Juvenile Delinquents’ Right to a Jury Trial (2005 Update)

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

As of the end of the 2005 legislative session, either statute or case law in the following 31 jurisdictions specifically states that a juvenile delinquent has no right to a jury trial, under any circumstances in juvenile court: Alabama, Arizona, California, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, and Wisconsin.

In most states, when juvenile delinquents are tried in juvenile court, they are not given the full scope of rights adult defendants receive in criminal court, such as a trial by jury. In 1971, the United States Supreme Court held that jury trials are not constitutionally required in juvenile court hearings. McKeiver v. Pennsylvania, 403 U.S. 528 (1971).

However, 9 states allow jury trials for juveniles as a right: Alaska, Massachusetts, Michigan, Montana, New Mexico, Oklahoma, Texas, West Virginia, and Wyoming.

Even among these 9 states, some exceptions exist. For example, a juvenile has no right to a jury trial for a probation revocation hearing in: Michigan, Montana, New Mexico, and Wyoming. In Texas and Wyoming, a juvenile does not have a right to a jury trial at his or her transfer hearing.

An additional 11 states provide jury trials for juveniles in juvenile court only under limited special circumstances: Arkansas, Colorado, Connecticut, Idaho, Illinois, Kansas, Minnesota, New Hampshire, Ohio, Rhode Island, and Virginia. These special circumstances include such things as: juveniles tried under extended juvenile jurisdiction prosecution procedures; juveniles who may be subject to sentencing in an adult correctional facility; serious violent offenders; repeat juvenile offenders; and juveniles who appeal their juvenile court disposition.

In juvenile court, the juvenile, the prosecutor, counsel for the juvenile, or the juvenile’s parent, guardian or custodian can demand a jury trial. Also, on its own motion, the juvenile court can order a jury trial.

When a juvenile demands a jury trial, a jury fee is not required.

Juvenile court jury trials can also be waived. In some states, unless a jury trial is demanded, it is deemed waived. Sometimes this demand must be in writing.

In other states, a jury trial can be waived by a juvenile only after being advised of his or her rights and after consultation with his or her attorney. Generally, this waiver must be in writing and signed by the juvenile and the juvenile’s attorney.

Some states provide the additional safeguard that the juvenile court must inquire on the record to ensure that the waiver was made in a knowing, intelligent, and voluntary manner.

A typical jury for a juvenile consists of 6 people; however, in some cases, 7 are required. For more serious offenses and/or if the juvenile is subject to more serious sanctions, a jury is made up of 12 persons.

The jury verdict must be unanimous.

As juveniles increasingly face the risk of adult criminal sentencing or confinement in adult correctional facilities, one should expect to see increasing protections, such as jury trials, in juvenile courts.