § 230.05 (enhanced penalty for adult who exploits child prostitute 13 or younger). N.Y. Crim. Proc. Law §§ 65.00, 65.10 (child 14 or younger may testify via closed-circuit television under some circumstances). *Id.* § 60.44 (child 15 or younger may use anatomically correct doll in testifying in criminal proceedings related to sexual offenses). N.Y. Env'tl. Conserv. Law § 9-1111 (power of state officials to impress any person for fire fighting assistance not applicable to children 15 and younger). N.Y. Veh. & Traf. Law § 1229-c (driver of motor vehicle responsible for ensuring children 15 and younger are using safety belts or other child restraint devices). N.Y. Crim. Proc. Law § 510.15 (child 15 or younger may not be jailed with adults without approval of state division of youth).

NORTH CAROLINA

Laws establishing minimum age for rights and responsibilities: N.C. Gen. Stat. Ann. § 14-27.7A

(West) (child 13, 14, or 15 incapable of consent to sexual activity with person 4 or more years older, with exception for marriage). *Id.* §§ 51-2, 51-2.1 (child 13 or younger incapable of contracting for marriage; 14- or 15-year-old can marry only under particular situations and with judicial consent; 16- or 17-year-old may not marry without parental consent). *Id.* § 14-410 (child 15 or younger cannot purchase fireworks). *Id.* § 130A-412.31 (child 15 or younger incapable of donating blood without parental consent). *Id.* § 130A-412.6 (child 15 or younger incapable of making decision to donate organs unless emancipated). *Id.* § 20-171.9 (child 15 or younger required to wear helmet when riding bicycle). *Id.* § 14-400 (child 17 or younger not permitted to obtain tattoo; parental consent required for body piercing). *Id.* § 20-11 (child 14 or younger cannot drive, 15-year-old eligible for learner's permit only). *Id.* § 115C-378 (children between 7 and 16 must attend school). *Id.* § 95-25.5 (child 13 or younger cannot be employed except in newspaper distribution; limited hours for child 15 or younger in any employment).

Laws extending extra protection to young adolescents: N.C. Gen. Stat. Ann. § 14-178 (enhanced penalty for incest if victim 15 or younger and offender at least 6 years older). *Id.* §§ 14-50.17, 14-50.18 (enhanced penalty for solicitation of gang activity if person solicited 15 or younger). *Id.* § 14-190.7 (children 15 and younger protected from distribution of obscene materials). *Id.* § 90-95

(enhanced penalty for selling controlled substance to child 15 or younger).

NORTH DAKOTA

Laws establishing minimum age for rights and responsibilities: N.D. Cent. Code § 12.1-20-03 (child under 15 unable to consent to sexual activity). *Id.* § 14-03-02 (child 15 or younger prohibited from entering into marriage contract; children 16 or 17 may not marry without parental consent). *Id.* § 23-15.1-05 (child 13 or younger prohibited from purchasing fireworks). *Id.* § 23-06.6-03 (child 13 or younger incompetent to make decision to donate organs, unless emancipated). *Id.* § 39-06-03 (child 13 or younger prohibited from operating motor vehicle; child aged 14 or 15 may operate a motor vehicle with learner's permit when accompanied by adult aged 18 or more). *Id.* § 15.1-20-01 (compulsory education between 7 and 16). *Id.* § 34-07-01 (child 13 or younger may not be employed in any occupation except farm labor, domestic service, or by a family member, and not during school hours); *see also id.* § 34-07-15 (child aged 14 or 15 may not be employed before 7 a.m. nor after the hour of 7 p.m., except that these hours are 7 a.m. to 9 p.m. during summer months, nor more than 18 hours during school weeks, nor more than 3 hours on schooldays, nor more than 40 hours during non-school weeks, nor more than 8 hours on non-schoolday). *Id.* § 43-04-23 (child 16 or younger ineligible to be registered as apprentice barber). *Id.* § 14-10-17 (child 13 or younger cannot consent to drug,

alcohol, or sexually-transmitted-disease treatment, without parental consent). *Id.* § 20.1-04-07 (child 14 or younger prohibited from holding spring wild turkey license).

Laws extending extra protection to young adolescents: N.D. Cent. Code § 12.1-20-03 (enhanced penalties for those who engage children 14 or younger in sexual acts). *Id.* § 12.1-18-04 (children 13 and younger protected from kidnapping through provision stating that restraint is “without consent” even if child acquiesces, unless parent or guardian has given consent). *Id.* § 12.1-20-03.1 (children 14 and younger protected from continuous sexual abuse). *Id.* § 12.1-20-05 (children 14 and younger protected from corruption and solicitation). *Id.* § 12.1-20-05.1 (enhanced penalties for those who lure child 14 or younger by electronic means). *Id.* § 39-21-41.2 (child 17 and under must be restrained in moving vehicle). *Id.* § 12-46-13 (child 15 and younger cannot be incarcerated with adults).

OHIO

Laws establishing minimum age for rights and responsibilities: Ohio Rev. Code Ann. § 2907.04 (West) (child 15 or younger incapable of consent to sexual activity with person 18 or older). *Id.* § 3101.01 (male child 17 or younger and female child 15 or younger incapable of contracting for marriage without parental consent). 2009 Ohio Laws 5 (H.B. 67, approved July 7, 2009, eff. Oct. 6, 2009)

(amending Ohio Rev. Code § 2108.31) (child 15 or younger not authorized to donate blood; 16-year-old may not donate blood without parental consent). Ohio Rev. Code Ann. § 2108.04 (child under 15-½ prohibited from making anatomical gift decision unless emancipated). *Id.* § 3730.06 (child 17 or younger incapable of receiving tattoo or piercing without parental consent and presence). *Id.* §§ 4507.071, 4507.05 (children under 15-½ cannot drive; children under 16 eligible for temporary instruction permit only). *Id.* § 3321.01 (child 17 and younger must attend school). *Id.* § 4109.07 (establishing time limits on employment of minors 15 and under, and less strict time limits for minors 16 and 17).

Laws extending extra protection to young adolescents: Ohio Rev. Code Ann. § 2907.21 (enhanced penalty for compelling prostitution if person compelled is less than 16). *Id.* § 2905.05 (protecting children 13 and younger from criminal child enticement). *Id.* § 5120.16 (child 17 or younger cannot be incarcerated with inmates over 18; exception if child does not follow rules and regulations; if department receives too few inmates under 18 to fill separate housing unit, child may be housed in unit with inmates under 21).

OKLAHOMA

Laws establishing minimum age for rights and responsibilities: Okla. Stat. Ann. tit. 21, § 1111 (West) (child 15 or younger incapable of consent to

sexual activity). *Id.* tit. 43, § 3 (child 15 or younger incapable of contracting for marriage, except with judicial authorization in settlement of suit for seduction or paternity or if unmarried female is pregnant or has given birth to an illegitimate child; 16- and 17-year-old child may do so only with parental consent). *Id.* tit. 63, § 2152 (child 16 or younger incapable of donating blood). 2009 Okla. Sess. Law Serv. 139 sec. 4 (West) (S.B. 622, approved May 8, 2009, eff. Nov. 1, 2009) (creating Okla. Stat. tit. 63, § 2200.4A) (child 15 or younger incompetent to make decision to donate organs, unless emancipated). 2009 Okla. Sess. Law Serv. 319 sec. 1 (S.B. 844, approved May 26, 2009, eff. July 1, 2009) (amending Okla. Stat. tit. 21, § 842.1) (child 17 or younger incapable of receiving tattoo; child 17 or younger incapable of receiving body piercing without parental consent and presence). 2009 Okla. Sess. Law Serv. 99 sec. 1 (H.B. 1599, approved Apr. 24, 2009, eff. Nov. 1, 2009) (amending Okla. Stat. tit. 47 § 6-105) (child under 15-½ cannot drive; child under 16 eligible for learner permit only). Okla. Stat. tit. 70, § 10-105 (child 17 or younger must attend school). *Id.* tit. 40, §§ 71-76 (child 15 or younger prohibited from employment in hazardous occupations and working certain hours).

Laws extending extra protection to young adolescents: 2009 Okla. Sess. Law Serv. 234 sec. 125 (H.B. 2029, approved May 21, 2009) (amending Okla. Stat. § 1123) (children 15 and younger protected from sexual contact, electronically communicated indecent

proposals, and enticement). Okla. Stat. Ann. tit. 21, § 1114 (children 14 and younger protected from sexual penetration by persons 18 and older). *Id.* § 1040.13a (children 17 and younger protected while using the internet and other electronic devices by felonies relating to use of computers and electronic devices to engage in sexual communication). *Id.* § 1119 (children 14 and younger protected from abduction for marriage or crime involving moral turpitude). *Id.* § 891 (children 15 and younger protected from enticement). *Id.* § 853 (children 14 and younger protected from abandonment). *Id.* tit. 10, § 1628 (children 15 and younger protected by provision requiring immediate investigation upon report of missing child).

OREGON

Laws establishing minimum age for rights and responsibilities: Or. Rev. Stat. Ann. § 163.315 (West) (child 17 or younger incapable of consenting to sexual activity). *Id.* § 106.010 (child 16 or younger incapable of entering contract for marriage). *Id.* § 166.480 (child 13 or younger prohibited from buying explosives). *Id.* § 109.670 (child 15 or younger not eligible to donate blood without parental consent). *Id.* § 97.955 (unemancipated child 14 or younger not able to consent to anatomical gift; parent or guardian may consent to anatomical gift on child's behalf). *Id.* § 814.485 (child 15 or younger must wear protective headgear when riding bicycle on highway or premises open to public). *Id.* §§ 807.060, 807.065,

807.220, 807.230, 807.280 (child 14 or younger may not drive motor vehicles with limited exceptions for emergencies and children with no other means of transportation to and from school; 15-year-old child eligible for learner's permit only; child who is 16 or 17 eligible for learner's permit or provisional license only). *Id.* § 339.010 (child between ages 7 and 18 must attend school unless child has completed 12th grade). *Id.* § 653.315, *amended by* 2009 Or. Laws 104 (H.B. 2826, approved May 21, 2009) (restricting work hours for children 15 and younger). *Id.* § 653.320 (child 13 or younger may not be employed when school is in session, or in any factory, workshop, mercantile establishment, store, business office, restaurant, bakery, hotel or apartment house). *Id.* § 419B.851 (child 14 or younger cannot accept service of process for another at child's residence). *Id.* § 109.305 (child 13 or younger may be adopted without child's consent). *Id.* § 419B.558 (child 15 or younger may not be emancipated from parents). *Id.* § 660.126 (child 15 or younger may not work as apprentice). *Id.* § 814.600 (child 15 or younger must wear protective headgear when riding skateboard, scooter or using inline skates on highway or premises open to public). *Id.* § 830.088 (child 12 to 15 years old may only operate motorboat if child obtains boating safety certificate; if boat has engine of 10 horsepower or greater, child must also be accompanied by older person).

Laws extending extra protection to young adolescents: Or. Rev. Stat. Ann. § 163.385 (protecting

children 15 and younger from sodomy). *Id.* § 163.395 (enhanced penalty for sodomy of child 13 or younger). *Id.* §§ 163.355 & 163.415, *amended by* 2009 Or. Laws 616 (H.B. 2478, approved June 26, 2009) (enhanced penalty for sexual activity with child 15 or younger as compared to sexual activity with child who is 16 or 17). *Id.* § 163.365 (enhanced penalty for sexual activity with child 13 or younger). *Id.* § 161.725 (when determining sentence for repeat offender, judge may not consider offenses committed when defendant was 15 years old or younger). *Id.* § 163.427 (enhanced penalty for sexual abuse of child 13 or younger). *Id.* § 811.210, *amended by* 2009 Or. Laws 498 (S.B. 579, approved June 24, 2009) (penalties for adult who fails to ensure proper safety belt use by child 15 or younger). *Id.* § 137.705 (child 15 or younger who is charged as adult may not be detained in jail with adult offenders).

PENNSYLVANIA

Laws establishing minimum age for rights and responsibilities: 18 Pa. Cons. Stat. Ann. § 3122.1 (West) (child 15 or younger incapable of consent to sexual activity with person four or more years older who is not spouse). 23 Pa. Cons. Stat. Ann. § 1304 (child 15 or younger incapable of contracting for marriage without judicial consent; children age 16 and 17 cannot marry without parental consent). 35 Pa. Stat. Ann. § 10002 (child 15 or younger cannot donate blood; 16-year-old must have parental consent). 20 Pa. Cons. Stat. Ann. § 8611

(child 15 or younger incompetent to make decision to donate organs; 16- and 17-year-old children must have signed parental consent). 18 Pa. Cons. Stat. Ann. § 6311 (child 17 or younger cannot be tattooed or get body piercing without parental consent and presence). 75 Pa. Cons. Stat. Ann. § 1503 (child 15 or younger cannot drive; 16-year-old eligible for restricted license only). 24 Pa. Stat. Ann. § 13-1326 (child 16 and younger must attend school). 43 Pa. Cons. Stat. Ann. § 42 (children 15 or younger prohibited from working with limited exceptions; in any case no child 13 or younger may work). 35 Pa. Stat. Ann. § 10101.1 (child 13 and younger cannot receive outpatient mental health treatment without parental consent). 34 Pa. Cons. Stat. Ann. § 2901 (child 15 or younger prohibited from receiving falconry permit). 53 Pa. Stat. Ann. § 15322 (child 15 or younger cannot be plumber's apprentice). 63 Pa. Stat. Ann. §§ 510, 553 (child 15 or younger cannot receive cosmetology or barber license). 53 Pa. Stat. Ann. § 4740 (child 15 or younger cannot attend public dance after 9 p.m.).

Laws extending extra protection to young adolescents: 18 Pa. Cons. Stat. Ann. § 3127 (enhanced penalty for indecent exposure if child 15 or younger present). 42 Pa. Cons. Stat. Ann. § 9718 (enhanced penalty for aggravated assault, rape, involuntary deviate sexual intercourse, and aggravated indecent assault when victim 15 or younger). 75 Pa. Cons. Stat. Ann. § 4581 (child 17 or younger required to wear seatbelt in car). 42 Pa. Cons. Stat. Ann.

§§ 5982, 5984.1 (child victim or witness 15 or younger protected through provision authorizing recorded testimony).

RHODE ISLAND

Laws establishing minimum age for rights and responsibilities: R.I. Gen. Laws Ann. § 11-37-6 (West) (defining age of consent as 16; child 15 or younger incapable of consent to sexual activity with person over 18). *Id.* § 15-2-11 (male 17 or younger or female 15 or younger can receive marriage license only with parental consent and after investigation by family court; female 16 or 17 eligible for marriage license with parental consent only). *Id.* § 11-13-3 (child 14 or younger may not buy cartridges, ammunition, gun, or pistol without parental consent). *Id.* § 23-4.5-1 (child 16 or younger may not consent to donate blood without parental permission). *Id.* § 23-18.6.1-4 (child 15 or younger incompetent to consent to donate organs, unless emancipated). *Id.* § 31-19-2.1 (child 15 or younger required to wear helmet when riding bicycle or using skateboard, roller skates, inline skates, or scooter). *Id.* § 27-25-6 (no child 14 or younger may be adult member of fraternal benefit society). *Id.* § 31-10-6 (child 15 or younger may not drive; under graduated license scheme, children aged 16 to 18 may gradually acquire full driving privileges). *Id.* § 16-19-1 (child aged 6 to 16 must attend school). *Id.* § 11-9-11 (cities or town may designate curfew streets on which children 15 or younger are prohibited from loitering after 9 p.m.). *Id.* § 28-3-3

(child 13 or younger prohibited from employment, child 14 or over may obtain special limited permit to work, not during school hours and not in factories); *see also id.* § 28-3-11 (no child 15 or younger to work more than 40 hours per week; no child 17 or younger to work more than 48 hours per week). *Id.* § 28-45-9 (child 15 or younger may not enter apprenticeship program).

Laws extending extra protection to young adolescents: R.I. Gen. Laws Ann. §§ 11-23-1, 11-37-8.1 to 11-37-8.3 (elevating murder to first-degree when committed during any degree of child molestation against child 14 or younger). *Id.* § 11-26-1.4 (penalizing adult who kidnaps child 15 or younger with intent to secretly confine or sexually assault child). *Id.* § 11-26-1.5 (crime to entice, with felonious intent, child 15 or younger to leave child's home or to enter a car or a secluded area). *Id.* § 11-37-8.1 (enhancing punishment for sexual penetration of 14 years or under). *Id.* § 11-37-13.2 (protecting children from unreasonable mental or emotional harm by providing that court may allow victim of sexual crime who is 17 or younger at time of trial to testify in criminal prosecution via videotaped deposition or closed-circuit television, and by establishing rebuttable presumption that child 14 or younger is unable to testify without unreasonable mental or emotional harm). *Id.* § 14-1-26 (child shall not be transferred to or from juvenile correctional facility with adult offenders).

SOUTH CAROLINA

Laws establishing minimum age for rights and responsibilities: S.C. Code Ann. §§ 16-3-651, 16-15-342, 16-3-655 (West) (child 15 or younger incapable of consenting to sexual activity with older partner). *Id.* § 20-1-100 (child 15 or younger may not marry under any circumstances). *Id.* § 23-35-120 (sale of fireworks to child 13 or younger prohibited unless child accompanied by parent). 2009 S.C. Acts 4 sec. 1 (eff. May 6, 2009; amending S.C. Code § 44-43-20) (child 15 or younger prohibited from donating blood; 16-year-old may only donate blood with parental consent). *Id.* sec. 2 (child 15 or younger may not consent to donate his or her organs; child's parent may consent to anatomical gift on child's behalf). S.C. Code Ann. §§ 56-1-40, 56-1-175 (child 14 or younger cannot drive; child who is 15 is eligible for beginner's permit or conditional license only); *see also id.* § 56-1-1720 (child 13 or younger ineligible for moped license). *Id.* § 59-65-10 (child 17 or younger must attend school). S.C. Code Ann. Regs. § 71-3103 (child 15 or younger subject to child labor laws). *Id.* § 71-3106 (child 14 or 15 prohibited from working more than three hours per day while school in session and barred from working in, *inter alia*, manufacturing, mining, warehousing and storage, transportation, construction, baking). S.C. Code Ann. § 7-13-110 (child 15 or younger ineligible to work as poll manager's assistant during elections). *Id.* § 50-5-325 (child 15 or younger barred from serving as master of commercial fishing trawler). *Id.* § 25-3-40 (child 16

or under may not serve in South Carolina State Guard). *Id.* § 40-7-230 (child 16 or younger may not become licensed barber; child 15 or younger may not be licensed barber's assistant or apprentice). *Id.* § 38-38-110 (child 14 or younger not eligible for adult membership in fraternal benefit society). S.C. R. Civ. P. 4 (to serve process on child 13 or younger, process must be served on both child and child's guardian, parent, or other qualified adult). S.C. Code Ann. § 52-19-90 (child 15 or younger may not bungee jump without parental consent). *Id.* § 44-43-710 (child 15 or younger incompetent to consent to autopsy of deceased relative). *Id.* § 44-52-20 (child 15 or younger may not voluntarily admit herself to treatment facility for drug or alcohol dependence; child's parent or legal guardian may apply for admission on child's behalf).

Laws extending extra protection to young adolescents: S.C. Code Ann. § 16-3-655 (special protections against sexual battery for children between ages 11 and 14). *Id.* § 16-15-140 (children 15 and younger protected from lewd or lascivious acts). *Id.* § 16-15-342 (for crimes involving children 15 and younger, consent is no defense to a charge of criminal solicitation). *Id.* § 56-5-2947 (enhanced penalty for failure to stop vehicle when signaled by law-enforcement officer or for operating vehicle while under influence of alcohol or drugs when child 15 or younger in vehicle). *Id.* § 56-5-6520 (penalizing driver of car when child 17 or younger does not wear seat belt, unless child has driver's license or learner's

permit). *Id.* § 44-53-577 (protecting children 16 and younger from being lured or enticed into participating in the sale of narcotics). *Id.* § 56-5-3900 (unlawful to transport child 14 or younger in open area of pickup truck or trailer unless special requirements are met). S.C. Const. Art. XII, § 3 (child 16 or younger may not be incarcerated with adult offenders); S.C. Code Ann. § 63-19-1440 (same).

SOUTH DAKOTA

Laws establishing minimum age for rights and responsibilities: S.D. Codified Laws §§ 22-22-7, 22-22-7.3 (West) (child 15 or younger incapable of consent to sexual activity with person not spouse). *Id.* § 25-1-9 (child 15 or younger incapable of contracting for marriage; child 16 or 17 may only do so with parental consent). *Id.* § 26-2-7 (child 15 or younger incapable of donating blood; 16-year-old requires parental consent). *Id.* § 34-26-51 (child 13 or younger incompetent to make decision to donate organs unless emancipated; parental consent required for unemancipated minor 14 or older). *Id.* § 32-12-11 (child 13 or younger cannot drive; 14-year-old eligible for permit). *Id.* § 13-27-1 (children 6 to 17 must attend school). *Id.* § 60-12-2 (child 13 or younger cannot be employed in factory, workshop or mine during school hours); *see also id.* § 60-12-3 (child 15 or younger cannot be employed in dangerous occupations).

Laws extending extra protection to young adolescents: S.D. Codified Laws § 22-22-7 (children 15 and younger protected from sexual contact with older persons). *Id.* §§ 22-24A-4, 22-24A-5 (children 15 and younger protected from solicitation for sexual acts by persons over 18, including use of computer in furtherance of such solicitation). *Id.* § 22-19-7.1 (children 15 and younger protected from enticement for illegal purposes). *Id.* § 23A-12-9 (child 15 or younger who is victim of sex crime protected through provision authorizing use of victim's videotaped deposition in criminal prosecution where judge finds that in-court testimony would be substantially detrimental to child victim's well-being). *Id.* § 32-37-1.3 (children 14 to 17 required to wear seat belts). *Id.* § 22-19-1.1 (children 13 or younger protected from kidnapping).

TENNESSEE

Laws establishing minimum age for rights and responsibilities: Tenn. Code Ann. §§ 36-3-105, 36-3-106, 36-3-107 (West) (child 15 or younger ineligible for marriage license unless judge or county mayor issues waiver; 16- and 17-year-olds may not marry without parental consent). *Id.* § 68-104-112 (child 15 or younger incapable of purchasing fireworks). *Id.* § 68-32-101 (child 15 or younger incapable of donating blood; 16-year-old requires parental consent). *Id.* § 68-30-104 (child 14 or younger incapable of making decision to donate organs unless emancipated minor). *Id.* § 55-52-105 (child 15 or younger required to wear helmet when riding

bicycle). *Id.* § 62-38-211 (child 17 or younger may not be tattooed; 16- and 17-year-olds eligible for tattooing only to cover existing tattoo and with parental consent and presence). *Id.* § 68-117-104 (child 17 or younger must have parental consent to use tanning salon). *Id.* § 62-38-305 (child 17 or younger ineligible for body piercing without parental consent). *Id.* § 39-13-506 (child 17 or younger incapable of consent to sexual activity except with person less than four years older than child). *Id.* §§ 55-50-311, 55-50-312 (child 13 or younger cannot drive; 14-year-old eligible for only special restricted license, and only if hardship can be shown; 15-year-old eligible for learner's permit). *Id.* § 49-6-3001 (children between 6 and 17 must attend school). *Id.* § 39-17-1702 (children 16 and younger have curfew of 10 p.m. on weekdays, 11 p.m. on weekends; 17-year-olds have curfew of 11 p.m. on weekdays, 12 a.m. on weekends). *Id.* §§ 50-5-103, 50-5-107 (child 13 or younger cannot be employed, with exceptions for employment in agriculture, by parent in non-hazardous occupation, or entertainment); *see also id.* § 50-5-104 (limiting hours for 14- and 15-year-olds).

Laws extending extra protection to young adolescents: Tenn. Code Ann. § 39-13-506 (children 13 to 17 protected from sexual contact with older persons). *Id.* § 39-13-529 (children 17 and younger protected while using internet and electronic communication by creation of felony for solicitation of child using computer or electronic communication).

Id. § 24-7-120 (children 13 and younger who are victims of sexual offenses or witnesses in criminal cases protected through provision authorizing such children to testify in criminal prosecution via closed-circuit testimony rather than in open court). *Id.* § 55-9-602 (children 13 to 15 protected by requirement that driver of motor vehicle secure children with seat belts). *Id.* § 37-1-134 (children 15 and younger convicted of crimes protected from incarceration with adults).

TEXAS

Laws establishing minimum age for rights and responsibilities: Tex. Penal Code Ann. § 21.11 (Vernon), *amended by* 2009 Tex. Sess. Law Serv. 260 (H.B. 549, approved May 30, 2009, eff. Sept. 1, 2009) (child 16 or younger incapable of consenting to sexual activity). 2009 Tex. Sess. Law Serv. 978 (H.B. 3666, approved June 19, 2009, eff. Sept. 1, 2009) (amending Tex. Fam. Code Ann. § 2.009) (child 15 or younger ineligible for marriage license without court order; child 16 or 17 may obtain marriage license only with parental consent, documents establishing that a prior marriage of the applicant has been dissolved, or a court order). Tex. Occ. Code Ann. § 2154.252 (child 15 or younger not permitted to purchase fireworks). Tex. Health & Safety Code Ann. § 162.015 (child 16 or younger not eligible to donate blood). 2009 Tex. Sess. Law Serv. 186 (H.B. 2027, approved May 29, 2009, effe. Sept. 1, 2009) (amending Tex. Health & Safety Code Ann. § 692.004) (child 15 or younger incapable

of making anatomical gift decision; child 16 or 17 must obtain parental consent). Tex. Health & Safety Code Ann. § 146.012 (child 17 or younger not permitted to get tattoo without parental consent). Tex. Transp. Code Ann. §§ 521.201, 521.222 (child 14 or younger not eligible for driver's license or instruction permit; child 17 or younger must comply with certain requirements). Tex. Educ. Code Ann. § 25.085 (children aged 6 to 17 required to attend school). Tex. Lab. Code Ann. §§ 51.011, 51.003 (child 13 or younger cannot be employed, with exceptions for non-hazardous work, newspaper delivery, and certain agricultural work). *Id.* § 51.013 (children aged 14 and 15 only permitted to work limited hours).

Laws extending extra protection to young adolescents: Tex. Penal Code Ann. § 21.02 (protecting children 13 or younger from continuous sexual abuse). *Id.* § 22.011, *amended by* 2009 Tex. Sess. Law Serv. 260 (H.B. 549, approved May 30, 2009, eff. Sept. 1, 2009) (children 16 and younger protected from sexual assault). *Id.* § 49.045 (enhanced penalty for driving while intoxicated when child 14 or younger in car). Tex. Transp. Code Ann. § 545.413 (penalizing driver of car when child 16 or younger does not wear seat belt). Tex. Penal Code Ann. § 22.041 (children 14 and younger protected from abandonment and endangerment). *Id.* § 22.04, *amended by* 2009 Tex. Sess. Law. Serv. 284 (S.B. 643, approved June 11, 2009) (children 14 and younger protected from serious bodily injury, serious mental impairment or injury, bodily injury, or exploitation by creation of felonies).

Id. § 33.021 (protecting children 16 or younger from sexually explicit communication through electronic communication service).

UNITED STATES (FEDERAL)

Laws establishing minimum age for rights and responsibilities: 10 U.S.C. § 505 (Uniform Code Military Justice) (child 16 or younger prohibited from enlisting in Army, Navy, Air Force, Marine Corps, or Coast Guard; 17-year-old may not do so without written consent of parent or guardian, if such person is entitled to child's custody and control). *Id.* § 311 (children 16 and younger excluded from mandatory unorganized militia consisting of able-bodied males 17 to 45 and females who are members of National Guard). *Id.* §§ 4346, 6958, 9346 (child 16 or younger ineligible for admission to United States Military Academy, United States Naval Academy, or United States Air Force Academy). 29 U.S.C. §§ 203, 212, 213 (regulating child labor and distinguishing between teens younger than 16 and teens 16 or 17 years old); *see also* 41 U.S.C. § 35 (contractor with United States or District of Columbia for value exceeding \$10,000 shall not employ male child 15 or younger or female child 17 or younger in manufacture or production or furnishing of any materials, supplies, articles, or equipment included in contract); 16 U.S.C. § 1725 (child 16 or younger ineligible for employment as resource assistant in any Federal land managing agency). 8 U.S.C. § 1182 (children 15 and younger not subject to prohibition of visas and admission to

United States for aliens affiliated with Communist or totalitarian party, because membership involuntary). *Id.* § 1202 (child 13 or younger not required to submit to in-person interview with consular office for non-immigrant visa). *Id.* § 1302 (alien child 13 or younger not responsible for applying for registration and fingerprinting within thirty days of entry; parent or guardian is responsible for such registration for alien child 13 or younger). 16 U.S.C. § 6802 (child 15 or younger not required to pay entrance fee for federal recreational lands and waters).

Laws extending extra protection to young adolescents: 10 U.S.C. § 920 (Uniform Code Military Justice) (child 15 or younger incapable of consent to sexual activity); 18 U.S.C. § 879 (penalizing threats made against children 15 and younger of former United States President). *Id.* § 3056 (Secret Service authorized to protect children 15 and younger of former United States President; period not to exceed 10 years). *Id.* § 1591 (enhanced penalty for sex trafficking of children if child victim 13 or younger). *Id.* § 2442 (protecting children 14 and younger from recruitment as child soldiers by punishing recruitment, enlistment, or conscription of such children into an armed force or group, or use of such children to participate actively in hostilities). U.S. Sentencing Guidelines Manual § 3B1.4 (“Using a Minor To Commit a Crime”) (2008) (adding 2 offense levels to guidelines calculation where defendant used or attempted to use child 17 or younger to commit offense or avoid detection). *Id.* § 2A2.3 (adding 4 offense levels to

guidelines calculation for conviction of certain assault offenses where victim is child 15 or younger). 18 U.S.C. § 2241 (providing enhanced punishment for aggravated sexual abuse in prison or other location subject to federal jurisdiction where victim 15 or younger); *see also* U.S. Sentencing Guidelines Manual § 2A3.1 (2008) (adding 2 offense levels to guidelines calculation for conviction of criminal sexual abuse under 18 U.S.C. §§ 2241-2242 where victim is child between 12 and 15). 18 U.S.C. §§ 2251-2260A (ch. 110) (protecting children generally against child pornography and other related sexual exploitation through laws penalizing, *inter alia*, production, distribution, internet distribution, sale, and possession of child sexually explicit materials involving children); *see also, e.g.*, U.S. Sentencing Guidelines Manual § 2G2.1 (2008) (adding 2 offense levels to guidelines calculation for convictions relating to sexual exploitation of minors and production of sexually explicit materials involving minors under 18 U.S.C. §§ 1591, 2251, or 2260(b), where victim is child between 12 and 15).

UTAH

Laws establishing minimum age for rights and responsibilities: Utah Code Ann. §§ 76-5-401, 76-5-401.2 (West) (child 15 or younger incapable of consenting to sex; child 16 or 17 incapable of consenting to sex with person 10 or more years older than child). *Id.* §§ 30-1-8, 30-1-9 (child 15 or younger may not marry unless child and parent obtain judicial court authorization; child 16 or 17 requires parental

consent). *Id.* § 26-28-104 (child 14 or younger cannot consent to organ donation, unless emancipated); *id.* § 78A-6-803 (child 15 or younger not eligible for emancipation). *Id.* §§ 41-8-2, 53-3-204, 53-3-210.5 (child 15 or younger may not be licensed to drive, except 15-year-old may obtain learner's permit; child 16 or younger may not drive after midnight). *Id.* § 34-23-202 (child 15 or younger may not work during schools hours or for more than 4 hours on a school day); *see also id.* § 34-23-201 (child 17 or younger cannot work in hazardous occupation unless under close supervision in apprentice or vocational training program with approval of Labor Division).

Laws extending extra protection to young adolescents: Utah Code Ann. § 76-5-202 (murder of child 13 or younger eligible for capital punishment). *Id.* § 76-3-203.9 (creating aggravating factor in sentencing and parole considerations for violent crimes committed in presence of children 13 and younger). *Id.* §§ 76-5-402.1, 76-5-402.3, 76-5-403.1, 76-5-404.1 (children 13 and younger protected from sexual contact through various crimes criminalizing such contact). *Id.* § 76-5-301.1 (children 13 and younger protected by law punishing confinement, seizure, detention, or transport of such child by any means without parental consent as kidnapping). *Id.* § 76-9-702.7 (enhancing culpability for voyeurism or distribution of images obtained through voyeurism where victim 13 or younger). Utah R. Crim. P. 15.5 (child 13 or younger who is victim of a sex crime protected through provision authorizing victim's recorded

statement or deposition or closed-circuit testimony in criminal prosecution for sexual offense). Utah Code Ann. § 41-6a-503 (enhanced penalty for driving under influence of alcohol or drugs when child 15 or younger in car). *Id.* § 41-6a-1803 (children 15 and younger protected by provision requiring driver to ensure children wear seat belts).

VERMONT

Laws establishing minimum age for rights and responsibilities: Vt. Stat. Ann. tit. 13, § 3252 (West) (child 14 or younger incapable of consenting to sex; 15-year-old cannot consent to sex with person 19 or older). 2009 Vt. Laws 3 sec. 8 (enacted by legis. override, Apr. 7, 2009; eff. Sept. 1, 2009; amending Vt. Stat. tit. 18, § 5142) (child 15 or younger may not receive marriage license; 16- and 17-year-old may do so only with parental consent). Vt. Stat. Ann. tit. 18, § 9 (children 16 and younger cannot consent to donate blood without parental authorization). *Id.* tit. 23, § 606, 607, 617 (child 14 or younger cannot drive; 15-year-old eligible for learner's permit; 16- and 17-year-olds eligible for limited junior license). *Id.* tit. 16, § 1121 (children ages 6 to 16 must attend school). *Id.* tit. 21, §§ 431, 434 (child 15 or younger ineligible to work when school in session without filing certificate of eligibility from commissioner, and may work only during limited hours). *Id.* tit. 24, § 2151 (municipalities may create curfews for children 15 and younger). *Id.* tit. 8, §§ 3710, 4470 (child 14 or younger may not contract for insurance or be admitted to

fraternal benefit society). *Id.* tit. 10, § 4254 (child 15 or younger eligible for hunting and archery license only with written consent of parent/guardian). *Id.* tit. 7, § 1002 (child 15 or younger prohibited from selling tobacco).

Laws extending extra protections to young adolescents: Vt. Stat. Ann. tit. 12, § 1612 (various health professionals required to disclose information indicating a patient 15 or younger has been victim of a crime). *Id.* tit. 13, § 1063 (crime of stalking aggravated if victim 15 or younger). *Id.* § 1460 (general public excluded from hearings in hate crime matters where defendant 15 or younger). *Id.* § 2828 (crime to lure child 15 or younger into sexual act by any means). *Id.* §§ 2821, 2822, 2824, 2827 (children 15 and younger protected from various forms of sexual exploitation). *Id.* § 4007 (penalty for person other than parent or guardian or firearms instructor who sells or furnishes firearms to child 15 or younger). *Id.* tit. 15, § 512 (parent or guardian of child who married at age 15 or younger may seek annulment).

VIRGINIA

Laws establishing minimum age for rights and responsibilities: Va. Code Ann. §§ 18.2-63, 18.2-371 (West) (child 14 or younger incapable of consent to sexual activity; child who is 15, 16 or 17 incapable of consent to sexual activity with adults). *Id.* §§ 20-48, 20-49 (child 15 or younger may not get

married unless one of parties seeking to be married is pregnant or has recently given birth; child who is 16 or 17 and has not been previously married may not marry without parental consent). *Id.* §§ 32.1-291.4, 16.1-331 (child 15 and a half or younger may not consent to donate organs after death unless emancipated); *cf. id.* § 16.1-331 (child under 16 not eligible for emancipation). *Id.* § 18.2-371.3 (child 17 or younger may not be tattooed or undergo body piercing except in presence of child's parent or guardian or when done under supervision of medical doctor). *Id.* §§ 46.2-334, 46.2-335 (child younger than 15 years and 6 months may not drive; child who is at least 15 years and 6 months but younger than 16 years and 3 months may obtain learner's permit only; child who is at least 16 years and 3 months but younger than 18 may obtain license subject to special conditions). 2009 Va. Legis. Serv. 795 (West) (H.B. 2008, approved Apr. 8, 2009) (amending Va. Code §§ 46.2-908.1, 46.2-914) (child 13 or younger prohibited from driving motorized skateboard or scooter unless under immediate supervision of adult; child 15 or younger may not operate moped on roadway). Va. Code Ann. § 22.1-254 (compulsory schooling for children older than 5 and younger than 18). *Id.* §§ 40.1-78, 40.1-79.01 (child 13 or younger may not be employed, with limited exceptions; child 14 or 15 may not be employed during school hours except in connection with educational training program); *see also id.* § 40.1-80.1 (limiting work hours for children 15 and younger); 2009 Va. Legis. Serv. 218 (H.B. 2495, approved Mar. 27, 2009) (amending Va. Code § 40.1-100) (children 17 and

younger may not work in variety of professions, including meat packing, slaughtering animals, roofing, operating power-driven baking machines, operating power-drive paper products machines, or job involving driving at night; children 15 and younger barred, except as part of approved training program, from wide array of professions including work in any dance studio, carnival, pool hall, outdoor fair, as aid or orderly in hospital or nursing home, in service of veterinarian treating horses or farm animals, in funeral home, providing room service in hotel or motel, as theater usher, or as lifeguard).

Laws extending extra protection to young adolescents: Va. Code Ann. § 18.2-31 (murder of child 13 or younger subject to capital punishment where offender is 21 or older). *Id.* §§ 18.2-63, 18.2-67.4:2 (protecting children aged 13 and 14 from sexual activity with adults and older children). *Id.* § 18.2-67.3 (enhanced penalties for sexual battery where victim is 13 or 14 years old and act accomplished by force, will or intimidation; or where victim is between 13 and 17 and offense is committed by parent, step-parent, grandparent or step-grandparent). *Id.* § 18.2-370 (protecting children aged 15, 16 and 17 from sexual abuse by adults, with enhanced penalties when offender is parent, step-parent, grandparent or step-grandparent). *Id.* § 18.2-374.1 (enhancing penalties for child pornography when victim is 14 or younger). *Id.* § 18.2-371 (protecting children ages 15, 16 and 17 from consensual sexual activity with adults); *see also id.* (misdemeanor

for person 18 or older to contribute to delinquency of person 17 or younger, contribute to abuse or neglect of child, or place child in need of supervision or services). *Id.* § 18.2-374.3 (enhancing penalties for improper solicitation of minor over the internet or via other electronic communications systems when victim is child 14 or younger). *Id.* § 18.2-67.9 (where child witness or victim in certain criminal cases is 14 or younger, court may order that child testify via closed-circuit television when child refuses to testify in open court, is substantially unable to communicate, or would suffer severe emotional trauma from testifying in open court). 2009 Va. Legis. Serv. 229 (H.B. 1693, approved Mar. 27, 2009) (amending Va. Code § 18.2-270) (enhanced penalty for driving while intoxicated with a child 17 or younger in the car). Va. Code Ann. § 46.2-1095 (driver of car must ensure that child 15 or younger wears seat belt).

WASHINGTON

Laws establishing minimum age for rights and responsibilities: Wash. Rev. Code Ann. §§ 9A.44.030, 9A.44.079 (West) (child 15 or younger incapable of consenting to sexual activity outside of marriage with person 4 or more years older). *Id.* § 26.04.010 (child 16 or younger cannot marry absent showing of necessity and judicial approval). *Id.* § 70.01.020 (child 17 or younger incapable of donating blood without parental consent). *Id.* § 70.77.515 (illegal to sell fireworks to child 15 or younger). *Id.* § 68.64.030 (child younger than 15 and

a half incompetent to make decision to donate organ without parental consent unless child is emancipated minor). *Id.* § 26.28.085 (misdemeanor to tattoo child 17 or younger). *Id.* § 46.20.055 (child 14 or younger cannot drive; 15-year-old eligible for learner's permit); *see also id.* § 46.20.500 (child 15 or younger may not operate electric-assisted bicycle). *Id.* § 28A.225.010 (child 17 or younger must attend school). *Id.* § 26.28.060 (child 13 or younger prohibited from working without permit from judge, with exceptions for employment in agriculture or for parent).

Laws extending extra protection to young adolescents: Wash. Rev. Code Ann. §§ 9A.44.076, 9A.44.079, 9A.44.086, 9A.44.089 (West) (children 15 and younger but older than 11 protected from sexual contact with older persons through various crimes criminalizing such contact). *Id.* § 46.61.5055 (enhanced penalty for driving while intoxicated when child 15 or younger in car). *Id.* § 46.61.688 (no person may operate motor vehicle unless all children 15 and younger wearing seat belts). *Id.* § 9A.88.010 (gross misdemeanor to expose oneself in presence of child 13 or younger). *Id.* § 9A.32.055 (crime to cause death to children 15 and younger under circumstances manifesting an extreme indifference to human life when perpetrator has history of assaulting or torturing that child). *Id.* § 46.61.685 (unlawful to leave child age 15 or younger unattended inside running car). *Id.* § 72.01.410 (when child 17 or younger sentenced to adult correctional facility, secretary of

corrections may transfer child to juvenile correctional facility until age 21; if child is housed in adult correctional facility, child must be kept in housing separated from adult offenders until eighteenth birthday; limited exception under which child may be kept in administrative segregation unit which also houses adult offenders, but within unit, child must be kept physically separated from adult offenders).

WEST VIRGINIA

Laws establishing minimum age for rights and responsibilities: W. Va. Code Ann. § 61-8B-5 (West) (child 15 or younger incapable of consent to sexual activity with person over 16 and 4 years older, except spouse). *Id.* § 48-2-301 (child 15 or younger incapable of consenting to marriage without judicial and parental consent; 16- and 17-year-olds require only parental consent). *Id.* § 16-21-1 (child 15 or younger incapable of donating blood; 16-year-old requires parental consent). *Id.* § 16-19-4 (child 15 or younger incapable of consenting to organ donation, unless emancipated); *cf. id.* § 49-7-27 (child 15 or younger ineligible for emancipation). *Id.* § 17C-11 A-4 (child 14 or younger required to wear helmet when riding bicycle). *Id.* § 33-6-4 (minor 14 or younger incapable of contracting for life or accident insurance). *Id.* §§ 17B-2-3 to 17B-2-3a (applying graduated licensing system in which child 14 or younger cannot drive, 15-year-old is eligible for instruction permit only, and 16- and 17-year-olds are eligible for restricted intermediate license only).

Id. § 18-8-1a (child 15 or younger must attend school). *Id.* §§ 21-6-1, 21-6-7 (child 13 or younger prohibited from most employment with some exceptions; child 15 or younger may work only limited hours).

Laws extending extra protection to young adolescents: W. Va. Code Ann. § 61-2-9b (enhanced penalty for assault of child 16 or younger and near school). *Id.* § 61-2-14 (punishing kidnapping or concealment of child 15 or younger). *Id.* § 61-2-14f (enhanced culpability for abduction of child 16 or younger near school). *Id.* §§ 62-6B-2; 62-6B-3 (child 13 or younger who is victim of sex crime protected through provision authorizing child's testimony in criminal prosecution through live, two-way closed-circuit television rather than in open court). *Id.* § 49-5-16 (no child 17 or younger, including one transferred and convicted in adult court, shall be incarcerated in adult prison).

WISCONSIN

Laws establishing minimum age for rights and responsibilities: Wis. Stat. Ann. § 765.02 (West) (child 15 or younger incapable of contracting for marriage; child 16 or 17 may do so only with parental consent). *Id.* §§ 948.01, 948.02, 948.09 (child 16 or younger may not consent to sexual intercourse, except 16-year-old may do so with spouse). *Id.* § 146.33 (child 15 or younger incapable consenting to donate blood; 16-year-old requires parental consent). *Id.* § 157.06 (child under 15-½ years of age

incapable of making decision to donate organs, unless emancipated). *Id.* §§ 948.01, 948.70 (child, defined as person 16 or younger, may not be tattooed, except by physician for medical reasons). *Id.* §§ 343.06, 343.07, 343.08 (child under 15-½ years of age cannot drive; child under 16 may not hold license, except that child 14 to 17 may apply for restricted license in certain limited circumstances); *see also* Wis. Dept. Transp., Graduated Driver License, <http://www.dot.wisconsin.gov/drivers/teens/> (explaining requirements and restrictions of graduated licensing system for teens). *Id.* § 118.15 (children 6 to 18 must attend school). *Id.* § 103.67 (child 13 and younger may not be employed except in agricultural work and certain other limited exceptions).

Laws extending extra protection to young adolescents: Wis. Stat. Ann. §§ 948.02, 948.09 (sexual contact or intercourse with a child 15 or younger is felonious sexual assault; sexual intercourse with child 16 or 17 is misdemeanor). *Id.* § 948.075 (children 15 and younger protected while using internet by creation of felony relating to the use of computers to facilitate a child sex crime). *Id.* §§ 948.01, 948.70 (crime to tattoo or offer tattoo to child 16 or younger). *Id.* § 346.65 (increasing penalties for various offenses related to reckless and drunken driving when a child 15 or younger in the car at time of violation). *Id.* § 967.04 (in criminal prosecution or certain other proceedings, child witness 15 or younger may testify by recorded deposition rather than in open court, if judge finds that this is necessary to protect interests

of child). *Id.* § 302.18 (children 14 and younger protected from incarceration with adults).

WYOMING

Laws establishing minimum age for rights and responsibilities: Wyo. Stat. Ann. § 6-2-316 (West) (child 15 or younger incapable of consent to sexual contact with person 17 or older, unless age gap is less than four years). *Id.* § 20-1-102 (child 15 or younger cannot contract for marriage unless approved by a judge and parental consent is given). *Id.* § 35-5-204 (child 15 or younger incapable of consenting to organ donation, unless emancipated minor). *Id.* §§ 31-7-108, 31-7-110, 31-7-117 (child 13 or younger cannot drive; 14-year-old eligible for learner's permit or restricted license; minimum age 16 for unrestricted license). *Id.* § 21-4-102 (children 15 and younger are required to attend school). *Id.* § 27-6-107 (child 13 or younger cannot be employed, with exceptions of farm, domestic, or lawn and yard service); *see also id.* § 27-6-110 (limiting work hours for children 15 and younger); *id.* § 27-6-112 (prohibiting children 15 and younger from working in certain dangerous occupations); *id.* § 27-6-114 (prohibiting employment of children 15 and younger in immoral or dangerous ways). *Id.* § 33-7-209 (child 16 or younger ineligible to be licensed as barber). *Id.* §§ 26-15-105, 26-29-206 (child 14 or younger incapable of contracting for life insurance or adult membership in fraternal benefit society). Wyo. R. Civ. P. 4, Wyo. R. Crim. P. 9, Wyo. R. App. P. 14.01

(child 13 or younger incapable of accepting service for another; if person to be served is 13 or younger, child's guardian must be served). *Id.* § 1-22-109 (child 13 or younger can be adopted without his or her consent). *Id.* § 14-1-203 (child 16 or younger ineligible to become emancipated minor). *Id.* § 19-8-102 (child 16 or younger ineligible to serve in state militia). *Id.* § 23-2-107 (child 13 or younger may not be issued wild bison license).

Laws extending extra protection to young adolescents: Wyo. Stat. §§ 6-2-314 to 6-2-318; (establishing various crimes protecting young adolescents from sexual contact or abuse by older persons). *Id.* § 31-5-233 (enhanced penalty for driving under influence of intoxicating liquor by adult with child 15 or younger in car). *Id.* § 6-2-201 (children 13 and younger protected from kidnapping through provision stating that a person is guilty of the crime if they confine child 13 or younger without consent of parent or guardian).
