



Data Snapshot: Kindergarten Court

“Kindergarten” literally translates as “child-garden” – and what a perfect description. In the elementary school years, with the right encouragement, children blossom as they learn to read and write, experiment with numbers, discover a larger world, and navigate social situations.

Kids aren’t mini adults. We don’t expect our little leaguers to play baseball with the same capability as adult players. We don’t expect a third grader to read or solve math problems as well as a high schooler. Why, then, should we expect a young child who has engaged in bad behavior – even very bad behavior – to have the same reasoning skills, same intent, and same ability to understand complex court processes and legal consequences as a teenager or adult? And the stakes are high; how we choose to respond to childish misbehavior can have lifelong impacts.

WHAT IS NEBRASKA’S CURRENT PROCESS?

Children under the age of 14 who engage in criminal behavior must be tried in the juvenile court rather than the adult criminal system.¹ This means they cannot go to prison. However, in Nebraska’s juvenile justice system, the child will still be served with legal paperwork and charging documents, face trial or have to enter a plea agreement, and undergo a sentencing process called “disposition.” The judge has a wide range of dispositional options, from probation and treatment at home to sending the child to a group home out of state. There is no minimum age at which a child can be held in a juvenile detention facility.

1. Neb. Rev. Stat. §43-246

AGES AND STAGES:

Reading comprehension provides a good benchmark of a child’s aptitude. What are kids capable of understanding at each age?

Age:	Grade:	Most Popular Book in Nebraska:
5-6	Kindergarten	(still learning letters)
6-7	First grade	“Green Eggs & Ham”
7-8	Second grade	“Click, Clack, Moo”
8-9	Third grade	“Creepy Carrots!”
9-10	Fourth grade	“Diary of a Wimpy Kid”
10-11	Fifth grade	“Diary of a Wimpy Kid”
11-12	Sixth grade	“Diary of a Wimpy Kid”

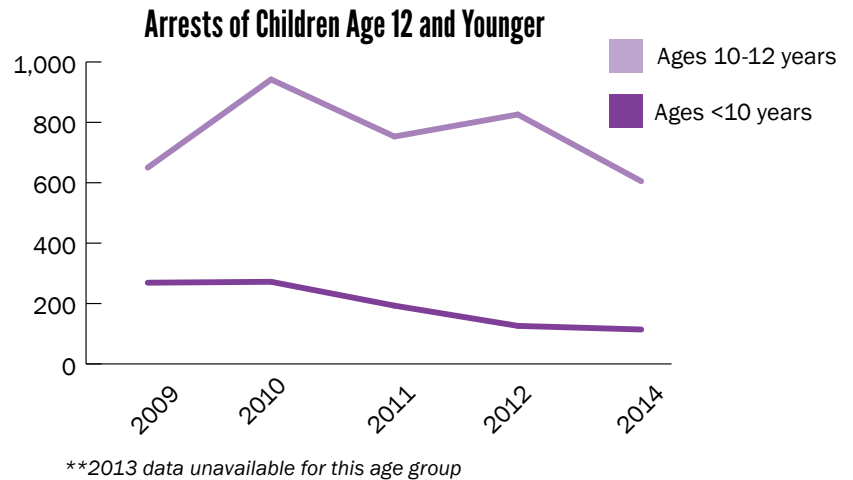
Information taken from the 2015 LearnAnalytics “What Kids Are Reading” report, available online.

WHAT DOES THE DATA SHOW?

In Nebraska, elementary age children are brought into contact with the juvenile justice system more frequently than one might expect.

ARRESTS

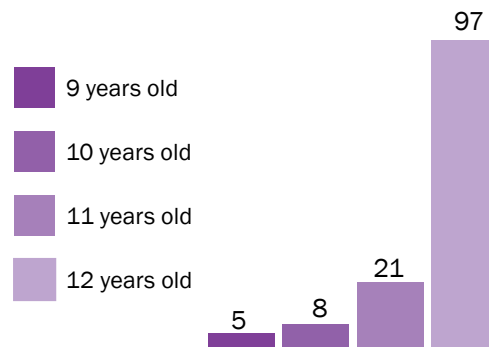
716 children age 12 and younger were arrested in 2014. In years for which detailed data was available to compare age at arrest with type of offense, the most commonly arrested offenses for this age group were for **misdemeanor assault (i.e. fighting), theft (i.e. shoplifting), and vandalism (i.e. graffiti).**²



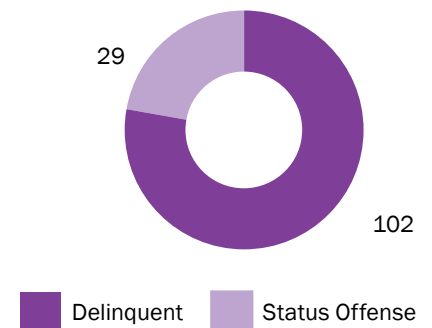
PROBATION

A small number of very young children were placed on juvenile probation in 2015, primarily for delinquent rather than status offenses.^{3*}

Age Placed on Probation (2015)



Type of Offense for Age 12 and Under (2015)



DETENTION

The smallest but most troubling number is the young children admitted to Nebraska's detention facilities.

Children Age 12 and Under Detained in 2014

Detention Facility	# of Admissions	% of Total Admissions per Facility
Lancaster County Detention Center	8	1.6%
Northeast Nebraska Juvenile Services	24	5.0%
Scotts Bluff County Detention Center	11	3.6%
Douglas County Youth Center	21	2.0%
Patrick J. Thomas Juvenile Justice Center	0	0.0%
TOTAL STATEWIDE	64	2.3%

Data provided by individual detention facilities

2. Data provided by the Nebraska Crime Commission.

3. Data provided by the Nebraska Probation Administration.

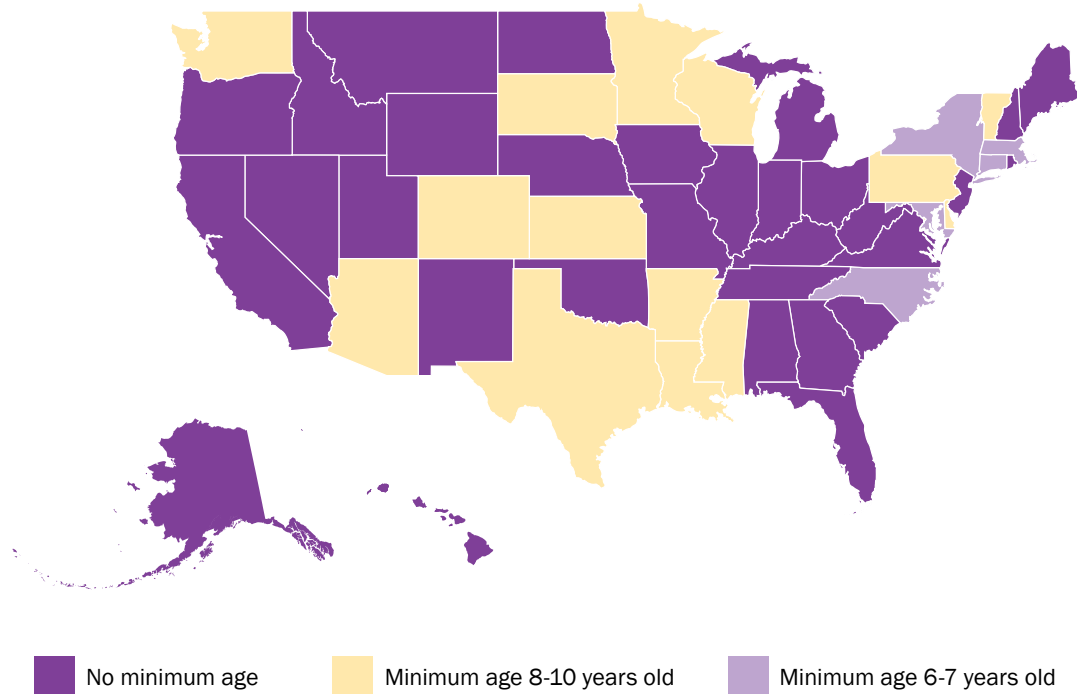
*Delinquent offenses are criminal in nature, such as disorderly conduct. Status offenses are behaviors, such as truancy, that would not be chargeable, but for the child's age.

These facilities are meant to house youth who pose a significant risk to society or risk of flight from the area. Each facility has its own policies and procedures regarding entry and exit, visits, placement in units, permissions regarding personal possessions, etc. Nonetheless, it is troubling to imagine 8 or 9 year-olds potentially subjected to restrictions on parental contact and use of handcuffing or locked cells, much less strip-searching and solitary confinement.

WHAT HAPPENS ELSEWHERE?

Eighteen states have set minimum ages for charging children, ensuring that very young kids get the help they may need through other measures than facing trial.⁴

Minimum Ages for Delinquency Charging in the US (2015)



RECOMMENDATIONS:

Adopt a minimum age for charging children: Children learning to read “Creepy Carrots!” are not capable of understanding complex court proceedings, and comprehension is fundamental to our Constitution. Many states have set a minimum age for charging, and Nebraska should follow suit in identifying an appropriate age at which greater ability to reason and comprehend begins to set in.

Pursue alternative court jurisdiction as necessary: To ensure that very young children engaging in troubling behaviors receive needed interventions, our juvenile code provisions should be modified to permit filing in a way that does not force the child to face trial. This would mean that instead of putting the 3rd grader on trial, county attorneys would file for a type of court jurisdiction that involves the whole family and permits services and supports through the Department of Health and Human Services rather than Probation. This is a sensible approach that will activate the right system to respond to children’s needs.

4. Based on information from the National Juvenile Defender Center & U.S. Age Boundaries of Delinquency. Juvenile Justice Geography, Policy, Practice StateScan: August 2015.

