New York Judge Seeks New System for Juveniles

By MOSI SECRET

New York State has long dealt with 16- and 17-year-old defendants more severely than almost every other state, trying all of them as adults in criminal courts. Now, New York’s chief judge is calling for a less punitive approach that would focus on finding ways to rehabilitate them.

The judge, Jonathan Lippman, is proposing that the state transfer jurisdiction for 16- and 17-year-olds accused of less serious crimes to family courts, which have more social services, while continuing to prosecute the most violent juveniles as adults. The plan reflects an emerging consensus in many states that troubled teenagers have been mishandled by the adult court system.

If the state adopts the plan, it will most likely have to allocate more money for social services and for the court system, which is already financially overburdened. The change would require a reorganization of the network of city and state agencies in the criminal justice system. The roles of judges, prosecutors, correction and probation officers and many others would change.

“I think it’s complex but feasible,” said Edwina G. Richardson-Mendelson, the administrative judge for New York City Family Court, which would have to handle tens of thousands more cases each year under the plan.

Judge Lippman’s proposal would have to be approved by Gov. Andrew M. Cuomo and the State Legislature. The Republican majority in the State Senate has often favored more stringent criminal justice measures, and may be reluctant to approve it.

A spokesman for Mr. Cuomo did not immediately respond to requests for comment. A spokesman for the Senate majority leader, Dean G. Skelos of Long Island, said his office would review the proposal.

The Democratic majority in the Assembly has historically supported such measures.

New York and North Carolina are the only states that try all 16-year-olds as adults. This year, North Carolina lawmakers introduced legislation to move those cases to juvenile court. Several other states have made similar moves in recent years.

In a speech that Judge Lippman is scheduled to give on Wednesday to the Citizens Crime Commission of New York City, he is to push for the state’s sentencing commission to draft a bill to be introduced in the State Legislature at the beginning of the 2012 session in January.
He also plans, in the coming months, to establish a pilot program of adolescent criminal courts, dedicated to handling the cases of 16- and 17-year-old defendants. These defendants would continue to be processed in the adult court system, but judges would handle the cases as if the defendants were in Family Court.

“I want to be able to show that this works while the legislation is pending,” Mr. Lippman said in an interview.

The judge’s proposal spotlights an issue that state lawmakers and judicial officials have long pledged to tackle. When the state’s juvenile justice law, the Family Court Act, was enacted in 1962, the Legislature chose 16 as the age of criminal responsibility as a temporary measure until public hearings and research could be conducted. The state did not carry out those steps, and the age was never changed.

Judge Lippman said the time had passed for another legislative task force. “To be sure, there are issues that have to be addressed, and we will do that,” he said. “But I don’t believe we should be studying this to death.”

Instead, Judge Lippman said, he will turn to an informal network that has been working behind the scenes on the legal and procedural issues of raising the age of juvenile jurisdiction.

“We will be speaking with the advocacy groups and the institutional players to make sure we understand their concerns and address their concerns,” said Richard M. Aborn, president of the Citizens Crime Commission.

Judge Lippman is also working with the New York Center for Juvenile Justice, run by a retired judge, Michael A. Corriero, an advocate for raising the age.

Every state maintains one court and correctional system for juveniles and another for adults. The juvenile system generally has more employees as well as programming that focuses on treatment and rehabilitation. Juvenile court records are sealed, making it easier for young people who do not commit crimes as adults to find jobs, apply for public housing and receive financial aid for college.

Thirty-seven states, the District of Columbia and the federal government have set the age of criminal responsibility at 18; 11 states have set the age at 17.

There were 45,873 youths ages 16 and 17 arrested last year in New York State, according to the New York State Division of Criminal Justice Services. The overwhelming majority of the arrests were for nonviolent crimes.

Opponents of changes in the system in other states have questioned the costs of transferring more people to juvenile courts at a time when states are facing deep budget deficits.

Many supporters have pointed to a 2005 decision by the Supreme Court, in Roper v. Simmons, which banned the death penalty for defendants who were younger than 18 when their crimes were committed. The court’s majority
based its decision on the “general differences” distinguishing people under 18 from adults: lack of maturity, greater susceptibility to peer pressure and undeveloped character.

Studies have also concluded that adolescents who are tried as adults are more likely to go on to commit other crimes.

John Feinblatt, the chief criminal justice adviser for Mayor Michael R. Bloomberg, offered tentative support for Mr. Lippman’s proposal.

“The practical considerations should not shut down the discussion,” Mr. Feinblatt said. “They should be part of the discussion.”