

The Impact of “Raise the Age” on Misdemeanor Diversion Programs

What are Misdemeanor Diversion Programs?

North Carolina is the only state in the country that automatically sends all 16-17 year olds to the adult criminal system. Because of this, many communities developed Misdemeanor Diversion Programs (MDPs) aimed at keeping young people out of the adult system for first-time, low-level offenses. MDPs operate pre-arrest and impose an immediate and individualized consequence on the youth while preventing that youth from experiencing all the negative direct and collateral consequences of entering the adult criminal court system.

Are MDPs still needed if NC raises the age of juvenile court jurisdiction to 18?

The short answer is YES! This legislative session, a “Raise the Age” bill (HB 280) has been introduced that would increase the age of juvenile court jurisdiction to 18 and allow most 16-17 year olds to be sent to the more rehabilitative juvenile justice system. However, even if the bill passes, MDPs will continue to play an important role in helping young people because:

1. Raise the Age will not be effective immediately.

Because the juvenile justice system needs time to prepare for the influx of 16-17 year olds, the current Raise the Age bill is not effective until December 2019. Therefore, for at least the next two years, MDPs will play a critical role in keeping 16-17 year olds out of the adult system.

2. MDPs can serve all youth – not just 16- and 17- year olds.

The arguments that support MDPs for 16-17 year olds also apply to older youth (e.g. brains continue to develop until age 25, life-long harm of a criminal record, ineffectiveness of adult system for youthful offenders, etc.). Recognizing this, some MDPs have expanded eligibility to include older youth. For example, in Durham, the “Adult MDP” has kept dozens of 18-21 year olds from suffering the lasting harm of an adult criminal record.

3. Diverting youth from court is good for young people and the public.

Once Raise the Age passes, MDPs can still play an important role in diverting youth from the court system. Even one interaction with the juvenile or adult system can increase a child’s chances of reoffending. Since MDPs operate pre-arrest, they prevent youth from having any official interaction with the courts. Further, MDPs impose an immediate and individualized consequence. For most youth, this is more effective at preventing recidivism than the drawn-out processes of the courts.

Finally, by diverting youth for minor offenses, MDPs ease an already overburdened juvenile and adult court system and allow prosecutors and law enforcement to focus on more serious crimes.

4. Raise the Age isn’t a sure thing (unfortunately).

While everyone is optimistic that Raise the Age will pass this legislative session, similar bills have failed before. There is a chance that Raise the Age won’t pass and 16-17-year olds will continue to be treated as adults, making MDPs more important than ever.

Similarly, even if Raise the Age becomes law, the version that ultimately passes may exclude low-level felonies, meaning that 16-17 year olds could still be sent to the adult system for less serious, first-time offenses. An MDP could have broader eligibility that includes low-level, non-violent felonies to save those youth from the adult system.