

John Caher:

For decades, New York State has remained behind the rest of the nation by continuing to prosecute 16 and 17-year-olds as adults. That is about to change.

As of October 1, 2018 New York State will no longer automatically treat 16-year-olds as adults. One year later, on October 1, 2019, 17-year-olds would generally be removed from the adult criminal court.

The impact on the courts is dramatic, with cases that would have been adjudicated in criminal court moving to family court. Since the day the Raise the Age legislation was enacted on April 10, 2017, the Unified Court System has been preparing for this change. Two judges most actively involved in the preparation are the Honorable Edwina Mendelson, Deputy Chief Administrative Judge for Justice Initiatives, and the Honorable Michael Coccoma, Deputy Chief Administrative Judge for the Courts outside of New York City.

Welcome to Amici, news and insight from the New York Judiciary and the Unified Court System. I'm John Caher. Today, Judges Coccoma and Mendelson have graciously agreed to come on the program to explain what the Raise the Age law is, how it will work, and what the court system has been doing to prepare.

Judge Mendelson, the court system has advocated Raise the Age for a great many years and both our current Chief Judge, Janet DiFiore, and her predecessor, Jonathan Lippman, pushed very hard for reform. Why? Why is this important? What are the benefits to this?

Judge Mendelson:

The Raise the Age legislation represents a truly historic moment for New York State. Until recently, New York and North Carolina were the only two states in the country to automatically treat all 16 and 17-year-olds as adults in the criminal justice system.

The New York State Judiciary is committed to ensuring that older adolescents now receive a court process that provides opportunities for rehabilitation, both to protect communities and redirect young lives.

Adolescents aren't adults. They're children transitioning to adulthood. Science, our experiences, and common sense tell us that older adolescents are still immature and highly influenced by their peers. They often lack sound judgment and may engage in risky behavior without consideration of consequences, as their brain development is not yet complete. The good news is that young people are uniquely ripe for intervention and rehabilitation, options that are available to them in the

family court system. Appropriate and timely interventions can meet the underlying needs of young people and ensure that they are able to live lives free from further acts of criminality. That's an outcome everyone desires.

John Caher: Since the Office for Justice Initiatives has the responsibility of overseeing the implementation, why don't you just give us a bird's eye view of what this law does from that standpoint, from a managerial standpoint.

Judge Mendelson: This new law significantly challenges and changes how our justice system handles cases involving older adolescents. When the law is fully implemented 16 and 17-year-olds who are charged with misdemeanors will have their cases handled in the family courts as juvenile delinquency cases with the same laws, rules and practices that we now apply to those 18 and under.

The requirement that we notify parents of their child's arrest, and the location of the facility where the child is being detained, will now also apply to 16 and 17-year-olds. For 16 and 17-year-olds charged with a felony, their cases will begin in newly created Youth Parts of the adult criminal superior courts, with the expectation that unless there is something extraordinary about the case or circumstances, non-violent felony cases for those 16 and 17 year-olds will be transferred to the family courts.

In cases that begin in the family court system, and for many of those transferred to the family court, or the Youth Part, probation departments throughout the state will be available to divert appropriate cases without having a petition ever filed in family court. That diversion process is called adjustment. Also, local criminal courts throughout the state will now handle first appearances for young people who are arrested after business hours when family courts are closed. There are other provisions of this new law, which expert rehabilitative and supportive resources to older children and their families, set new standards for identification procedures, and the questioning of young people by law enforcement, and offer the opportunity for sealing certain convictions after 10 years. Vehicle and traffic law misdemeanors, violations and infractions do remain in the adult system under the new law.

John Caher: Jude Coccoma, we have a lot of words to describe young people who commit offenses. We've got juvenile delinquents and juvenile offenders and youthful offenders. Now we have another category, adolescent offender. What does that mean?

Judge Coccoma: An adolescent offender, or AO as we refer to the person, is a 16-year-old charged with committing a felony on or after October 1, 2018, which is the effective date of the statute, or a 17-year-old charged with committing a felony on or after October 1, 2019, which is the effective date for 17-year-olds. A juvenile offender, or JO, is a 14 or 15-year-old charged with certain enumerated violent felony crimes, or maybe a 13-year-old charged with a crime of murder.

Under the new law, the definition of juvenile delinquent, or JD, has been expanded to include 16 and 17-year-old children. By statute, a juvenile delinquent is a person who, having committed an act that would constitute a crime if committed by an adult, A) is not criminally responsible for such conduct by reason of infancy, or B) is the defendant in an action ordered removed from a criminal court to the family court. Family court has exclusive and original jurisdiction over juvenile delinquency cases. Eligible and suitable JD's may receive adjustment services from the Department of Probation.

A youthful offender is an eligible youth, 18 years of age or younger, who has not had a prior adult felony conviction, or a prior designated felony adjudication in family court.

John Caher: Now the law creates a new Youth Part. What is that?

Judge Coccoma: Yes, the new Youth Part under the Raise the Age legislation is unlike any that has previously existed. It is a superior court of the state of New York. All felony matters of 16-year-olds will start in the statutorily created Youth Part. Under Raise the Age, a Youth Part will be established in a superior court in each county of the state. Judges presiding over Youth Parts must be actual or designated family court judges, and must receive specialized training in juvenile justice, adolescent development, custody and care of youth, and effective treatment methods for reducing unlawful conduct by youth.

The statute required the creation of the Youth Part, which prior to enactment of the statute, did not exist. So, we did not only create the statute from an operational standpoint, we had to train the judges who will be presiding in these courts, and set up a procedure for the case to be referred to the Youth Part. But every day we've worked on this, ever since the statutes gone into effect.

John Caher: I'm sure. Judge Mendelson, the law also requires that local probation departments develop "available and appropriate services" for juvenile and adolescent offenders. What are "available and appropriate" services?

Judge Mendelson: So, similar to what exists in the family court system, local probation departments will now provide voluntary risk assessment and case referrals to treatment programs, and other services for young people appearing in the Youth Part. These services will be available in the very early stages of the court process. The goal is to increase successful diversion of cases and ultimately reduce recidivism with this population of young people.

John Caher: Judge Coccoma, we spoke a moment ago about the Youth Part and how that creates an additional challenge for the court system. How will this affect the criminal courts and the family courts? If I recall correctly, family court judges are going to preside over matters involving older teenagers that what they've dealt with in the past, and the criminal court judges are going to have to adjust to adolescent offenders. That sounds somewhat straight forward, I know it's a big lift. Can you describe briefly what the challenge is to making that happen by October 1st?

Judge Coccoma: Raise the Age legislation is a huge undertaking, that may potentially impact the operation of many courts throughout the state, particularly in superior, family and local criminal courts. Raise the Age affects judicial assignments, judicial training, operations, staffing and, in major ways, our technology.

For instance, family courts will continue to do the same work that they've been doing, but with a tremendous increase in volume. The larger counties will have greatly increased caseloads, and many will require additional courtrooms and judges to meet those demands. That translates into additional clerks, additional court officers and other support staff.

Family courts will also now address cases involving 16 and eventually 17-year-olds, who often have distinct needs that differ from those of younger children. Given the increased caseloads and the mandate to offer services, resource coordinators are being hired in the highest volume courts. Many accessible magistrates are town, village and part-time judges. In New York City, all criminal court and acting supreme court judges will serve as accessible magistrates. Like Youth Part judges, they will also have specialized training to prepare them for their new roles. After regular business hours, they will provide all the arraignments for adolescents and juvenile offenders and will be available for juvenile delinquency pre-petition hearings, a function that has almost exclusively been performed by the family court judges.

John Caher: Two follow-ups, if I could. What is an accessible magistrate and how have we gone about the process of training them and other judges?

Judge Coccoma: Accessible magistrates are designated judges approved by the Appellate Divisions of each of the four judicial departments. They are judges who are authorized to preside over initial proceedings, generally arraignments, bail hearings and family court pre-petition JD proceedings, when the Youth Part is not in session. So, these are the judges who will hear matters after hours, during the week and on weekends, when the Youth Part is generally not in session.

Depending upon which county, it could be an accessible magistrate approved by the Appellate Division, a town or a village judge, it could be a city court judge, or in some instances, it could be a county court judge. All approved accessible magistrates have received specialized training this past summer to allow them to be certified to serve as an accessible magistrate.

John Caher: What do you anticipate come October 1, and the days that follow it? It sounds like we're as ready as we can possibly be, but there may also be some things we wouldn't know about until it happens.

Judge Coccoma: We've been planning for this ever since Judge Mendelson and I have been designated by Judge DiFiore and Judge Marks with the responsibility of being ready for the implementation of the statute. That has included the formation of a Raise the Age committee to formulate a statewide plan for implementation.

That committee was divided into four working subcommittees to identify the issues and provide recommendations in the following areas: outreach with partner agencies and stakeholders throughout the state, and as part of that outreach we've had ongoing meetings with New York State Department of Corrections, the Division of Criminal Justice Services, Division of Budget, the Office of Children and Family Services, the Office for the Administration for Children's Services inside New York City and the Mayor's office of criminal justice inside New York City.

Our task force also had a working subcommittee for judicial assignments, operation and staffing, in which we develop working implementation models, or templates, for Youth Parts and family courts in New York City, urban, suburban and rural areas of the state.

Courtrooms have been relocated, and judicial and non-judicial assignments have been modified to insure adequate Raise the Age-

related staffing. Another area that our taskforce worked on was that of law education and training of both judicial and non-judicial personnel. The Judicial Institute in consultation with the Office for Justice Initiative and our Raise the Age committee organized the statutorily required specialized training for Youth Part judges, and accessible magistrates, which included an extra all-day training for Youth Part judges over the summer.

In addition, our court attorneys received regional training in Syracuse, Albany and New York City, and our non-judicial court clerks have received regional and local trainings over the summer and continue to do so. And finally, our taskforce identified technology statistics and record keeping as an area that needed to be addressed for implementing this statute.

The Office of Court Administration's Division of Technology has adapted the Unified Court System's universal case management systems, Supreme and County Court caseload management systems, for use in all New York State Youth Parts. This system will allow us to have a single database containing all Raise the Age data, and the ability to electronically track cases removed from superior court to Family Court into probation. Having this UCMS system available will improve dispositions, reporting to DCJS and probation, and is ideal for ongoing data analysis.

I'm happy to tell you that we've developed a statewide implementation plan which ensures a juvenile justice system that will provide fair and just outcomes for children without compromising public safety. We will be ready and we will adjust to necessary changes that need to be made to these plans in the months ahead.

John Caher: Judge Mendelson, other than the obvious difference in volume, because you'll get the 17-year-olds a year later, will the dynamics change much, will the trainings change much, next year as you prepare for the second phase?

Judge Mendelson: Well, let's be clear. We are creating an entirely new adolescent justice system. The new law directly impacts three different courts: our local criminal courts, our Family Courts, our Youth Parts, which are in the superior criminal courts, and in all 62 counties of our state. There are many more arrests involving 17-year-olds than there are for 16-year-olds, so having that first year to adjust to our new system is welcome. When it is time to address 17-year-olds, we will likely need additional courtrooms, staff and other resources, and the initial implementation year gives us time to prepare for our expanding needs.

John Caher: It sounds like the training this year would have been a little difficult, because nobody has any experience to offer anyone else. Next year you'll at least have people with a year experience under their belt.

Judge Coccoma: Well that's true, but in part of our RTA planning we've reached out to the state of Connecticut that has a similar statute, which has been in effect for some time, to gain knowledge as to their experience in dealing with their Raise the Age.

John Caher: I see, I see. Judges, thank you so much for your time. Is there anything you'd like to add?

Judge Mendelson: There is one more thing: Where do people, judges, court staff go if they need some help?

John Caher: And what's the answer to that question?

Judge Mendelson: Our local administrative and supervising judges as well as our clerical leaders are available to assist those in need of help. We have a helpful Raise the Age SharePoint website available for those who are working in the Unified Court System. The site is featured on the front page of Inside UCS, which is the court's intranet website. You have to sign on one time with your court system password, and after that it will be automatically available to you. This helpful site has the Raise the Age law itself, training videos, answers to a list of frequently asked questions, and other helpful materials. Court personnel who have questions may also submit them to us at an email address we've created, rtaquestions@nycourts.gov, and we will be sure to respond promptly.

John Caher: Excellent, thank you so much, judges, for your time. I appreciate it.

Thanks for listening to Amici. You'll find all of our recent podcasts on the court system's website, at www.nycourts.gov. Most are also in the iTunes podcast library. If you have a suggestion for an Amici podcast, please let me know. I'm John Caher, and I can be reached at 518-453-8669 or jcaher@nycourts.gov. In the meantime, stay tuned.