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## **Some say 13-year-olds should remain in juvenile system**

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BARNSTABLE – For Mykel Mendes and Kevin Ribeiro, three months may mean the difference between four years behind bars and a life sentence.

The boys were 13 in December 2008 – three months shy of their 14th birthdays – when they were charged with killing 16-year-old Jordan Mendes, Mykel's half-brother.

They are thought to be the youngest murder defendants on the Cape in at least the past two decades, if not ever.

Even if they are convicted in Juvenile Court, they will be free men by age 18.

State law mandates that anyone 14 or older charged with first-degree murder be tried as an adult. But there is no provision that allows perpetrators under 14 to face any kind of adult punishment under any circumstances.

“They're all going to be charged as juveniles and they're all going to get a juvenile sentence,” Jane Tewksbury, commissioner of the state Department of Youth Services, said of defendants under 14.

In February, the state's highest court struck down a provision that allowed the Department of Youth Services to petition to keep an offender in jail until age 21 if he or she was determined to be a physical danger to the public. The court ruled that it violated the offenders' civil rights.

Earlier laws actually did allow for younger adolescents to face longer sentences, Cape & Islands District Attorney Michael O'Keefe said. But the current statute prohibits that option and O'Keefe is hoping to change that.

About a month after the Mendes murder, a bill that O'Keefe endorsed was filed on Beacon Hill. It would allow for a person convicted of murder in the first degree, committed before the age of 14, to receive a maximum 20-year sentence. Murder in the second degree for those under 14 would be punishable to up to 15 years.

“Younger and younger kids are committing more and more serious crime, and there has to be a mechanism to deal with that,” O'Keefe said in an interview last month.

It can sometimes take prosecutors a year or two to put together a case. Generally, that only leaves a few short years for sentences to be served before juveniles age out of the system.

“What do you think his cache on the street is going to be when he returns?” O’Keefe said of young, violent offenders. “That’s why it is an unhealthy system to have a kid like that beyond the reach of the adult system.

“And that doesn’t mean he would be sentenced as a 25-year-old who committed the offense. ... But a kid of those years, a judge would have a range of sentencing to deal with him. But I would suggest that it would be a little stronger than a couple years.”

The bill never made it to a vote this year and will be taken up again in the Legislature’s next session, he said.

But others believe that 13-year-olds should remain in the juvenile system.

Research has shown that children don’t think the same way as adults – they’re impulsive and they don’t fully understand the consequences of their actions, said Lael Chester, executive director of the Boston-based advocacy group Citizens for Juvenile Justice. Sentencing young offenders as adults could do more harm than good, she said.

“It sounds good, it might feel good at the time, especially if you’re involved in a case ... but in the end it’s not a smart way to respond,” Chester said. “Having kids processed in a separate system designed for them that’s developmentally appropriate, that holds them accountable in a way that’s effective, is much better protection for the public.”

Still, for Jordan Mendes’ mother, the idea that, if convicted, Mykel Mendes and Ribeiro would be out on the streets in only a few years, is frightening. “And then what’s gonna happen?” Paula Carberry said. “They may do this to someone else one day and be older and a little wiser.”

## **Juvenile Murder**

- Under state law, a juvenile who is found to have committed murder before the age of 14 can be held in the custody of the Department of Youth Services until his or her 18th birthday.

- A bill supported by Cape & Islands District Attorney Michael O’Keefe is seeking to amend that law and make first-degree murder by juveniles under 14 punishable by up to 20 years behind bars.

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