

## “Raise the Age” Is Now the Law in North Carolina

North Carolina is no longer the only state in the U.S. that automatically prosecutes juveniles as adults beginning at age 16. In June, the General Assembly ended a century long practice of prosecuting teens as adults by enacting the *Juvenile Justice Reinvestment Act* as part of the [2017 state budget](#), which raised the age of criminal responsibility to 18. As a result, most 16 and 17-year-olds will be prosecuted in juvenile court beginning December 1, 2019. There are, however, some exceptions. Here’s what you should know about this historic reform.

### A Bipartisan “Raise the Age” Proposal

The passage of the *Juvenile Justice Reinvestment Act* concludes a long-standing campaign for NC to raise the juvenile age. Past efforts failed largely due to concerns from the law enforcement community about potential threats to public safety and concerns from lawmakers about the cost of expanding the juvenile justice system. So, what changed?

In September 2015, Chief Justice Mark Martin convened the [North Carolina Commission on the Administration of Law and Justice \(NCCALJ\)](#) to study North Carolina’s court system and make recommendations to improve it. The NCCALJ Committee on Criminal Investigation and Adjudication identified “juvenile reinvestment” as a top priority and developed a raise the age proposal with input from a diverse group of stakeholders, including law enforcement officials, prosecutors, juvenile justice representatives, and judges, among others.

That collaboration resulted in the [Juvenile Reinvestment Report](#), which concludes that rehabilitating youthful offenders in juvenile court will reduce crime and save money. Citing adolescent brain development research and recidivism data, the report provides evidence that treatment in the juvenile justice system is far more effective in reducing juvenile crime than incarcerating juveniles in adult facilities. The report concludes that by lowering recidivism, raise the age will improve public safety and produce economic benefits for both the state and juveniles, who will no longer carry the burden of a permanent criminal record for youthful mistakes (the same conclusion reached by two prior cost-benefit studies completed in [2009](#) and [2011](#)).

Ultimately, the report recommended that NC raise the age of juvenile court jurisdiction to include 16 and 17-year-olds for all offenses, except violent felonies and traffic offenses, contingent upon several other provisions designed to address law enforcement concerns. The recommendation (discussed more extensively in this [post](#)) is the first raise the age proposal to receive broad bipartisan support and the endorsement of the law enforcement community. Apparently, this collaboration was the change needed to make raise the age a reality in NC.

### The Juvenile Justice Reinvestment Act

The *Juvenile Justice Reinvestment Act* largely adopts the recommendations of the NCCALJ’s

juvenile reinvestment report, with some exceptions. The Act increases the age of juvenile court jurisdiction to include all crimes and infractions committed by 16 and 17-year-olds, excluding motor vehicle offenses, and requires the automatic transfer to adult court of 16 and 17-year-olds who commit Class A-G felonies. Numerous other changes address victims' rights, disclosure of information to law enforcement, juvenile records, and juvenile gang activity. Although the age increase is not effective until December 1, 2019, parts of the Act were immediately effective on July 1, 2017, when the Act became law, and other parts will become effective on October 1, 2017. Here are some of the highlights. (A more detailed summary is available [here](#))

- **Effective December 1, 2019, and applicable to offenses committed on or after that date:**

### *Juvenile Age Increase*

A "delinquent juvenile," as defined by G.S. 7B-1501(7), will include 16 and 17-year-olds who commit crimes or infractions, "excluding violation of the motor vehicle laws," or indirect contempt by a juvenile. Thus, 16 and 17-year-olds will continue to be prosecuted in adult court for traffic offenses. Also, under amended G.S. 7B-1604, once a juvenile has been convicted of *any* offense in either district or superior court, "including a violation of the motor vehicle laws," the juvenile must be prosecuted as an adult for all subsequent offenses. This means that teens who already have an adult conviction when raise the age becomes effective will not be included.

Although the Act does not define which motor vehicle offenses trigger the exclusion from juvenile court jurisdiction, it appears that it applies to offenses defined by the Motor Vehicle Act (*i.e.*, Chapter 20 of the General Statutes). It is less clear whether other motor vehicle offenses, such as unauthorized use of a motor vehicle (G.S. 14-72.2) or breaking and entering a motor vehicle (G.S. 14-56), would also trigger the exclusion. Presumably, a teenager with a prior conviction for speeding might be excluded from juvenile court jurisdiction while the exclusion might not apply to a teenager with a prior conviction for a non-Chapter 20 motor vehicle offense.

### *Maximum Age of Jurisdiction*

The juvenile court's jurisdiction will continue to age 19 for offenses committed by 16-year-olds, and to age 20 for offenses committed by 17-year-olds, unless terminated earlier by the court. However, the court's original jurisdiction over felonies and related misdemeanors will continue indefinitely for the purpose of conducting probable cause and transfer hearings and either transferring the case to superior court or dismissing the petition. This provision allows the state to prosecute juveniles for felony offenses that are discovered after they have aged out of juvenile court.

### *Expedited Transfer for Class A-G Felonies*

Once the age increase becomes effective, all offenses committed by 16 and 17-year-olds will

originate in juvenile court. However, for Class A-G felonies committed by 16 and 17-year-olds, transfer to superior court will be mandatory upon either of the following: (1) notice of an indictment, or (2) a finding of probable cause by the court. By requiring that all juvenile offenses begin in juvenile court, the Act gives prosecutors some discretion to retain mandatory transfer cases in juvenile court by reducing the charges based upon further investigation or discovery that occurs prior to the filing of an indictment or a probable cause hearing.

### *Juvenile Gang Suppression*

Juvenile court counselors must begin conducting “gang assessments” during juvenile intake and maintain the results of these assessments in the juvenile’s confidential record. If the court finds that a delinquent act was committed as part of “criminal gang activity,” as defined by new G.S. 7B-2508.1, the court must increase the juvenile’s disposition level one level higher than provided for by the disposition chart. Modeled after the [NC Criminal Gang Suppression Act](#), G.S. 7B-2508.1 defines the terms “criminal gang,” “criminal gang activity,” and “criminal gang member.” These new provisions do not specify the burden of proof or methods of proof required to support the disposition enhancement, which may result in procedural challenges for prosecutors and judges, unless clarified.

- **Effective October 1, 2017, and applicable to complaints filed on or after that date:**

### *Victims’ Rights*

Juvenile court counselors must share more information with victims about the evaluation of juvenile complaints and inform victims of their right to request that a prosecutor review a court counselor’s decision not to file a petition. Previously, the right to appeal a court counselor’s filing decision applied only to complainants, who are typically law enforcement officers in delinquency cases.

### *Law Enforcement Access to Information*

Juvenile court counselors must begin tracking consultations with law enforcement officers that do not result in the filing of a juvenile petition. A consultation occurs, for example, when a law enforcement officer refers a juvenile to the Division of Adult Correction and Juvenile Justice who is released without further action. In addition to tracking these consultations, court counselors must share with officers, upon request, information related to prior law enforcement consultations and the juvenile’s delinquency record to assist officers when investigating matters that could lead to the filing of a complaint. Law enforcement officers may not obtain copies of juvenile records and must maintain the confidentiality of any information received.

- **Effective July 1, 2017:**

### *Electronic Records*

By July 1, 2018, the Administrative Office of the Courts (AOC) must expand access to JWisE, the electronic records management system for juvenile courts, to include prosecutors and juvenile defense attorneys. The AOC also must develop statewide inquiry access for JWisE users that would permit access to all delinquency records associated with a particular juvenile, as opposed to limiting such access to records from a single county.

### *School-Justice Partnerships*

A new statute, G.S. 7A-343(9g) authorizes the Director of the AOC to develop a plan for statewide implementation of school-justice partnerships. These collaborative agreements, which already exist in some local districts, help to reduce in-school arrests, out-of-school suspensions, and expulsions.

### *Juvenile Jurisdiction Advisory Committee*

Now that raise the age is a reality, the hard work of implementing the necessary changes to the juvenile justice system and the courts will begin. A 21-member *Juvenile Jurisdiction Advisory Committee* located within the Division of Adult Correction and Juvenile Justice will lead this effort. The advisory committee will include several ex officio members from various stakeholder groups and other appointees, including two juvenile advocates and two victim advocates. Appointments are due by October 1, 2017, and the committee must submit an interim report to the General Assembly by March 1, 2018.

In the meantime, raise the age proponents, lawmakers, and state leaders from every branch of government are celebrating progress in NC's juvenile justice system that was 100 years in the making. In honor of this historic event, Governor Roy Cooper signed a [Proclamation](#) to recognize the value of raising the age and congratulate the bipartisan coalition of stakeholders who helped to make it happen.