

New Jersey's Juvenile Waiver Reform and the Nexus Between Adolescent Development and Criminal Responsibility

by Ellen Torregrossa-O'Connor

Few issues spark greater controversy and shake the moral compass more than those arising from the treatment of young offenders in the justice system. The tension between the instinctive desire to nurture and reform youth and the crucial need to protect the public from crimes committed by juveniles has pervaded the debate since the creation of juvenile courts. For the first time since the 1999 enactment of strict laws governing the transfer of juvenile offenders for prosecution in the adult criminal justice system, New Jersey has begun reforming its juvenile justice system. This summer, the governor signed meaningful legislation that significantly alters the conditions under which young offenders can be prosecuted and incarcerated as adults.¹ Catalyzed in large part by the growing recognition of the distinct psychological and biological differences between juveniles and adults, this new law represents a first and significant step toward changing a system that critics urged was flawed.

New Jersey's juvenile system sprang from the recognition that children are different from adults and should be punished for their misdeeds with a focus on rehabilitation. By the late 20th century, however, New Jersey's juvenile laws, like their counterparts in most other states, had transformed into vehicles through which virtually automatic transfer of juvenile offenders to the adult criminal system—or waiver—could be accomplished upon little more than a showing of probable cause for a vast array of offenses.² The juvenile offender's personal characteristics and individual circumstances became increasingly less relevant, often leaving accused youth powerless to fight transfer. This offense-based waiver drew growing criticism for resulting in prolonged incarceration of some juvenile offenders—otherwise amenable to rehabilitation and deserving of retention in the juvenile system—in adult prisons.

Social scientists and psychologists have long insisted that the developmental immaturity of juveniles makes them inher-

ently less culpable than adults and more amenable to rehabilitation.³ Scientific research in the last decade regarding adolescent brain development has further bolstered the position that juveniles, due to the limitations of their age, do not weigh risks and consequences in the same manner as adults—a deficit that in most cases naturally resolves with maturity and age.⁴ The United States Supreme Court has validated this research and based key decisions upon it in recent years.⁵

Ever mindful that violent crimes committed by juveniles are no less harmful in result than those committed by adults, and that victims of juvenile crimes suffer no less, many advocates for reform urge that youth, as a matter of neurological makeup and developmental distinction, are different from adults and should be treated differently by the justice system. The arguments follow that youth, as a general rule, are less deserving than adults of the most severe punishments and suffer more profoundly from them. Studies have shown that youth are particularly vulnerable to victimization in adult prisons. Experts further posit that the experience does not necessarily deter but instead promotes recidivism among youth who might not otherwise reoffend if retained for treatment in the juvenile system or housed in juvenile facilities.⁶ New Jersey's recently enacted changes to its waiver laws is a step toward a system that punishes juvenile crime while accounting for the distinguishing character of juvenile offenders when appropriate.

A Brief History of Waiver

The present reform efforts are by no means radical, but rather invoke a return to the earlier views and objectives underpinning juvenile justice. The first juvenile courts in the American justice system emerged among the vast social reforms of the 1800s. Based upon a growing recognition that children were a separate and distinct group from adults in both their level of development and degree of responsibility,

the overarching goal of the juvenile justice system became rehabilitation.⁷ The hallmark of New Jersey's juvenile framework rested in the objective of reforming juvenile offenders through therapeutic, yet punitive, means, tailored to the needs of the offender. The Juvenile Code, as first enacted and as it exists today, provides for serious punishment and incarceration for certain offenses and offenders within the juvenile system.⁸ In sentencing young offenders, juvenile courts assess the appropriate punishment with a continued focus on both deterrence and rehabilitation.⁹

In the late 1900s, the tide shifted. In response to an increase in violent crime committed by young offenders, a new movement gained momentum throughout the country seeking more severe consequences for young offenders. New Jersey was no exception, and in 1982 the state passed its first waiver statute that allowed for "discretionary" and "presumptive" transfer of juvenile cases to adult court under certain circumstances. Discretionary waiver required a prosecutor to establish probable cause that the juvenile had committed the offense and to show that the nature of the offense and the extent of the juvenile's prior record were "sufficiently serious that the interests of the public require waiver."¹⁰

The presumptive waiver provision applied to more serious offenses and required only that the prosecutor seek waiver and demonstrate probable cause. Significantly, however, regardless of whether the prosecutor sought discretionary or presumptive waiver, the juvenile was entitled to what became commonly known as a rehabilitation hearing, through which the juvenile could overcome waiver by demonstrating "the probability of his rehabilitation by the use of the procedures, services, and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reason for

waiver."¹¹ This critical feature allowed children charged with even the most serious of crimes to overcome the presumption of transfer to adult court by establishing that they were deserving of, and could be reformed through, the resources of the juvenile system.

Fueled, in part, by a growing, and later disproven, belief espoused by several prominent criminologists warning that new juvenile "super-predators"—younger and more depraved in nature than their predecessors—were rising out of the growing "moral poverty" in urban areas and threatening society, harsher laws, greatly facilitating the prosecution and punishment of juveniles as adults, swept the nation.¹² Public fear continued to mount, leading to significant amendments to New Jersey's waiver statute in 1999, which remained the law until the new reforms were signed into law in Aug. 2015. Under that framework, commonly called involuntary waiver, the transfer of juveniles ages 16 and over to adult court was required when the juvenile was charged with one of a wide range of enumerated offenses and the prosecutor submitted a written waiver request to the juvenile court. The request was required to identify the prosecutor's reasons for seeking waiver and the facts establishing probable cause to believe that one of the designated offenses had been committed.¹³ Significantly, the accused juvenile was not afforded a rehabilitation hearing when charged with one of these offenses.

The implementation of the essentially automatic waiver procedure greatly facilitated the transfer of children for prosecution in the adult criminal system.¹⁴ The structure also created a mechanism for strategic use, and even abuse. Tasked with clearing the relatively low bar of presenting probable cause to establish an offense, prosecutors could trigger offense-based waiver to the adult system by charging juveniles with more serious offenses than those warranted by the cir-

cumstances.¹⁵ Once transferred, these cases might be resolved by plea or verdict for lesser offenses that would not have been waivable in the first instance. Juveniles then faced harsher and longer sentences, as adult sentencing considerations do not include age among the mitigating sentencing factors.¹⁶ Adding to the impact of adult convictions, the No Early Release Act (NERA) governed many of the waivable offenses, requiring that 85 percent of any prison sentence be served without the possibility of parole.¹⁷

The justification for the stringent approach understandably remained the protection of society, but many came to agree that the assumptions behind the harsh waiver laws were far more complex than originally thought.¹⁸ Indeed, studies emerged showing that the imprisonment of juveniles in adult prisons, designed to deter future crime, instead increases the likelihood of recidivism by impressionable youth.¹⁹ The imminent arrival of the super-predator never came, and even the Princeton criminologist who coined the phrase and sounded the alarm, predicting a "crime bomb" by a new breed of "fatherless, godless, and jobless" children, renounced his earlier projection, lamented the hysteria it produced and the legislative reaction it spawned, and called for reform.²⁰ The notion that children were becoming more and more *inherently* violent and threatening to society was never substantiated. Instead, a greater understanding of the biological and psychological differences between children and adults emerged.

Research Regarding Adolescent Development and Young Offenders

Research by psychologists, sociologists, and most recently neuroscientists, has highlighted the clear developmental distinction between adolescents and adults.²¹ Adolescence is typically defined as the period of transition from child to adult, and usually spans the ages of 10

and 24 years.²² At its core, the research establishes that adolescents, as compared to adults, are: 1) more likely to underestimate the existence and seriousness of risks attendant to their conduct; 2) more prone to risk taking and sensation seeking due to the failure to weigh costs against immediate rewards; 3) less likely to control their impulses and accurately weigh consequences; 4) more susceptible to outside influences; and 5) more likely to mature and “outgrow” the offending behavior.²³ For years, social scientists, psychologists, and anyone attempting to navigate the world of a teenager recognized these basic realities.

Advancements in neuroscience have now revealed a biological correlation between the stages of adolescent brain development and these behavioral characteristics. In basic terms, these studies show that the brain develops gradually during adolescence and does not reach full maturity until the age of 25.²⁴ Most significantly for purposes of assessing culpability, the last area of the brain to develop—and thus the most underdeveloped in juveniles—is the frontal lobe. This part of the brain contains the prefrontal cortex, which is the area responsible for advanced cognition, including judgment of consequences, impulse control, and planning.²⁵ This delay in brain development renders juveniles inherently and neurologically unable to weigh risk, assess consequences, resist peer influences, or react to deterrence in the same manner as fully developed adults.²⁶ Thus, that young offenders are distinguishable from the heartland of adult offenders now has roots in neurobiology. That neurological development is ongoing helps to explain why “adolescents are overrepresented in virtually every category of reckless behavior.”²⁷

Studies further reveal that generally juveniles are far more amenable to rehabilitation than adults whose brains are fully formed and who are more entrenched in their propensity for

wrongdoing. According to some of the leading experts in the field, most adolescent offenders will naturally desist from antisocial behavior through the normal development of self-control, an increased resistance to outside influences, and the better understanding of risks and consequences that comes with age.²⁸

The research regarding delayed adolescent brain maturation holds additional significance in its indication that incarceration of this age group, particularly in adult prisons, promotes recidivism rather than deterrence. According to studies, the harsh punishment of one young offender has not proven to have a broad or significant deterrent effect on his or her contemporaries.²⁹ For the same reason most juveniles offend due to failure to perceive risks and assess consequences, youth do not readily appreciate or apply the significance of the harsh punishment of another to their own life and actions.³⁰ Further, there are indications that young offenders imprisoned in adult correctional institutions are more likely to re-offend and, when they recidivate, to do so by committing more serious offenses than juveniles who have been confined in juvenile facilities.³¹ Such studies fuel the argument that the imprisonment of youth in adult facilities actually increases the future risk to the community.

The Supreme Court’s Acceptance of the Research

Over the past decade, the United States Supreme Court has acknowledged these differences as applied to juvenile sentencing in a trilogy of cases: *Roper v. Simmons*³² (citing the recent scientific and psychological data in holding the death penalty unconstitutional as applied to children as “the differences between juvenile and adult offenders are too marked and understood to risk allowing a youthful person to receive the death penalty...”), *Graham v. Florida*³³ (accepting the research confirming

developmental differences between adolescents and adults in rejecting as unconstitutional lifetime parole ineligibility for juvenile in non-homicide cases) and *Miller v. Alabama*,³⁴ (holding based upon recent scientific research and studies that adolescents are distinguishable from adults for sentencing purposes and rejecting as unconstitutional life sentence without parole in juvenile homicide case). The Court declared that its “decisions rested not only on common sense—on ‘what any parent knows’—but on science and social science as well.”³⁵

The Supreme Court has differentiated adolescents from adults based on their lessened culpability and greater amenability to rehabilitation, even for youth who have committed violent crimes. Specifically, the Court has distinguished youth from adults based upon their “lack of maturity and underdeveloped sense of responsibility,” their vulnerability to “negative influences and outside pressures” and “limited control over their own environment and lack of ability to extricate themselves from horrific, crime-producing settings,” and their changing character traits rendering their “actions less likely to be evidence of irretrievable depravity.”³⁶

The Supreme Court has repeatedly embraced the understanding that “[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.”³⁷ According to the Court, “[f]rom 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 minor’s character deficiencies will be reformed.”³⁸ Thus, in the context of deciding what constitutes cruel and unusual punishment of juveniles under the Eighth Amendment, the Court makes clear that “[t]hese differences

render suspect any conclusion that a juvenile falls among the worst offenders. The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’”³⁹ The Supreme Court’s reasoning readily lends itself to the arguments challenging mechanically applied offense-based waiver, as does consideration of the lasting impact on juveniles imprisoned in adult facilities.

The Impact of the Adult Prison System on Youthful Offenders

Waiver of a juvenile to adult court has been called “the single most serious act that the juvenile court can perform.”⁴⁰ “[O]nce waiver of jurisdiction occurs, the child loses all the protective and rehabilitative possibilities” of the juvenile courts.⁴¹

Statistics reveal that youth incarcerat-

ed in adult prisons suffer substantially higher rates of victimization.⁴² The most inexperienced members of the prison population are most likely to face physical and sexual abuse, and even death.⁴³ Adolescents are also far more likely to be psychologically affected by the confinement and restrictions than their adult counterparts. According to a recent study, youth in adult facilities were eight times more likely to commit suicide than those held in the juvenile justice system,⁴⁴ as adolescents wanting in developmentally advanced skills lack the necessary tools to navigate the extreme dangers of adult prisons.⁴⁵

Youth also suffer the collateral, yet permanent and often devastating after-effects of criminal convictions, including barriers to employment, higher education and public housing, among others, which prohibit them from becoming productive adults.⁴⁶ The resid-

ual stigma can follow them forever, regardless of how their youthful behavior changes. A comprehensive report on these legal barriers by state indicates that New Jersey had more statutes creating collateral consequences than all but six other states.⁴⁷ Furthermore, it has been reported that “each male prisoner can expect to see his earnings reduced by approximately \$100,000 throughout his prime-earning years, following his period of incarceration.”⁴⁸

New Jersey’s Recent Reforms

On Aug. 10, 2015, the governor signed into law the first significant reforms to New Jersey’s current juvenile system in nearly two decades.⁴⁹ This legislation revamps the existing law by limiting the universe of waivable charges and offenders, while protecting youth from some of the harshest aspects of adult prisons. Among its key components, the new law

restricts the list of waivable offenses to the most serious and violent of conduct and raises the eligible waiver age from 14 to 15. The prosecutor's written rationale for waiver must address statutorily enumerated factors, which include the nature and circumstances of the offense charged, as well as the juvenile's maturity, prior history, and culpability. The state's waiver application will be subject to a hearing during which the court will consider evidence and testimony from both the prosecutor and the juvenile. The court may deny the prosecutor's motion if it is "clearly convinced" the state abused its discretion in seeking transfer.⁵⁰

Significantly, the new framework requires "waiver back" to the juvenile system when a juvenile is ultimately convicted in adult court of a non-waivable offense. The changes further direct the eligible ages for transfer of young offenders to adult correctional facilities and provide for hearings and due process before such placements can be made. Also, the new law expressly and drastically limits the circumstances upon which any child may be placed in solitary confinement while imprisoned. The changes clearly reflect an overarching attempt to allow for rehabilitation of offending youth in appropriate cases.

Conclusion

Most advocates for reform recognize that punishment, even at times in the form of incarceration, has an important place in the juvenile justice system. Yet, endeavoring to craft a framework that properly addresses the severity of the offense while simultaneously protecting young offenders as they transition to adulthood seems better suited to safeguarding society as a whole. Courts, scientific researchers, psychologists, social scientists, and parents alike are increasingly recognizing that developmental differences between youth and adults require distinctive approaches to prosecuting and punishing illegal behavior.

New Jersey's latest waiver reform in many ways reflects this view in its movement away from general and offense-based treatment of juvenile offenders in the adult system toward the goal of rehabilitating salvageable youth. While the debate will undoubtedly continue to rage regarding the next steps, if any, toward altering the current system, the latest changes are an important first step. ⚖️

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ENDNOTES

1. Assembly Bill No. 4299; Senate Bill No. 2003; njleg.state.nj.us/2014/Bills/A4500/4299_U1.HTM.
2. N.J.S.A. 2A:4A-26.
3. See Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press 2008).
4. *Id.* at 82-94; see also, Human Rights Watch, *Branded for Life*, hrw.org/node/124345/section/5.
5. *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Graham v. Florida*, 560 U.S. 48, (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).
6. See Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press 2008); see also Kim, *Parens Patriae? Automatic Waiver to Criminal court and its Toll on Youth and Society*, American Psychology-Law Society, *AP-LS News*, Oct. 2014.
7. Krisberg, *History of Juvenile Justice*, teenadvocatesusa.homestead.com/InnocenceBetrayed_ReformingJuvenileJustice.html; Vannella, Let the Jury do the Waive: How *Apprendi v. New Jersey* Applies to Juvenile Transfer Proceedings, 48 *Wm. & Mary L. Rev.* 723, 725-730 (2006).
8. See N.J.S.A. 2A:4A-43; N.J.S.A. 2A:4A-44.
9. Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press 2008), at pp 82 – 94; see also, Human Rights Watch, *Branded for Life*, hrw.org/node/124345/section/5.
10. N.J.S.A. 2A:4A-26a(3).
11. N.J.S.A. 2A:4A-26f.
12. DiIulio, The Coming of the Super Predators, *The Weekly Standard* (Nov. 27, 1995),

cooley.libarts.wsu.edu/schwartzj/criminology/dilulio.pdf; Fagan and Zimring, *The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Criminal Court* (University of Chicago Press 2000); Drizin, *The Superpredator Scare Revisited*, huffingtonpost.com/steve-drizin/the-superpredator-scare_b_5113793.html-huffingtonpost.com (2014).

13. N.J.S.A. 2A:4A-26. Under New Jersey's waiver guidelines, promulgated by the attorney general, a prosecutor seeking transfer of jurisdiction over a juvenile to adult court must also provide a written statement of the reasons for the waiver request. The prosecutor must consider: 1) the nature of the offense, including the harm to the victim; 2) the need to deter; 3) the impact of waiver on prosecution of co-defendants; 4) the disparity between the maximum term of incarceration for the same offense in both the juvenile and adult systems; 5) the extent of the juvenile's prior record; 6) the existence of trial considerations, and 7) the input, if any, from the victim. See state.nj.us/lps/dcj/agguide/pdfs/AG-Juvenile-Waiver-Guidelines.pdf.
14. Yale Alumni Association Juvenile Justice Reform Task Force for New Jersey Institute for Social Justice, *Recommendations for the Reform of New Jersey's Juvenile Waiver Laws*, (Nov. 2011), pp 13-15.
15. See state.nj.us/lps/dcj/agguide/pdfs/AG-Juvenile-Waiver-Guidelines.pdf for additional waiver requirements.
16. Indeed, a defendant's young age is not, standing alone, a statutorily enumerated mitigating factor in the Criminal Sentencing Code. See N.J.S.A. 2C:44-1(b).
17. N.J.S.A. 2C:43-7.2.
18. Yale Alumni Association Juvenile Justice Reform Task Force for New Jersey Institute for Social Justice, *Recommendations for the Reform of New Jersey's Juvenile Waiver Laws*, (Nov. 2011), pp 13-14.
19. U.S. Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention, Richard E. Redding, Juvenile Transfer Laws: An Effective Deterrent to Delinquency, *Juvenile Justice Bulletin* (June 2010); American Psychology Law Society, *Parens patriae? Automatic waiver to criminal court and its toll on youth and society*, apadivisions.org/division-41/publications/newsletters/news/2014/10/innocence-research.aspx.
20. Drizin, *The Superpredator Scare Revisited*, huffingtonpost.com/steve-drizin/the-superpredator-scare_b_5113793.html-huffingtonpost.com (2014); Yale Alumni Association Juvenile Justice Reform Task Force for New Jersey Institute for Social Justice, *Recommendations for the Reform of New Jersey's Juvenile Waiver Laws*, (Nov. 2011), pp 13-14.
21. See Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press

- 2008)(summarizing research indicating that “adolescence is a distinctive state of cognitive and emotional development”).
22. See United States National Library of Medicine, *Maturation of the Adolescent Brain*, ncbi.nlm.nih.gov/pmc/articles/PMC3621648.
 23. See United States Department of Health and Human Services, *Adolescent Development E-Learning Module*, hhs.gov/ash/oah/resources-and-publications/learning/ad_dev See Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press 2008).
 24. See Rhoshel K. Lenroot and Jay N. Giedd, Brain Development in Children and Adolescents: Insights from Anatomical Magnetic Resonance Imagery, 30 *Neuro. & Bio. Rev.* 718 (2006).
 25. *Id.*; see also Elizabeth R. Sowell, et al., Mapping Continued Brain Growth and Gray Matter Density Reduction, 21 *J. of Neuroscience* 8819 (2001) (confirming that frontal lobe is last to develop and undergoes far more change during late adolescence).
 26. United States National Library of Medicine, *Maturation of the Adolescent Brain*, ncbi.nlm.nih.gov/pmc/articles/PMC3621648/.
 27. Arnett, Reckless Behavior in Adolescence: A Developmental Perspective, 12 *Developmental Review* 339 (1992).
 28. E. Mulvey, L. Steinberg, A. Piquero, M. Besana, J. Fagan, C. Schubert and E. Cauffman, (2010), Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders, *Development and Psychopathology*, 22, 453-475.
 29. Scott and Steinberg, *Rethinking Juvenile Justice* (Harvard University Press 2008).
 30. *Id.*
 31. *Id.*
 32. *Roper v. Simmons*, 543 U.S. at 551.
 33. *Graham v. Florida*, 560 U.S. at 48.
 34. *Miller v. Alabama*, 132 S. Ct. at 2455.
 35. *Id.* at 2464.
 36. *Id.* at 2464-65 (citations omitted).
 37. See *Roper*, 543 U.S. at 570-71 (citations omitted).
 38. *Graham*, 560 U.S. at 68 (quoting *Roper*, 543 U.S. at 570).
 39. *Roper*, 543 U.S. at 569-71.
 40. *State v. R.G.D.*, 108 N.J. 1, 4 (1987).
 41. *Id.*
 42. M. Beyer, *Experts for Juveniles at Risk of Adult Sentences*, (P. Puritz, A. Capozello and W. Shang eds, (youth in adult facilities were 500 times more likely to be sexually assaulted while incarcerated and 200 times more likely to be physically assaulted by facility staff than were youth in the juvenile justice system).
 43. *Id.* The New Jersey State Commission of Investigation studied the infiltration of street gangs into the prison system, and issued an extensive report identifying them as a “threat, not just to society at large, but to the safety, security and integrity of the prison system.” N.J. State Comm’n of Investigation, *Gangland Behind Bars, How and Why Organized Street Gangs Thrive in New Jersey Prisons... And What Can be Done About It.* (May 2009) (state.nj.us/sci.reports).
 44. See M. Beyer, *Experts for Juveniles at Risk of Adult Sentences*, in P. Puritz, A. Capozello, and W. Shang (Eds.), Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, (2007) (citing C.J. Mumola, *Suicide and Homicide in State Prisons and Local Jails* (2005: Washington, D.C: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics) (internal citations omitted).
 45. Sentencing young offenders in the adult system often fails to provide youth with age-appropriate rehabilitative treatment that will allow them to lead productive lives post-incarceration. Adult corrections personnel generally lack the specialized training to meet the educational and mental health needs of young people and cannot provide the necessary programs, classes or activities to address their rehabilitative potential. See U.S. Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention, Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency*, *Juvenile Justice Bulletin* (June 2010).
 46. In almost every state, adult criminal convictions, as distinguished from juvenile adjudications, bar individuals from employment in certain jobs, including the military, and from accessing certain public benefits, including something as basic as public housing. (See Michael Pinard, *An Integrated Perspective on the Collateral Consequences of Criminal Conviction and Reentry Issues Faced by Formerly Incarcerated Individuals*, 86 *B.U.L. Rev.* 623 (2006). Almost every employment and higher education application inquires about criminal convictions, and students with certain types of convictions cannot obtain federal financial aid. *Id.*; see also Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Re-Entry* (2005).
 47. See Legal Action Center, *After Prison: Roadblocks to Reentry a Report on State Legal Barriers Facing People with Criminal Records*, (2004); even cursory research readily revealed numerous New Jersey statutory bars related to criminal convictions. See N.J. Stat. § 2B:20-1 (2013)—disqualified from jury service; N.J. Stat. § 5:8-103—ineligible for licenses to hold, operate and conduct amusement games; N.J. Stat. § 6:1-100 (2013)—ineligible for employment in an airport; N.J. Stat. § 9:3A-14 (2013)—employment as a direct care staff member for Department of Children and Families; N.J. Stat. § 18A:6-7.1 (2013)—employment in a public school; N.J. Stat. § 18A:12-1 (2013)—members of a board of education; N.J. Stat. § 19:4-1 (2013)—voting; N.J. Stat. § 24:6B-16 (2013)—licensure as drug manufacturer or wholesaler; N.J. Stat. § 26:2H-7.17 (2013)—licensure as an assisted living administrator; N.J. Stat. § 26:2H-83 (2013)—licensure as a nurse aide or personal care assistant certification; N.J. Stat. § 30:4-3.5 (2013)—employment at an institution of the Department of Human Services; N.J. Stat. § 30:6D-64 (2013)—ability to contract with Department of Human Services as a service provider; N.J. Stat. § 32:23-21 (2013)—licensure as a stevedore by the Waterfront Commission; N.J. Stat. § 32:23-156 (2013)—licensure as air-freightmen and supervisors by the Waterfront Commission; N.J. Stat. § 40A:12A-22.2 (2013)—employment by a local housing authority; N.J. Stat. § 45:5A-27 (2013)—licensure in the alarm business; N.J. Stat. § 45:11-24.3 (2013)—certification as homemaker health aide; N.J. Stat. § 45:14F-10.1 (2013)—licensure as a real estate appraiser.
 48. See Meredith Kleykamp, Jake Rosenfeld and Roseanne Scotti, *Wasting Money, Wasting Lives: Calculating the Hidden Costs of Incarceration in New Jersey*, (2008).
 49. Assembly Bill No. 4299; Senate Bill No. 2003; njleg.state.nj.us/2014/Bills/A4500/4299_U1.HTM.
 50. This standard is a codification and expansion of the recent decision of the New Jersey Supreme Court in *State in the Interest of V.A.*, 212 N.J. 1 (2012), which defined an “abuse of discretion” standard for review of prosecutorial waiver decisions, requiring more than a mere regurgitation of the factors to be considered pursuant to New Jersey’s waiver guidelines. See state.nj.us/lps/dcj/agguide/ pdfs/AG-Juvenile-Waiver-Guidelines.pdf.

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