

Drift at the Door: Indiana's Juvenile Transfer Laws and the State's Rehabilitative Commitment

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ABSTRACT

Indiana's juvenile code promises both rehabilitation and public safety, yet most recent juvenile cases entering adult court bypass individualized juvenile-court waiver hearings. This study traces the historical, statutory, and doctrinal development of Indiana's transfer system and analyzes state reports on juveniles under adult-court jurisdiction. Indiana's modern structure emerged incrementally: the 1978 Juvenile Code reorganized judicial waiver, a 1981 enactment added legislative exclusion, the 1997 act recodified those rules, and later amendments altered their reach. In State Fiscal Year 2025, 282 of 301 adult-court juvenile cases, or 93.7%, were filed directly rather than transferred after waiver. This finding is a one-year snapshot and does not establish a stable historical trend or causal disparity. Nevertheless, it demonstrates that individualized rehabilitation was not assessed at the transfer stage in most reported cases. Indiana could better reconcile its statutory purposes by introducing limited individualized review for categorical transfers and publishing more detailed longitudinal data.

INTRODUCTION

Indiana's juvenile code is built on a dual premise. On the one hand, it is up to the state to keep children in the justice system safe and to treat them as persons who require "care, protection, treatment, and rehabilitation." On the other, the code is meant to be a means of public safety, one that enforces the legal ties between the child and the community. These are not mutually exclusive goals. Yet Indiana's pattern of sending juveniles to be tried as adults makes it hard to miss how one of those objectives has taken over, with or without any official word from the legislature to that effect.¹

Consider the figures for State Fiscal Year 2025. A total of 301 cases with Indiana youths ended up in adult court, involving 271 young people. In 282 of the cases, or 93.7 percent, the matters were direct-filed. Under state law, they were beyond the authority of the juvenile court and therefore originated in adult court. The remaining 19 reached adult court by way of judicial waiver, a transfer a juvenile judge makes on a case-by-case basis following a hearing.² That is a change in direction, not some unvarying rule. In 2024, direct files were 70.5 percent of what was on the docket; in 2023, 82 percent.³ The caseload has been steady at around 301 or 302, but the route to get there has altered. It matters, because a direct file does away with the kind of juvenile-court hearing where a child might be deemed fit for rehabilitation.

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In a way, the transfer rules in place today are a case of statutory drift. The present setup does not appear in its entirety in the 1997 recodification. With the 1978 Juvenile Code came the framework for judicial waiver. That was followed in 1981 by a hybrid statute, which retained the judicial option but also introduced legislative exclusion to ensure that some age-and-charge combinations would be dealt with in adult court from the beginning. The 1997 legislation was largely a matter of putting those provisions in order. Today it is the categorical rules, not an individualized hearing, that put the majority of juveniles before an adult court, though the state has left its more involved process in place for a limited number of cases. Legally, the statutes may be in order, but in the real world they can put the public's interest before the individual's when it counts.⁴

One can look to the existing literature for some examination of this issue. Rocco, for instance, traced Indiana's 1981 hybrid waiver law and the move from a purely judicial approach. Then there is Sobol, who argued that presumptive waiver and alternative sentencing fail to take adolescent development into proper consideration.⁵ What this paper brings to the table is a different perspective, one that places the state's latest transfer numbers alongside its legal history. The two make for an interesting comparison: they reveal not just the letter of Indiana law, but the reality of where the system is doing business these days—namely, in direct-file cases resolved without a judge rendering an individualized transfer decision.

METHODS

This study uses a qualitative method, examining the law and the history behind it. The analysis places Indiana's current transfer statutes side by side with the public laws and amendments that made them, along with relevant appellate rulings from here and the federal bench. The review also draws on the 2023 and 2025 reports from the Indiana Criminal Justice Institute, some of the Council of State Governments' work on the state system, and the latest scholarship. Every citation and number has been checked against the source material.

The analysis distinguishes legislative exclusion from judicial waiver to understand their respective effects on rehabilitation. Because the available data are aggregate, the analysis can describe observed patterns but cannot establish causal links or explain every demographic difference.

The public reports do not provide case histories, only totals; as such, they offer no insight into how factors such as offense severity, prior records, county practices, or the services on hand might have steered a matter to adult court. Then there are the appellate opinions, but those are confined to disputes that reached appeal and tell us nothing about the routine waiver work done in juvenile courts. To put this to a more complete test, one would need deidentified case-level data tracking comparable young people across counties and examining their transfer paths, the sentences handed down, and later outcomes.

RESULTS AND DISCUSSION

From a Child-Saving Court to a Waiver Doctrine

Indiana joined the juvenile-court movement near its beginning. Illinois enacted the first juvenile court law in 1899; Colorado approved its act on March 7, 1903, and Indiana approved its own three days later. Indiana's early effort was led by Judge George W. Stubbs of the Indianapolis Police Court. In 1901 he began holding hearings for children in a separate room from the adults and went to Chicago to see how to formalize a court of his own. His bill was vetoed, but the General Assembly made it law in 1903 with Chapter 237. The thinking was that a child's circumstances warranted a different kind of institutional handling than an adult's, without absolving him of responsibility. The rehabilitative ideal of the time should not be overstated; the juvenile courts were paternal and had procedural leeway criminal courts did not.⁶

The modern due-process rules for waiver took shape in *Kent v. United States*. Waiver, the Court said, is "critically important" and requires a proper hearing, counsel's access to the records, and a statement of the grounds for the decision.⁷ Indiana has been in step with that. The state's high court in *Summers v. State* made clear that a waiver order has to reflect the kind of analysis required by *Kent*, weighing everything from the offense and its merit for prosecution to the child's past and what is left in the way of rehabilitation.⁸

Those safeguards matter only when the juvenile court has jurisdiction—the legal authority to hear the case. The rule from *State ex rel. Atkins v. Juvenile Court of Marion County* is that a criminal court can't just use an indictment to go around the juvenile court when the case falls within juvenile jurisdiction.⁹ *Atkins v. State* placed even more stress on the need for findings to support a waiver. Put together, these rulings put juvenile jurisdiction first and make a waiver a judicial act with some reasoning to it.¹⁰

The Statutory Structure Did Not Begin in 1997

It would be a mistake to point to Public Law 1-1997 as the origin of Indiana's current stance on waiver. The framework predated that. The 1978 law (Public Law 136-1978) enacted a reorganized code with the relevant provisions at I.C. 31-6-2-4, and then in 1981, Public Law 266-1981 made changes to form what is called a "hybrid" system, one in which the legislature could pull some cases out of the juvenile system while still leaving room for a judge to waive.¹¹ The 1997 law simply put some order to it, recodifying older statutes like the jurisdictional exclusion in 31-30-1-4 into Article 30.¹²

There was no clean break in 1997; the present structure is the result of years of revision. The amendment history of 31-30-1-4 shows changes in 2001, 2006, 2007, 2008, 2013, 2014, 2015, 2016, 2022, 2023, 2024, and 2025. Individually they may not be much, but they have a way of reweighting the system over time. Terminology matters here, too, since "waiver" is used as a blanket term for a number of distinct paths under Indiana law.¹³

The Current Map

For a start, 31-30-3-2 gives the court leeway to waive a heinous or aggravated felony for a child of fourteen or up, if there is probable cause, the child is beyond rehabilitation within the juvenile system, and

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waiver serves community safety and welfare. Then 31-30-3-3 extends that to certain drug felonies for a sixteen- or seventeen-year-old.¹⁴

The presumptive-waiver provisions are set out in sections 31-30-3-4 and 31-30-3-5. Under these rules, a case is to be transferred once the statutory conditions are met unless the grounds for retaining it overcome that presumption. Take murder, for instance: the minimum age has been raised from ten to twelve since 2015. Once there is probable cause, meaning a sound basis for believing that the child committed the charged act, the court is obliged to send the matter to adult court. The exception is when the court finds that retaining the case serves both the child's best interests and the safety and welfare of the community. The same holds for some serious felonies for older teens under 31-30-3-5.¹⁵

There is also 31-30-3-6, where the prosecutor can seek waiver if the accused has a prior felony or nontraffic misdemeanor conviction. It is not as straightforward as "automatic" might suggest; the statute is silent on a minimum age or probable cause, but the juvenile court must still make the two findings required by the section. And 31-30-1-2 has a once-waived rule that can put an end to some later felony matters in the juvenile system.¹⁶

What 31-30-1-4 describes is not a waiver. In the case of a sixteen- or seventeen-year-old charged with something like murder or rape, the juvenile court is to step aside. If every excluded charge has been dismissed or ended in acquittal and another count results in a guilty plea or conviction, the adult court may return the case to juvenile court after weighing public safety, the services available, and the child's amenability to juvenile treatment. Unless those circumstances arise, a juvenile judge does not make an individualized decision about transfer; that is the point of the distinction. A direct-file case works differently: age and charge determine which court hears it, not an individualized judgment from the bench.¹⁷

Procedure, Development, and the Limits of Doctrine

Indiana reviews waiver decisions for abuse of discretion, a deferential standard under which an appellate court asks whether the juvenile judge acted unreasonably.¹⁸ In *Vance v. State*, the juvenile court was chided for convening the first waiver hearing only two days after counsel was on board. The Indiana Supreme Court let the decision stand, though, because *Vance* could not make out how more time would have been of any use and had his opportunity to present evidence in a later proceeding on some other charges.¹⁹ Then there is *Gingerich v. State*, an adult conviction that was set aside on the preparation-time principle. The record in that one made plain there was actual prejudice from having just four business days with a lawyer.²⁰

These are noteworthy cases, even if their reach is limited. They can put some fine points on a waiver hearing, but they won't create one when 31-30-1-4 has taken jurisdiction away from the juvenile court. That was the open question in *State v. Neukam*, with its allegations of conduct committed before age eighteen that were not pursued until after the accused had turned twenty-one.²¹ *Kedrowitz v. State* held that *Neukam* did not disturb the adult court's authority following a valid juvenile waiver. The General Assembly responded in 2023 with 31-30-1-4(d), giving adult courts jurisdiction over a person at least twenty-one for juvenile conduct that could have been waived. In a way, *Neukam* drew a line in the sand

between delinquency and crime, while Kedrowitz and the new law have been about the routes to an adult docket.²²

There is a policy case to be made for looking at each situation on its own, given current developmental science. S. Reese Sobol has done some work on Indiana's presumptive-waiver and alternative-sentencing statutes, and the research is there on the adolescent's self-regulation, the pull of peers, and the like.²³ It does not mean these kids can't do damage or that public safety should be ignored. The point is simply that age and offense type are not enough to establish culpability or the risk a youth poses. The federal courts have been heading in this direction. *Roper v. Simmons* and *Graham v. Florida* are examples, as is *Miller v. Alabama*, which was made retroactive by *Montgomery v. Louisiana*. Those decisions put some limits on punishment and bring the youth into focus, but they don't force Indiana to hold a transfer hearing in every hard case. They do, however, call into question whether the offense alone is the whole story, in any moral or constitutional sense, when it comes to a child.²⁴

What the Data Show—and Do Not Show

The 2025 report does not establish a long-term trend, but it does give a clear picture of a sharp one-year shift toward direct filing. Direct-file made up 93.7 percent of the total in 2025, compared with 82 percent in 2023 and 70.5 percent in 2024. Waivers, on the other hand, have all but disappeared: there were 89 in 2024 and only 19 in 2025, with the rest of the caseload unchanged. It would overstate the evidence to say direct file has always been over 90 percent of Indiana's transfers when the numbers are this volatile.²⁵

What the report also puts on the table is an equity question it doesn't quite answer. In the 2025 fiscal year, Black youth made up 66 percent of the unique individuals in direct-file matters, compared to 60 percent for White youth in waiver cases.²⁶ But those figures don't in themselves amount to discrimination. Lacking the kind of at-risk data, prior records, and charging history that the public version of the report does not include, the figures do not establish a causal link. That is as much as the public data can establish, but the figures do suggest a need to see where disparities are being introduced. The state was no stranger to these blind spots before 2025. Back in August 2021, a bipartisan Juvenile Justice Reform Task Force, along with the Commission on Improving the Status of Children and the Council of State Governments Justice Center, undertook a data-driven review. They formed four working groups to put forward some recommendations on public safety and youth outcomes, an indication of an official view that rehabilitation and safety can go hand in hand.²⁷

Still, the yearly transfer totals do not reveal why one child in a given situation gets an individualized look while another is put under adult jurisdiction by default. The way Indiana has it set up is both democratic and workable. The purpose statute doesn't hold out any promise that public safety will be sacrificed for the sake of rehabilitation, and lawmakers have been down to the drawing board to tinker with the direct-file provision in public acts more than once. Categorical jurisdiction is a clean rule for the most serious charges; it avoids delay or double-handling. Time is of the essence in the juvenile system, too. And for some under-18s who wind up in adult court, Chapter 31-30-4 opens the door to alternative sentencing, which allows certain youths convicted in adult court to receive a juvenile disposition while an adult sentence is suspended for later review.²⁸

The Best Defense of the Existing System

The statutes are not at odds with Indiana law. The legislature is entitled to draw lines for age and offense to protect the public. But formal consistency is not the same as true balance. In 282 of the 301 recent cases that went to adult court without a waiver, individualized rehabilitation was not weighed at the transfer stage. The system is deliberate and within its rights, but it appears to value categorical protection a good deal more than the policy wording might imply. To simply tone down the rehabilitative language to make the code read better is not the way to go. A better path is to hold on to categorical accountability and bring back some form of individualized review.

Reform

A rebuttable presumption of adult jurisdiction—a rule that begins with adult jurisdiction but lets the child overcome that starting point with evidence—could be how the legislature amends, or even supplants, part of section 31-30-1-4. It gives the prosecution what it needs on the offenses in question, but lets the court consider developmental maturity and community risk in light of any record. Before a presumptive waiver under section 31-30-3-5, the court should require a written amenability assessment to determine whether the child can still benefit from juvenile services. It would also be worth reconsidering whether a prior nontraffic misdemeanor should support waiver under section 31-30-3-6. The 2015 move to raise the minimum waiver age for murder from ten to twelve is evidence the legislature can change the rules and still be mindful of safety.¹⁵

The data present another problem. ICJI ought to produce a longitudinal table that separates unique youths from cases and shows which part of the statute was used. Reporting waiver requests alongside those granted would also be useful, so long as privacy is respected. The state should test for differences by county rather than simply assume them. With the right information, Indiana could test whether categorical transfer reduces reoffending among comparable youths or merely moves files from one place to another.

CONCLUSION

It is a misreading to say Indiana's transfer law is the story of a rehabilitative system being displaced in 1997. The history is more complex: it includes the due-process side of waivers, a hybrid model from around 1981, the 1997 recodification and what has followed, and a court that once put the individual first. All of that has funneled 93.7 percent of the cases into direct file by the end of the 2025 fiscal year. The state's commitment to rehabilitation remains in the text and in parts of its practice, but it is thinnest when it counts. Some measure of individualized review, with data to back it up, would not undermine accountability. It would just put the two sides of Indiana's statutory promise in order.

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