



What is Emerging Adulthood?

Emerging adulthood is widely recognized as a distinct developmental phase, and should be treated differently under the law.

Psychologist Jeffrey Arnett first used the term “emerging adulthood” two decades ago to describe the distinct developmental period from age 18 to 25.¹ During this period young people explore adult roles, including those related to work, education, and relationships. Studies find that this period is longer now than in previous generations: emerging adults today stay in school longer, rely more on their parents for financial support, and wait longer to marry and have children.²

Emerging adulthood is a time of discovery, risk-taking, learning, and adapting. In that process, young people are learning to make responsible decisions, manage emotions, and create deeper connections with peers. They also build resilience and develop interests and meaningful goals that shape their adult lives.

Young people's developing brains are well suited to these tasks, but too often the systems they must navigate, including the criminal legal system, are not. In addition to having their basic needs met, emerging adults need safe ways to explore the world and test new ideas and experiences. They also need a measure of grace when that exploration pushes boundaries--and even when it causes harm.

Young people deserve an opportunity for course correction that is not imposed at the expense of their liberty, safety, and healthy development. This is especially true for young people who are moving into adulthood while overcoming trauma, poverty, family separation, substance use, mental health issues, or learning disabilities.

Several other areas of New York law have already recognized that emerging adults are distinct from adults:

- Young people are eligible to stay in foster care until age 21 and sometimes longer.
- Runaway and homeless youth can receive services up to the age of 24.
- Young people are allowed to stay on their parents' health insurance plan until age 29.

¹Arnett, JJ. Emerging adulthood. *A theory of development from the late teens through the twenties*. *The American psychologist*, 55(5), 469–480 (2000).

² Richard J. Bonnie, et. al., eds. *Investing in the Health and Well-Being of Young Adults*. Washington, DC: National Academies Press (2015).

Other states have begun to recognize emerging adulthood in their criminal legal systems by extending youth based protections. Today Michigan, Washington, DC, and South Carolina have all extended some protections to court-involved emerging adults up to their 25th or 26th birthdays.³

Racial Justice and Emerging Adulthood

Black and Latinx emerging adults experience the highest racial disparities of any age group in the adult criminal legal system.⁴

Young Black men aged 20 to 24 face an incarceration rate 8 times greater than for white men of the same age, while Latinx men in that age group face an incarceration rate 3 times higher than their white counterparts.⁵ While racial disparity permeates the criminal legal system, it is more pronounced for emerging adults than any other age group in the adult system. One factor driving the disparity is that emerging adults are disproportionately criminalized. In New York young people aged 18 to 25 make up approximately 10% of the population but over 20% of arrests statewide.⁶

The “law and order” policies that led to the over-incarceration of Black and Latinx youth were born of the later-recanted 1995 “superpredator” myth of the 1990’s. Influential political scientist John Dilulio argued at the time that the nation “will have little choice but to pursue genuine get-tough law-enforcement strategies” against children whom he referred to as “remorseless super-predators.”⁷ The term was not based on crime statistics, as juvenile crime had already begun to fall when the term was coined. Instead it simply furthered harmful, racist tropes by suggesting that poor youth of color were inherently more violent. As described by NYU law professor Kim Taylor-Thompson, “superpredator language began a process of allowing us to suspend our feelings of empathy towards young people of color.”⁸ In 2001 Dilulio publicly denounced his “superpredator” theory.⁹

The superpredator media myth allowed politicians to justify laws that toughened school discipline policies, increased police presence in schools, prevented the sealing of juvenile records, and transferred juveniles into adult court systems. Between 1991 and 1999, the number of children in youth prisons increased 42% and the number of young people held in adult jails quadrupled.¹⁰

³ Siringil Perker, Selen and Chester, Lael E.H. [Time for Change: A National Scan and Analysis of Hybrid Justice Systems for Emerging Adults](#). New York, NY: Columbia University (2023).

⁴ Ibid.

⁵ Ibid, citing E. Ann Carson, Prisoners in 2019 (Bureau of Justice Statistics, 2020), <https://bjs.ojp.gov/content/pub/pdf/p19.pdf>.

⁶ Youth Represent and Children’s Defense Fund of NY, [Expanding Youth Justice In New York](#) (2020).

⁷ Rovner, Josh. [Sentencing Project, Youth Justice: Lessons from the Last 50 Years](#) (2023).

⁸ Bogert, Carroll and Hancock, LynNell. [“Superpredator”: How Media Coverage Affected Juvenile Justice.](#) The Marshall Project.

⁹ Becker, Elizabeth. [“As Ex-Theorist on Young ‘Superpredators,’ Bush Aide Has Regrets.](#)” The New York Times (2001).

¹⁰ Howard N. Snyder and Melissa Sickmund. [Juvenile Offenders and Victims: 2006 National Report](#). Washington D.C.: U.S. Department of Justice, Office of Justice Programs, OJJDP (2006).

Brain Development in Emerging Adulthood

Young people who are still making the transition to adulthood -- socially, emotionally, and psychologically -- should not be sentenced as adults.

Emerging adults, like younger adolescents, are remarkably malleable. They are still developing impulse control, the ability to anticipate consequences of choices, and the ability to weigh risks and rewards, especially when they are under stress. Brain development during this period means that emerging adults have significant capacity to make positive changes but are also especially vulnerable to trauma.

We can see this unique developmental stage in research. Dr. Laurence Steinberg, Ph.D, a nationally recognized expert on adolescent and young adult brain development, has described how the intellectual, emotional, and social dimensions of brain function develop at different rates and according to different timetables. Using driving simulation games, studies have found that the presence of peers significantly increased risk taking among adolescents and emerging adults, but not among adults in their 30s.¹¹ Similarly, while logical reasoning typically develops by around age 15, “hot cognition,” which includes impulse control and emotional regulation in a stressful situation, continues to develop into the mid-20s.¹²

Age Appropriate Treatment for Emerging Adults

Passing the Youth Justice & Opportunities Act will update New York law to recognize emerging adulthood, allowing for age-appropriate sentences and interventions to move young people out of the criminal legal system and into education, stability, and economic opportunities.

An adult conviction and prison sentence hinders a young person’s ability to obtain and keep employment, housing, professional licensing, higher education, and other necessities of life. This can interfere with the achievement of crucial developmental milestones like finishing school, building a career, or establishing a home. These interferences **increase** the likelihood of re-incarceration.

By expanding alternatives to incarceration and immediate record sealing, YJ&O creates pathways for emerging adults to move forward with their lives, rather than creating barriers at a critical moment of social growth and opportunity, benefiting young people, their families and communities.

¹¹ Chein, Jason et al. “Peers increase adolescent risk taking by enhancing activity in the brain's reward circuitry.” *Developmental science* vol. 14,2 (2011)

¹² Barkin, Rachel. “[Hot and Cold Cognition: Understanding Emerging Adults' Cognitive Reasoning.](#)” Columbia Justice Lab (2021).