

New York Just Passed “Raise the Age” - Is North Carolina Next?

On April 10, 2017, New York’s governor, Andrew Cuomo, signed legislation raising the age of criminal responsibility in the state of New York from 16 to 18. New York and North Carolina were previously the only two states that automatically prosecuted 16-year-olds as adults. Long-standing raise the age campaigns in both states have repeatedly failed due to conflicting views about the need to rehabilitate juveniles versus the need to maintain public safety. New York lawmakers recently reached a compromise that raises the age for most juveniles but still allows violent offenders to be tried as adults. A similar approach being considered by North Carolina lawmakers would raise the age of juvenile court jurisdiction to include 16 and 17-year-olds who commit misdemeanors and nonviolent felonies, but would exclude violent offenders. Here’s how NC’s raise the age proposal compares to NY’s new law.

New York’s raise the age legislation, passed as part of the state’s [FY 2018 Budget](#), gradually increases the maximum age of its family court jurisdiction to age 16 beginning on October 1, 2018, and then to age 17 beginning on October 1, 2019. Under this new law, 16 and 17-year-olds charged with misdemeanors will automatically go to family court, while felony offenders will initially start in a new section of criminal court called “youth part” where cases will be heard by judges trained in family court. Juveniles accused of nonviolent felonies will be automatically transferred to family court after 30 days, unless a prosecutor proves “extraordinary circumstances,” which is undefined in the law. Those who are charged with violent felonies may also be transferred to family court, but only if the offense does not involve significant physical injury to a victim, the use of a weapon, or criminal sexual conduct. According to this [article](#), violent felonies only account for one percent of juvenile crime in New York, which means that most juvenile cases will now go to family court.

Another major part of the law requires the removal of juveniles from NY’s Riker’s Island prison complex and other adult jails by October 1, 2018. According to this [article](#), the change was inspired by the tragic death of [Kalief Browder](#). At the age of 16, Browder was imprisoned at Riker’s Island for three years, including two years in solitary confinement, for allegedly stealing a backpack. At the age of 22, he committed suicide, after struggling with the physical and psychological trauma of his confinement at Riker’s. Under NY’s raise the age legislation, juvenile inmates under the age of 18 must be placed in juvenile detention facilities certified by the state.

North Carolina’s raise the age bill, [HB 280](#), does not explicitly require the removal of juveniles from adult jails and prisons (a separate [senate bill](#) addresses this issue), but would necessarily reduce the number of juveniles placed in adult facilities, if passed. This proposal is based on the December 2016 [Juvenile Reinvestment Report](#) of the [chief justice’s commission](#), which notes the significantly higher risk of physical abuse that juveniles experience in adult prisons. Citing

adolescent brain development research and juvenile justice data, the report concludes that raising the age of criminal responsibility to 18 will benefit both juveniles and the state of NC by lowering recidivism, saving money, and strengthening families.

On the other hand, the report acknowledges the concerns of raise the age opponents that the juvenile justice system lacks appropriate consequences for violent juvenile offenders, which might increase gang involvement. To alleviate these concerns, the Juvenile Reinvestment Report suggested a compromise that would send most 16 and 17-year-olds to juvenile court but require that violent offenders still be prosecuted as adults. This proposal, as well as other recommendations made by the commission, became [HB 280](#), or the “Juvenile Justice Reinvestment Act.”

Key provisions of HB 280 include:

- Raising the age of juvenile court jurisdiction to include 16 and 17-year-olds for all offenses, except Class A-E felonies and traffic offenses;
- Requiring the automatic transfer of 16 and 17-year-olds to criminal court for Class A-E felonies upon a finding of probable cause or the filing of an indictment by a prosecutor;
- Granting victims the right to have a prosecutor review a juvenile court counselor’s decision not to file a juvenile petition;
- Requiring juvenile court counselors to share certain information with law enforcement officers to assist them in making decisions during juvenile investigations;
- Requiring regular juvenile justice training for law enforcement officers; and
- Authorizing the director of the Administrative Office of the Courts to establish statewide school-justice partnerships to reduce school-based referrals to the juvenile justice system.

Similar to NY’s raise the age legislation, HB 280 would also create a Juvenile Jurisdiction Advisory Committee (NY has a “raise the age implementation task force”) to oversee the implementation of the age change, which would become effective December 1, 2019, for offenses committed on or after that date.

Many NC law enforcement groups now support raise the age legislation because it addresses their concerns about public safety and the need for greater access to juvenile information (see Letter of Support from NC Sheriff’s Association attached to [Juvenile Reinvestment Report](#)). While some proponents believe the support of law enforcement gives the bill more momentum, little movement has occurred in the legislature since HB 280 was filed. Also, two additional raise the age bills are now pending in the NC Senate. [SB 564](#) is a companion bill to HB 280, and [SB 549](#) would raise the age only for misdemeanors.

If the legislature enacts either of these bills, it will remove the vast majority of juveniles from adult criminal courts, since only 3.3% of 16 and 17-year-olds are convicted of violent felonies. Most of them, 80.4%, are convicted of misdemeanors, while 16.3% are convicted of non-violent felonies,

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according to a [report](#) from the NC Sentencing and Policy Commission.