

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

What are Misdemeanor Diversion Programs?

For over 100 years, North Carolina law has required that all 16- and 17- year olds be sent to the adult criminal system for all crimes instead of the more rehabilitative juvenile justice 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.

North Carolina “Raises the Age”

The NC General Assembly included provisions in this year’s budget that raise the age of juvenile court jurisdiction to age 18 for most criminal offenses. These changes take effect in December 2019 and allow children under the age of 18 charged with a misdemeanor or Class H-I felony to be sent to the juvenile justice system instead of the adult criminal system. For Class A-G felonies, 16-17 year olds would still be sent to adult court.

Since NC has “raised the age” to 18, are MDPs still needed?

The short answer is YES! Even with the change in law, 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- and 17- year olds, the new law will not go into effect until December 2019. Therefore, for at least the next two years, MDPs will play a critical role in keeping 16- and 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- and 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 the new law goes into effect, MDPs can still play an important role in diverting youth from the court system. **First**, 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. **Second**, 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, even the more rehabilitative juvenile court. **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. The new law encourages partnerships like MDPs that keep youth out of court.

The new “Raise the Age” provisions include a section on “school-justice partnerships” aimed at reducing school-based court referrals. MDPs are an excellent example of these partnerships and have been successful at lowering the number of in-school arrests and court referrals.