

Legislature should change law to treat 18-year-olds as juveniles



Northwestern District Attorney David Sullivan, seen here during June, is one of two district attorneys in Massachusetts who support the Senate reforms of the criminal justice system, including treating 18-year-olds

as juveniles.

GAZETTE FILE PHOTO

We applaud the Legislature for its work on overhauling the Massachusetts criminal justice system with goals of reducing recidivism, steering more drug offenders into treatment rather than jail, eliminating some mandatory-minimum sentences, and making it easier to expunge some offenses — particularly those committed by juveniles.

While we believe the Senate's bill approved in late October is more progressive than the legislation passed by the House last week, there are many reforms that deserve support in each version. A conference committee will work out the differences, and legislative leaders hope to have a compromise ready early next year to send to Gov. Charlie Baker.

One proposal in the Senate bill — but not the House version — that we urge legislators to include in the final measure would extend the state's juvenile justice system to include 18-year-olds. There are sound reasons for Massachusetts to become the first state in the nation to take that step.

It makes sense to treat all high school-age students — except those charged with the most serious crimes — in the juvenile court system, rather than assigning to adult courts those who turn 18 during their senior year. The Massachusetts Department of Youth Services is

regarded as one of the best in the country, and we believe that 18-year-olds are more likely to benefit from its treatment and rehabilitation programs rather than being sent to jails with adult prisoners.

Nine of the state's 11 district attorneys last month wrote a letter to state senators opposing many of the key reforms eventually approved by the Senate, including raising to 19 the age when offenders would automatically be tried as adults. The majority of district attorneys contend that 18-year-olds understand the difference between right and wrong and can act on that judgment. Northwestern District Attorney David Sullivan and Marian Ryan of Middlesex County, the president of the Massachusetts District Attorneys Association, are the two dissenters who support the Senate legislation. Sullivan has been a vocal proponent of treating 18-year-olds as juveniles. "I believe the age of majority for juveniles should include 18-year-olds," he said. "The vast majority of high school seniors are 18 and rehabilitative services for them are better accessed through the juvenile justice system."

Sullivan also pointed out that there was no adverse impact when the state in 2013 changed the age to include 17-year-olds in the juvenile court system. "When they raised it to 17, there were people who were saying that the sky is going to fall. I see raising it just one more year falls within that same level of success from when we raised it to 17."

State Senate President Stanley Rosenberg of Amherst also favors raising the age of juveniles through 18, citing scientific research showing that brains keep developing until people are in their 20s. "I don't believe this is 'liberal goo-goo'," he told the Boston Globe. "It's what scientists, brain scientists, and researchers tell us are the facts around the development of the human brain and how people's behavior can be affected by that."

Minors between the ages of 7 and 17 are now tried in juvenile courts that are closed to the public. They can be sent to DYS facilities through their 18th birthday, rather than being sentenced to county jails or state prisons. Raising the age would mean that 18-year-olds would be in DYS custody until they turn 19.

The change would still allow prosecutors to seek grand jury indictments of minors 14 or older who would be treated as youthful offenders eligible for adult sentences if they previously were in a DYS facility or committed a serious offense involving violence. And a state law requiring that anyone 14 or older charged with murder be tried as an adult also would not be affected.

We also support the Senate's proposal to raise the minimum age of criminal responsibility from 7 to 12, rather than the House version, which sets the age at 10.

Both the Senate and House bills would broaden the guidelines for expunging criminal records, particularly for offenses committed when someone was a juvenile or that are no longer a crime in the state. That is especially relevant now that recreational marijuana is legal in Massachusetts.

We hope the compromise legislation takes a humane approach toward juvenile offenders by adding 18-year-olds to their ranks and, after appropriate punishment and treatment, making it easier for them to have a second chance by wiping away their youthful offense.