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## A dose of commonsense in criminal justice

By **Marc Levin and Charlie Arlinghaus**

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The Legislature is considering whether 17-year-olds should always be tried as adult or whether the system should have some discretion. It is reasonable and common-sense reform to adopt a system, like 40 other states, that allows 17-year-olds to be tried as adults if warranted but does not require it. The proposal, House Bill 1624, is a policy that makes good sense but is also of huge financial benefit.

Current state law puts all 17-year-olds in the adult prison system regardless of maturity or severity of crime. Whether that's a good idea or not, it will soon become very expensive. The federal Prison Rape Elimination Act will require incarcerated 17-year-olds be kept separate from adults and to undergo different rehabilitation programs. Apparently, experience has taught us that 17-year-olds jailed with adults are at significantly greater risk of prison rape and other forms of abuse.

County jails and state prisons will have to be reconstructed. The counties have estimated their cost at \$3 million to \$10 million. The state isn't sure how much it will cost, but let's just say it will be a lot. Those costs will be avoided if we merely manage 17-year-old offenders the way 40 other states do.

Regardless of the cost, this is a sensible idea based on our experience and the experience of other states. We all probably agree that some 17-year-olds, particularly in the high-profile crimes that make the front page of the paper, should be treated in the adult system and charged as an adult. That can and will still happen. The proposed change allows the flexibility to treat those offenders in adult courts. Although the court decides in individual cases, there is a presumption in favor of trying as an adult in the most serious cases like murder, kidnapping and aggravated felonious sexual assault. However, the changes will not require every 17-year-old, regardless of the severity of their crime or their immaturity, to be treated as if they were a 35-year-old career felon.

Most of us would agree that in most cases, and for most crimes, a 17-year-old is more likely to be effectively punished and rehabilitated in a juvenile system with different probation rules and confinement options. For 17-year-olds, the juvenile system is much more effective in one of the ultimate goals of the correction system: recidivism.

One of the goals of any system of corrections is to ultimately make society safer not just through punishment but through rehabilitation. We know youth treated through the adult prison system are actually 34 percent more likely to commit another crime (recidivism) than those treated in the juvenile justice system.

The reasons should be obvious: The juvenile justice system is designed specifically to deal with adolescents, their education and their rehabilitation. The adult system is less specialized, more focused on punishment. In adult prisons, one of the greatest concerns is the health care of aging, long-term prisoners. In juvenile justice, one of the greatest concerns is education and high school diplomas.

None of this is an argument for turning a blind eye or reducing punishments. We have — quite literally — a captive audience at an early age. It only makes sense to take advantage of circumstances and do what we know works to achieve better outcomes not just for the individual but for the rest of society that we don't want affected by future action.

The proposed age change would let any 17-year-old currently tried as adult to still be tried as an adult where it makes sense. But it would also allow an option only when appropriate for less serious offenders to be treated and punished in a more effective way. Currently, that common-sense option that 40 states have does not exist here.

Raising the mandatory age to be tried as an adult to 18 saves the state and counties \$10 million or more in a financially burdened system. It allows those charged with making society safer a common-sense approach to treating at least some 17-year-olds more effectively. Policymakers should act on this opportunity.

Marc Levin, Esq., is director of the Center for Effective Justice at the Texas Public Policy Foundation and policy director of its Right on Crime initiative. He can be reached at [mlevin@texaspolicy.com](mailto:mlevin@texaspolicy.com). Charles Arlinghaus is president of the Josiah Bartlett Center, a free-market think tank based in Concord. He can be contacted at [Arlinghaus@jbartlett.org](mailto:Arlinghaus@jbartlett.org).



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