



THE CASE AGAINST “INCORRIGIBLE”

*A Forward-Thinking & Progressive New York Must Remove
A Stigmatizing Label From State Law In 2021*



Girls for Gender Equity (GGE) is advancing a bill – A.5851 (Reyes) / S.2737 (Salazar) – to amend the State Family Court Act and remove the word “incorrigible.” By bringing this word forward for public debate, we are making visible the ways perceptions of girlhood and strategies to control young people have evolved over the past 100 years, and how some practices have stayed the same.

This is a starting point. Legally and socially constructed definitions of childhood have and continue to shape the treatment of young people. Cultural shifts contributed to the creation of the juvenile legal system and by changing what words we use, we are changing the culture of how we think about young girls and their resistance to oppression. For the long haul, New York must develop and invest in a robust continuum of supports that can meet the needs of youth and families – voluntarily and in their communities.

We argue that the need to remove “incorrigible” is inherently a **feminist issue**, a **racial justice issue**, a **youth justice issue**, a **child welfare issue**, and an **education equity issue**:



THE FEMINIST ARGUMENT



The history of controlling girls through courts, probation and confinement is a history of gendered discrimination. The first juvenile court established “incorrigibility” as a legal category of behavior and a catchall for judges to use their full discretion to punish girls for any resistance to gender norms. “Incorrigibility” has since been **a label representing patriarchal and sexist standards of “unladylike” behavior**. As gender justice movements now advance a strengths-driven understanding of girlhood, the law must not continue to fall back on outdated and stigmatizing labeling.

THE RACIAL JUSTICE ARGUMENT



“Incorrigible” is used in PINS or “Persons in Need of Supervision” proceedings in court. PINS describe a “status offense” or activities deemed unlawful due to the person’s age that would not be illegal if performed by an adult. Youth of color are far more likely to be petitioned for a status offense than their white counterparts: young people of color represent 33% of youth outside of New York City, but 69% of PINS petition filings – with **Black youth representing 10% of all youth but 29% of all petitions**. The problem of gender discrimination is particularly profound for girls of color. In general, girls of color continue to be exposed to harsher treatment than white young people in the system by way of the courts. Ending the use of “incorrigibility” takes us closer to ending control over the behaviors of girls of color.

THE YOUTH JUSTICE ARGUMENT



“Incorrigible,” meaning **“unable to be reformed,”** was a term used to categorize the young girls who were incarcerated at the first Training School for Girls in Hudson, New York over 100 years ago. Recent reforms to our youth justice system, including raising the age, have indicated a rejection of the definition behind “incorrigibility.” Yet despite this new attention, the proportion of girls in the justice system has increased. An intentional focus on girls is needed to ensure that they fully benefit from system reforms. Deleting “incorrigible” and rejecting this label is a commitment to the work that lies ahead for true youth justice and ending youth control.

THE CHILD WELFARE ARGUMENT



PINS petitions can lead to foster care placement and girls make up a substantially larger share of these cases when compared to delinquency cases: compromising 49% of these filings but only 23% of overall juvenile justice-type cases. Often what is labeled as “incorrigible” can **be better understood when considering trauma, as the root causes are often tied to neglect or abuse, such as a decision to run from family violence.** Changing this language is one step toward replacing systems of control, like family separation, with systems of community care.

THE EDUCATION EQUITY ARGUMENT



Research has demonstrated that even first-time court appearances during school increases the likelihood of students leaving school before graduation. When schools attempt to file PINS petitions they must first take steps to support students at school and attempt diversion from court. Further, as schools adopt restorative practices and approaches the notion of “incorrigibility” is drawn into question. Deleting a word from the law that contradicts the principles of restorative justice will bring us closer to returning dignity to students, and support political momentum to **shift public resources and fully fund the public school system.**

In the midst of national uprisings for racial justice this July, a case came to mainstream attention where a 15-year-old Black girl in Michigan faced incarceration during the coronavirus pandemic after a judge ruled that not completing her schoolwork violated her probation. Grace’s entry into the legal system, a court diversion program, was for “incorrigibility.” During and in the aftermath of this pandemic and fiscal crisis, **New York State must take common sense action and shift away from pushing girls of color into the court system for “incorrigibility” and instead seek to meet their real material needs.**

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