Proposal would allow some juvenile criminals to escape justice
By Frank A. Sedita III

SPECIAL TO THE NEWS

In principal, most prosecutors do not oppose raising the age of criminal responsibility to 18. Professional prosecutors are, however, troubled by the proposed Juvenile Justice Act because it would allow 16- and 17-year-olds who commit serious crimes to escape justice.

The age of criminal responsibility in New York is 16, but many teenage offenders have their cases “adjudicated” in Family Court instead of prosecuted in criminal court. The Juvenile Justice Act – appended to the governor’s budget and on an accelerated schedule – is an enormously complex, experimental and transformative scheme that would do much more than merely raise the age of criminal responsibility to 18.

The chief justification for the Juvenile Justice Act is the claim that New York’s teenage criminals are victimized by an embarrassingly regressive juvenile justice system. Proponents of this narrative repeatedly emphasize that New York is one of only two states that prosecute 16- and 17-year-old defendants as adults. This claim and others like it can be misleading.

In truth, every state has laws that regulate the prosecution of 16- and 17-year-olds, as well as those even younger, in adult criminal courtrooms. The difference between the various states is the portal through which the teenage offender enters. For example, many states may initiate a charge against a 16-year-old in a juvenile court or a Family Court, but allow for transfer to an adult criminal court for the more serious cases.

Whether the defendant enters through the juvenile/Family Court door or the adult/criminal court door is largely irrelevant. What is important is (1) whether mechanisms are in place for the prosecution of appropriate crimes, like violent felonies, in adult court and (2) whether younger defendants, especially those who have committed relatively minor offenses, are treated less harshly than adults. In New York, such mechanisms are already in place and, as a result, younger defendants rarely face the same repercussions as adults.

It is a sad reality that some of the most dangerous criminals we prosecute are under the age of 18. By the same token, most 16- and 17-year-old defendants are rarely incarcerated and saddled with a permanent record.

An astounding 95 percent of 16- and 17-year-old defendants have their cases sealed. In other words, 95 out of every 100 such cases result in outright dismissal, an adjournment in contemplation of dismissal, a plea to a non-criminal violation or a youthful offender adjudication. In New York, prison is usually a last resort for teenage criminals, reserved for the worst of the worst.

The Juvenile Justice Act changes the law to such an extent and degree that serious questions are raised regarding fundamental criminal justice issues, including offender accountability and public safety.

Under the proposed legislation, 16- and 17-year-old offenders who have committed violent felonies – like predatory sexual assault, aggravated sexual abuse in the first degree and manslaughter in the first degree, to name but a few – can have their cases transferred to Family Court over the district attorney’s objection. Under the proposed legislation, 16- and 17-year-old offenders would also have their potential sentences dramatically reduced, regardless of whether they were adjudicated in Family Court or prosecuted in criminal court. We recently prosecuted a 16-year-old serial rapist who abducted and sexually assaulted three women in Allentown. Under the Juvenile Justice Act, this serial rapist could have received as little as one year in jail.

Current New York law routinely differentiates between those who engage in youthful indiscretions and those who commit serious and violent crimes. Although some reform might ultimately be appropriate, I urge our lawmakers to carefully consider the details and the consequences of the Juvenile Justice Act,
including its impact on crime victims and public safety, instead of rashly enacting it into law.

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