States Prosecute Fewer Teenagers in Adult Courts

A generation after record levels of youth crime spurred a nationwide movement to prosecute more teenagers as adults, a consensus is emerging that many young delinquents have been mishandled by the adult court system.

Last year, Connecticut stopped treating all 16-year-old defendants as adults, and next year will do the same for 17-year-olds. Illinois recently transferred certain low-level offenders younger than 18 into its juvenile system. And in January, lawmakers in Massachusetts introduced a bill to raise the age of adulthood in matters of crime, and their counterparts in Wisconsin and North Carolina intend to do the same.

By year’s end, New York might be the only state where adulthood, in criminal matters, begins on the 16th birthday.

The changes followed studies that concluded that older adolescents differed significantly from adults in their capacity to make sound decisions, and benefited more from systems focused on treatment rather than on incarceration.

A 2010 report by Wisconsin’s juvenile justice commission to the governor, James E. Doyle, and the Legislature found that “for many, if not most, youthful offenders, the juvenile justice system is better able to redirect their behavior,” in large part because of the greater availability of social services.

Most of the studies pointed to a 2005 decision by the United States Supreme Court in Roper v. Simmons that outlawed the death penalty for defendants who were younger than 18 when their crimes were committed, because of the “general differences” distinguishing them from adults — a lack of maturity, greater susceptibility to peer pressure and undeveloped character.

It is more expensive to prosecute a defendant in juvenile court, and opponents of the changes are questioning the costs at a time when states are facing deep budget deficits. In New Hampshire’s House of Representatives, members voted overwhelmingly in 2008 to raise the age at which defendants are considered adults, to 18 from 17, but the bill died in the finance committee because of the projected cost.

In North Carolina, where proposals have failed in the last two legislative sessions, the issue has also largely been about money. “It does not make sense to take a system that all the experts agree does not have the resources to care for the children, and then add two more age groups,” said Edmond W. Caldwell Jr., vice president and general...
counsel of the North Carolina Sheriffs’ Association, which opposed legislation to send 16- and 17-year-olds to the juvenile courts.

An analysis by the Vera Institute of Justice, a criminal justice research group that has advocated alternatives to prison, found that transferring about 31,000 16- and 17-year-olds to North Carolina’s juvenile system would cost approximately $71 million annually, but generate $123 million in benefits each year, assuming there were fewer arrests over the long term and fewer people in jails and prisons.

Every state maintains one court and correctional system for juveniles and another for adults. The juvenile system generally has a higher staff-to-offender ratio and 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 already set the age of adult criminal responsibility at 18. Eleven states have set the age at 17. New York and North Carolina are the only two states that set the age at 16.

In 2008, the year of the most recent national estimate from the Justice Department, law enforcement agencies made about 2.1 million arrests of teenagers younger than 18, and most of those cases involved 16- and 17-year-olds. The data also showed a drastic decrease in arrest levels since the mid-1990s: there were an estimated 2.9 million such arrests in 1996, when the population of those under 18 was smaller than it is today.

Despite a long history of liberal politics in New York’s justice system, many facets of the system remain from the days when crime sent people to the suburbs and beyond.

New York led the charge to crack down on juvenile crime after a 15-year-old named Willie Bosket shot and killed two people in the New York City subway in 1978. Mr. Bosket received a five-year sentence, the maximum for a juvenile, inciting outrage. Legislators quickly passed the Juvenile Offender Act, which lowered the age of adulthood to 13 in all murder cases, and 14 for other major felonies; the age was left at 16 for other crimes.

Over the next two decades, nearly every state and the District of Columbia passed laws that increased the number of young offenders who could be sent to adult criminal court, either by lowering the age of criminal responsibility or increasing the number of offenses for which juveniles could be prosecuted as adults, with most of the changes happening in the 1990s.

Even as that trend is being reversed, all states retain the ability to prosecute especially violent youths as adults, in some cases with no minimum age limit. But those cases make up a tiny portion of the total juvenile caseload.
nationwide. In 2007, there were fewer than 9,000 juvenile cases waived to adult court, out of nearly one million juvenile prosecutions, according to the most recent national estimate from the Justice Department.

In New York, where 45,873 youths ages 16 and 17 were arrested last year, proponents of raising the age of adult criminal responsibility have attempted to push the issue in the past two months. Aides to Gov. Andrew M. Cuomo did not immediately respond to questions about his position on the issue.

In January, an advisory board to the Governor’s Children’s Cabinet, a group of state officials with oversight over youth issues, released a report calling for a task force to examine raising the age.

Around that time, members of the New York State Bar Association children’s committee drafted legislation to establish such a task force, and they are looking for support from legislators and the governor’s office. Michael A. Corriero, a retired judge who presided over Manhattan’s special court for 13-, 14- and 15-year-old offenders who were tried as adults, testified at a City Council committee hearing in January that the current system was ineffective.

Any efforts to raise the age would contend with questions about whether the state’s juvenile justice system, already under strain, can handle an even bigger load. Four youth prisons were placed under federal oversight last year because of complaints of physical abuse of inmates and a lack of mental health counseling. Mayor Michael R. Bloomberg has proposed that the city be allowed to handle its own juvenile cases.

In interviews, New York City judges asserted that the juvenile court system as it was currently financed would be overwhelmed by adding 16- and 17-year-old offenders. “We would need a big infusion of funding and staff to make it happen with that age group,” said Fran Lubow, a judge in Queens Family Court. “I don’t see that happening in our current budget circumstances.”

Some judges said teenagers in adult court were well served with a host of special rehabilitation programs, and noted that young defendants in adult court automatically had their first misdemeanor conviction sealed, and that judges had the discretion to seal later convictions.

But others called on the state to get in step with the rest of the country. “People across the nation who have rethought this issue have come to the conclusion that it’s time for a change, and I think it’s time in New York for that same kind of assessment,” said Monica Drinane, the supervising Family Court judge in the Bronx. “The age of 16 is not a good cutoff for juveniles.”

One case last month in Manhattan’s adult criminal court, which involved a 17-year-old admitted shoplifter, illustrates the quandary and the costs involved. The judge offered the teenager a choice: a residential drug-treatment program or a one-to-three-year prison sentence. The judge had reviewed a social worker’s assessment of
the defendant that detailed a history of misdemeanor thefts, mental health hospitalizations, substance abuse and beatings by his mother's boyfriend, but no convictions involving violence.

The defendant, who was 16 when he stole clothing from a Filene's Basement store and cold medicine from Duane Reade, weighed his options. He knew that his mother's insurance would not cover the $600 monthly payments for the program. But if he were in juvenile court, a judge could have ordered him into a program, with taxpayers picking up the entire cost.

He chose prison. “Because I didn’t have Medicaid, the city wasn’t going to pay for the program,” said the teenager from a video-conferencing room at Rikers Island. He spoke on the condition of anonymity because the judge agreed to seal his conviction.

“This is a painful example of the problem with the current law, which literally puts handcuffs on 16- and 17-year-olds as well as the judges in criminal court,” said Steven Banks, chief lawyer at the Legal Aid Society, which represented the teenager.