DAs question juvenile reform act
By Brendan J. Lyons
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Albany

The head of the state district attorneys association is urging Gov. Andrew Cuomo and other state leaders to rethink a comprehensive reform package that would raise the age of criminal responsibility for adults from 16 to 18 in New York state.

Erie County District Attorney Frank A. Sedita III, president of the District Attorneys Association of the state of New York, wrote a 13-page letter last week outlining what he described as a "consensus" opinion of the group's concerns to Sen. Michael F. Nozzolio, chairman of the Senate Budget Subcommittee for Public Protection, and Terence J. O'Leary, the governor's deputy secretary for public safety.

"What we're talking about is the commission of serious crimes, not shoplifting on a dare or criminal mischief on a dare," Sedita said. "Most 16- and 17-year-olds know that murdering somebody is wrong, that raping the girl next door is wrong, and that sticking a gun in somebody's face and stealing their (money) is wrong."

Sedita noted that his office recently prosecuted a 16-year-old serial rapist who was attacking his victims at random on the streets and subjecting them to violent sexual assaults. The defendant was sentenced to 22 years in prison under a plea deal, Sedita said, but his sentence could have been about half that time behind bars under the governor's proposal, which would result in many serious crimes committed by teenagers being handled in Family Court, including sexual assault, arson, attempted murder and kidnapping.

In his letter, Sedita said a point often cited by proponents of the package is that New York and North Carolina are the only two states that prosecute 16- and 17-year-olds as adults.

"This claim is misleading," Sedita wrote. "In reality, every state has laws that mandate and/or regulate the adult criminal prosecution of 16- and 17-year-olds, as well as those even younger, in adult criminal courtrooms."

In other states, the criminal cases for young offenders may begin in a juvenile court but they are still prosecuted as adults for more serious offenses, such as murder and rape.

Currently, New York's 62 elected district attorneys have discretion over which cases are referred to Family Court and those prosecuted in adult criminal courts. He said that in New York, while the age of criminal responsibility is 16, it "is also true that 95 percent of 16- and 17-year-old defendants have their cases sealed. ... In New York, prison is usually a last resort, reserved for the worst of the worst."

Sedita said the legislation is "frightening" because it would allow violent criminal offenders to have their cases adjudicated in Family Court "over prosecutorial objection," and create a presumption of youthful offender status for them. His letter said that an "unpleasant but well-known" truth to law enforcement officials is that "some of the most dangerous, violent and sociopathic criminals are under the age of 18."

The reform package is included in the governor's executive budget proposal that is the subject of intense and ongoing negotiations. However, in a brief news conference Tuesday afternoon, Cuomo signaled that he may remove his "Raise the Age" initiative from the budget process.

"Raise the Age' is not likely to be done in the budget," the governor said outside the Republicans' conference room on the Capitol's third floor. "It's very complex. It connects with other issues. ... So to do that in the budget I don't think would work politically. And even from a policy point of view, it gets very complicated very quickly. So that will be done in June, hopefully, as a separate piece."

Sedita, in his letter, said the district attorneys association is "troubled" that the proposed Juvenile Justice Act was attached to the governor's budget plan "without necessary study, informed discussion and public debate."

Albany County District Attorney David Soares said he supported the letter written by Sedita.

"The legislation tacked to the budget was full of unintended legal and public safety consequences," Soares said, calling the reform initiative a "thoughtful campaign" that is full of complexities and needs more study.

"I personally would like to see more money invested in our children living in the communities most harmed by violence earlier in the process," Soares said.

The reform package was the result of recommendation made by a panel the governor convened a year ago, the Commission on Youth, Public Safety &
Justice. The panel, which included law enforcement officials, among them Albany Police Chief Steve Krokoff, said the proposal would change the criminal justice system's approach to handling young people and reduce recidivism rates. The group also said that most young people sentenced to prison are black or Latino.

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