



KENTUCKY YOUTH ADVOCATES

Keep Kindergartners Out of Court:

More Effective
Responses to the
Behavior of
Young Children

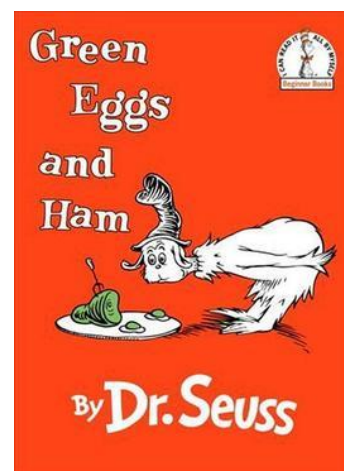
blueprintky.org
kyyouth.org

The most popular book for first-graders in Kentucky is *Green Eggs and Ham*. And in Kentucky, children as young as those who sit in classrooms reading that book or hear it at bedtime can be charged with crimes.¹

As adults, we don't expect a seven-year-old to read a college textbook like a university student. We don't expect an eight-year-old to manage the family budget. And we can't expect a 10-year-old to navigate the justice system. When young children get in trouble, we can turn to more effective solutions in our communities to move those children in the right direction.

To achieve strong communities, we need to take practical steps that are proven to work in addressing the behavior of young children. The early experiences and environments of young children are closely tied to their families. By connecting families with resources like mental health treatment for the child or parenting skills training, we can

achieve better outcomes. Such responses are both effective at promoting community safety and in line with what works to address the behavior of young children.



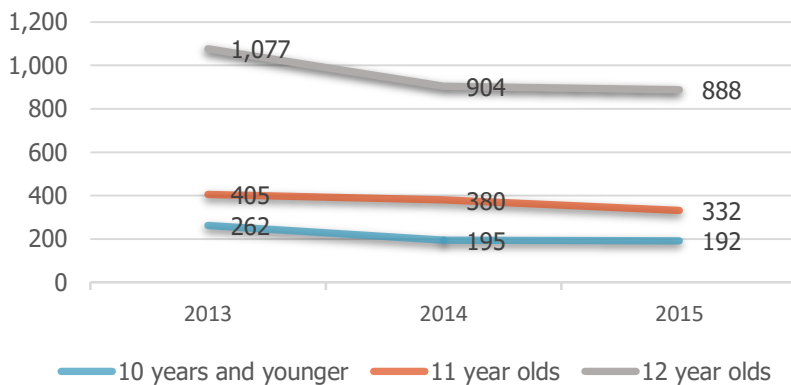
Better for Kids, Better for Communities

To create safer communities in Kentucky, we must respond to children who get in trouble as early as possible and in the most effective way possible. Positive or negative factors in a child's development stack up like weights on a scale and can tip their futures toward good or bad outcomes. Supportive communities and resources to help children develop strong cognitive and emotional skills tip the scale

positively; trauma or neglect tip the scale in the opposite direction. For a child, being forced through the court process is another trauma to counter-balance.

Any adult can press charges (called complaints in the juvenile system) against young children with the court for behaviors like skipping school, not following parent or school rules, stealing, playground scuffles, yelling at someone, or running away from home.

Children with a Complaint Filed, 2013-2015



Source: Kentucky Youth Advocates analysis of data from the Administrative Office of the Courts, Court Designated Worker Database.

In recent years, the number of young children who had a complaint filed has decreased, yet we still have too many children who can end up in court.

Between 2013 and 2015, children as young as four, five, and six years old had a formal complaint filed against them.² These children should be in a preschool or kindergarten classroom, not in a courtroom.

Many times, County Attorneys dismiss complaints filed against young children because they find that young children’s behavior does not meet the criteria to prosecute them for a crime. In other instances, the case is diverted to the Court Designated Worker (CDW) program, and if successful with their diversion the case would result in no court record or action. However, if the

diversion is unsuccessfully completed, a formal court record is then possible. This kind of diversion can be an effective option for older youth, but there are more appropriate ways to respond to young children.

The most practical solutions address root causes and prevent children from getting into trouble later in life. Let’s tip the scale toward kids and communities by connecting the child and family to the resources they need and keeping the child out of the court system. Of complaints filed on children age 12 and younger, 43 percent ended up in the formal court process. Though those children may ultimately receive services that address underlying issues, they only do so after experiencing the trauma of appearing in court and the strain of the court process—an experience that stacks the odds against them.

Responses in Other States

Because of the impact of formal court processing on young children, a number of states set a minimum age for children to enter the court system. Nebraska is the most recent state to take action. In 2016, Nebraska’s legislature passed a bill specifying that juvenile court jurisdiction applies only to youth ages 11 and older.³ This means that the behaviors of children ages 10 and under in Nebraska are handled outside of the courts.



A few states that set a minimum age go a step further and specify what alternative agency should handle cases when children get in trouble. In Texas, for example, the age of court jurisdiction is 10 years old, but state law specifies that the Department of Family and Protective Services may provide services for young children who are at-risk for getting into trouble, as well as for their families.

These states activate interventions through other state agencies to respond to young children and their families that are outside of the court system. In these responses to young children, the first point of contact is an agency that can refer the child and family to appropriate intervention, rehabilitation, or mental health services to meet their needs for the future.

Recommendations

The best solution for the future of Kentucky kids and Kentucky communities is to change statute to implement an appropriate, practical response to child behavior and not formally charge children ages 12 and under in the court system.

Alternative responses should include activating the right system to respond to the needs of children age 12 and younger and connect the child and family to community services that will strengthen a child’s development and get them on track to becoming successful adults.

¹ The juvenile justice system uses different language than the criminal justice system. A complaint on a child is similar to an adult criminal charge.

² Data obtained from the Administrative Office of the Courts, Court Designated Worker database.

³ See Nebraska Revised Statute 43-247.