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## **Before the Louisiana Judiciary B Committee**

### **SB 324 "Raise the Age"**

**April 11, 2016**

#### **Introduction**

Thank you Chairman Gary Smith, Vice Chairman Ronnie Johns and the rest of the committee for allowing me to submit the following testimony in support of S.B. 324, the Raise the Age Louisiana Act of 2016. My name is Nathan Leamer and I am a policy analyst with the D.C.-based think tank the R Street Institute. We work alongside federal and state legislators to develop conservative, free-market solutions to a wide array of issues in a number of different policies areas, including the juvenile-justice system.

Before my work in the policy, I earned a secondary education degree and taught high school history in Michigan. My experience with teenagers has informed my understanding of the obstacles they face, as well as the challenges faced by communities in guiding them to fulfill their potential. In or out of the classroom, I never treated 17-year-olds differently from fellow students who happened to be 16 or 15. I didn't give them more or less classwork, grade on a curve or approach classroom behavior standards differently because of my students' age. Instead, I collaborated as best I could with each student, their parents, other educators, coaches and/or community mentors to help each kid achieve their full potential. I feel the state justice system could benefit from this approach employed by educators.

Instead of subjecting 17-year-olds to the one-size-fits-all approach of the adult penal system, "raising the age" would end the arbitrary practice of treating of 17-year-olds in a class all themselves, in which they are adults only in the eyes of the court but in no other aspect of their lives. It would give all of Louisiana's minors access to the holistic rehabilitative services of the juvenile-justice system. Passing S.B. 324 is an opportunity to make legislative reforms with long-lasting financial benefits to taxpayers, while also improving public safety.

Before I continue, I should note that there is a danger to going too far in the other direction. In a limited number of cases, teenagers really do commit adult crimes. Those individuals

should serve adult time. However, the *default* approach should not be to ship all teens to the adult court but to utilize the multiple tools available through the juvenile system.

### **Raising the Age Will Reduce Recidivism and Improve Public Safety**

Automatically prosecuting youths charged with criminal offenses as adults originally was thought to improve public safety. But an overwhelming body of research shows the emphasis on harsh measures as a form of deterrence has not accomplished its intended purpose. Across the nation, a steady stream of research unequivocally demonstrates that trying and sentencing children in adult court does not reduce crime. In fact, it does just the opposite.

Juveniles prosecuted in adult court are more likely to recidivate than their counterparts in the juvenile-justice system. Over the long term, this leads to more victims of crime, not fewer. Children under the age of 18 who are in the adult system are, on average, 34 percent more likely to be rearrested for a felony than youths who stay in the juvenile system. The adult system does not provide the age-appropriate programming and interventions critical for youth rehabilitation. Trying youths as adults has both a detrimental impact on children and harms public safety.<sup>1</sup>

### **Raising the Age Is Fiscally Sound Policy**

While the annual per-detainee cost of juvenile facilities is generally higher than comparable facilities for adults, other associated costs tend to more than cancel out the differences. In one of the more comprehensive studies of the topic, a 2012 University of Texas analysis found that Texas would save about \$90 million a year by ending the automatic sentencing of offenders under age 18 as adults.<sup>2</sup> Louisiana is much smaller, but plausibly can expect savings in the tens of millions of dollars.

The Prison Rape Elimination Act of 2003 established federal mandates to ensure the safety of all inmates. This law makes it more costly to house children in state prisons and parish jails.<sup>3</sup> Compounding the cost is concern over the long-term effects of solitary confinement<sup>4</sup> that makes housing juveniles in adult facilities an expensive tightrope to walk. States like Rhode Island, which attempted to lower the age of adult jurisdiction from 18 to 17 in hopes of saving money, have found the change had the opposite effect, forcing the state to spend more on 17-year-old offenders than it was previously.<sup>5</sup>

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<sup>1</sup> Centers for Disease Control and Prevention. (2007) Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Prevention Services. Richard E. Redding, *Juvenile transfer laws: An effective deterrent to delinquency?* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (June 2010).

<sup>2</sup> <http://ajclonline.org/wp-content/uploads/2013/03/40-1-Deitch.pdf>

<sup>3</sup> <http://www.maciverinstitute.com/2013/10/mandatory-sentencing-17-year-olds-in-adult-court/>

<sup>4</sup> [https://www.aacap.org/aacap/policy\\_statements/2012/solitary\\_confinement\\_of\\_juvenile\\_offenders.aspx](https://www.aacap.org/aacap/policy_statements/2012/solitary_confinement_of_juvenile_offenders.aspx)

<sup>5</sup> [http://www.nytimes.com/2007/10/30/us/30juvenile.html?\\_r=0](http://www.nytimes.com/2007/10/30/us/30juvenile.html?_r=0)

## Collateral Consequences of a Criminal Record

As participants in the adult system, 17 year-olds lose confidentiality in court proceedings and typically cannot generally have their court records sealed or their offenses expunged. Information about their offenses is also, in practice, often searchable on the public Internet. The Vera Institute of Justice estimates that youths with adult criminal records could lose more than \$61,000 in lifetime earnings. They may face denial of jobs, vocational licenses, educational loans and access to public housing as a result of a criminal court conviction. Some collateral consequences like these are appropriate for some adult offenders but they are deeply unfair for people who can't buy tobacco, much less alcohol; cannot exercise their Second Amendment rights; cannot sign most contracts; and cannot serve in the military or vote.

## Raising the Age Is Supported By Research on Adolescent Development

A significant body of scientific research supports the idea that we should establish a developmentally appropriate and informed juvenile-justice system. Over the past decade, research on adolescent brain development has shown the teen years to be marked by distinct characteristics that differentiate them from childhood and adulthood, including cognitive and behavioral traits such as poor self-control, sensitivity to peer influence and a tendency to be especially responsive to immediate rewards, while failing to take into account long-term consequences.<sup>6</sup>

The combination of these traits can lead adolescents to engage in high-risk behavior, with little consideration of the long-term consequences of their actions. Studies have also demonstrated that during emotionally charged situations with limited time to react, adolescents are most prone to poor decision-making. Typically, this behavior peaks during the late teenage years and dramatically reduces by the time a young person is age 21, with rates of offenses dropping continually through age 25.<sup>7</sup> So-called "desistence" studies support these data, pointing to a natural "aging out" of criminal behavior by the mid-to-late twenties.<sup>8</sup>

In short, 17-year-olds are not the same as adults, in terms of their culpability. They are much more likely, if treated properly, to "age out" of criminal behavior and become productive, successful adult citizens. Research on adolescents that identifies environmental factors likely to enhance their healthy development suggest that youth who are connected to a positive, authoritative adult; who have access to healthy and positive peer groups; and who have access to activities that promote critical thinking and autonomy are more likely

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<sup>6</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J Bonnie, Robert L Johnson, Betty M. Chemers and Julie A Schuck, Eds. Committee on Law & Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press, p89.

<sup>7</sup> Ibid. page 92.

<sup>8</sup> Mulvey, E.P., Steinberg, L., Piquero, A.R., Besana, M., Fagan, J., Schubert, C.A., and Cauffman, E. 2010. Longitudinal offending trajectories among serious adolescent offenders. *Development & Psychopathology* 22:453–475.

to come through adolescence successfully.<sup>9</sup> The design of the juvenile-justice system, while not perfect, better supports these environmental factors than the adult criminal-justice system.

## CONCLUSION

Louisiana's 17-year-olds face a deeply unfair situation under current law. They have none of the rights typically accorded to adult citizens, but are treated as adults when they commit crimes. Policymakers should change this status immediately. Increasing the age for trying individuals in an adult court is an evidence-based approach that holds the promise of changing the behavior of juvenile offenders who would otherwise be lost in the adult system. "Raising the age" is a win-win approach, saving taxpayers money and increasing public safety.

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<sup>9</sup> Steinberg, L, Chung, HL, and Little, M (2004) "Reentry of young offenders from the justice system: A Developmental Perspective." *Youth Violence and Juvenile Justice*, 2 (1), 21-38.