

# CIVITAS INSTITUTE

# LEGISLATIVE POLICY BRIEFING

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## How Should We Treat Youthful Offenders?

By Chloe Gossage  
Senior Policy Analyst

Officials in North Carolina and elsewhere are questioning whether 16- and 17-year-olds should be treated as adults in the court system. North Carolina is currently one of three states that consider delinquent juveniles to be adults on their 16th birthdays.

This year, several legislators have introduced bills to enact recommendations released this month by the North Carolina Sentencing Policy and Advisory Commission in its study of youthful offenders.<sup>1</sup> The key recommendations are that North Carolina: (1) raise the juvenile delinquent age from 16 to 18; and (2) allow judges to impose special sentences that would not leave a permanent criminal record on less serious offenders under age 21.

So, what are the arguments for raising the juvenile age limit to 18? And how well are they supported?

### **“Most states have an age limit of 18”**

1. North Carolina is one of only three states with a criminal justice adult age of 16. The other two states, Connecticut and New York, allow the juvenile to be returned to the juvenile system for punishment. North Carolina does not. Two of North Carolina’s neighbors, South Carolina and Georgia, are among the 10 states with a mandatory age of 17. The remaining 37 states and the District of Columbia set the criminal adult age at 18.

2. All states allow transfers of younger juveniles to the adult system at the discretion of the judge (45 states) or prosecutor (15), with ages ranging from no minimum to 15 years old. In 38 states including North Carolina, there are certain crimes for which a juvenile is automatically treated as an adult.<sup>2</sup> In North Carolina, a juvenile at least 13-years old must be treated as an adult for first degree murder and may at the judge’s discretion be treated as an adult for other felonies. North Carolina is also one of 34 states with a provision stipulating that once a juvenile has been convicted under the adult system, he must be tried as an adult for any future crimes.<sup>3</sup>

3. Although 16- and 17-year-old criminals are considered adults in North Carolina, they are still treated somewhat differently from older offenders:

- During sentencing, a judge can consider an offender’s age and the availability of reliable supervision.
- Offenders who were under 18 at the time they committed their crimes cannot be given the death penalty.
- At 18, a juvenile who has not been convicted of any felonies can apply to have his record expunged.

### **“Older youths will have more opportunities for reform in the juvenile system”**

1. Those who want to raise the age for juvenile delinquents point to the immaturity and poorer impulse control of youths as reasons to treat them differently than adults.<sup>4</sup> Raising the age limit, they argue, would place older youths in an environment more geared towards education and rehabilitation, and would allow them a “fresh start” with a sealed juvenile record. Juvenile facilities are generally considered to be a more therapeutic model than adult prisons. Juveniles receive classroom instruction, and there is more of a focus on rehabilitation.

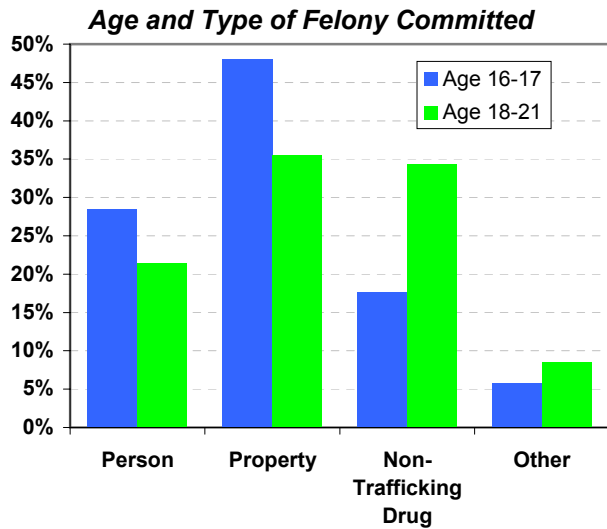
2. Prisons also offer services for youths. Department of Correction policy requires that “youthful offenders” — those ages 25 and under<sup>5</sup> — be placed at specific state prisons. Male youthful offenders under 19 are incarcerated separately at Western Youth Institution. (There are few female youthful offenders, so separation is not always possible for women.) State statutes also require that youthful offenders nearing the end of their sentences receive priority for educational and other programming.

### **“Juveniles in adult facilities are merely learning to become better criminals”**

1. The Sentencing Commission reports some alarming numbers for youthful offenders. Of the youths who entered prison at age 16 or 17, a staggering 68 percent had been rearrested within three years of leaving prison. Controlling for all other factors, the Sentencing Commission found that “youthful offenders” (under age 21 at the time the crime was committed)

were 5.5 percent more likely to be rearrested within three years of leaving prison than an adult age 21 or over.<sup>6</sup> On the other hand, the statistics for young probationers are nearly as dire: a 60 percent rearrest rate for 16- and 17-year-old probationers and an increase of 5.9 percent in the likelihood of recidivism for youthful probationers. This indicates that prison culture is certainly not the sole culprit. In addition, where possible youthful offenders are housed separately from older offenders, limiting the opportunities for such exposure.

2. In general, juveniles who receive prison time tend to commit more serious crimes than young adults. While 18- to 21-year-olds are most likely to be incarcerated for property or non-trafficking drug crimes, 16- and 17-year-olds are most likely serving time for crimes against persons or property.



### What else should legislators know?

Changing the age limit is complex. The Sentencing Commission recommends that the state spend two years studying the potential impacts and determining how best to implement it. The following are merely a few issues worthy of note:

- Incarcerating the same youths in the juvenile system, rather than the adult system, would increase the cost to the state. The average cost per bed in a Youth Development Center (YDC) is \$83,125 annually, compared to \$23,199 in a prison.
- The change could place a heavy burden on the juvenile system. Taking into account that judges would still use their discretion to transfer some juveniles to the adult system, moving 16- and 17-year-olds from the adult to the juvenile system would almost double the population of the YDCs.
- Moving older youths to the juvenile system may raise the same issues of “crime education” for young juveniles that have been raised for youths in the adult system. The YDCs primarily house students ages 10 to 17 (up to 21 for serious, violent crimes). While

YDCs try to separate younger and older juveniles, raising the age of entry would also require increasing the exit age, and therefore the overall age range.

- In a related issue, most juveniles now exit the juvenile system on their 18th birthday. If the exit age were increased, younger youths could be committed to the YDC for a longer period of time.
- Sending juveniles to YDCs instead of prisons would slightly reduce the count of school dropouts. Juveniles incarcerated in state prisons are counted as dropouts. Juveniles held at YDCs are not, because YDCs provide classroom instruction.

### ENDNOTES

<sup>1</sup> Unless noted, data and criminal justice statutory and policy information in this brief is from NC Sentencing and Policy Advisory Commission, Report On Study Of Youthful Offenders, March 2007.

<sup>2</sup> Christopher Hartney, National Council on Crime and Delinquency, “Youth Under Age 18 in the Adult Criminal Justice System,” Fact Sheet, June 2006.

<sup>3</sup> Patrick Griffin, Special Project Bulletin, Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws, October 2003.

<sup>4</sup> See, for example, <http://www.campaign4youthjustice.org>.

<sup>5</sup> Due to a declining population of youthful offenders, the DOC raised the maximum age from 21 to 25 several years ago.

<sup>6</sup> NC Sentencing & Policy Advisory Commission, Correctional Program Evaluation: Offenders Placed On Probation Or Released From Prison In Fiscal Year 2001/02, April 2006.



225 Hillsborough St., Suite 130  
 Raleigh, N.C. 27603  
 919-834-2099 (voice)  
 919-834-2350 (fax)  
[www.jwpcivitasinstitute.org](http://www.jwpcivitasinstitute.org)