

Part 4:

Causes

Laws and the Legal System

Sub-cause 1.3: Recent legal reforms have made it more challenging to arrest or prosecute offenders.

The theory of deterrence predicts that would-be offenders respond to benefits and costs.

If the cost of crime outweighs the benefits, crime would be discouraged.

Research shows that the severity *and* certainty of punishment do affect crime rates.



Sub-cause 1.3: Recent legal reforms have made it more challenging to arrest and prosecute offenders.

- Law enforcement tools were heavily restricted after recent reforms.
- Bail, Parole, Raise the Age, and Discovery.
- They are less likely to punish or incapacitate a person charged with committing a crime.
- The perceived risk is lower



THE PURPOSE OF THIS ASSESSMENT IS **NOT** TO
PRODUCE ANY JUDGMENT OR RECOMMENDATION ON
THE MERITS AND OPERATIONS OF THESE REFORMS.

ANY CHANGE REQUIRES A **CAREFUL ANALYSIS** OF OTHER
FACTORS BEYOND DETERRENCE.

Sub-cause 1.3.1: Parole reform restricts incarceration for some violations, establishes new procedural rules, and shortens parole times

- It barred imprisonment for some violations, such as missing a curfew.
- For other violations, it only allowed incarceration after the third infringement.
- For absconding (intentionally avoiding supervision), the number of days of imprisonment was lowered.
- Also, according to law enforcement officials, paroles are not violated even for committing crimes while under supervision.
- It barred automatic incarceration, recognized the right to two hearings before violation, and the right to counsel at every stage of this process.
- Lastly, most parolees can reduce their number of days on parole by thirty days for every thirty straight days without violations. This disposition would allow shortening parole time by half.

Sub-cause 1.3.2: Bail reform has restricted the use of this mechanism

- Established to: limit the usage of bail, encourage less restrictive means to ensure court appearance, and prevent low-income defendants from being imprisoned for purely financial reasons.
- 2019 Reform: Judges could not set bail for a comprehensive list of non-violent crimes and misdemeanors, such as burglary and several drug offenses; where bail could be set, judges had to consider a defendant's ability to pay, and the law encouraged using the least restrictive means to ensure the return to court.
- 2020: Allowed judges to set bail for several other crimes and consider a defendant's criminal history for setting bail under certain conditions.
- 2022: 1) it expanded the list of crimes for which bail can be set, 2) created strict rules for those accused of repeated offenses, 3) gave judges more discretion in setting bail, 4) included new considerations in this decision, such as the harm the defendant has caused or his history of gun possession.

Sub-cause

1.3.3: Discovery reform has increased compliance costs for the DA's Office and the risk of case dismissals

- The discovery law regulates how prosecutors share evidence with the defense.
- Under a 2019 reform, prosecutors were given a tight time frame (20 to 35 days) to review, redact, and provide 21 kinds of probatory material to the defense.
- For example, statements made by defendants or witnesses, designations for which witnesses would be called at trial, copies of search warrants, lists of publications and proficiency tests taken by experts for the past ten years, and all electronically created or stored information related to the case.
- Failure to comply with these requirements and deadlines could result in the case's dismissal.
- The state changed this law again in 2022: it kept this requirement and its deadlines but clarified expectations for prosecutors and gave judges more discretion to dismiss a case for lack of compliance.

Sub-cause 1.3.4:
The Raise the Age reforms elevated the age of criminal responsibility from 16 to 18, prioritizing rehabilitation and appropriate processes for these minors.

- Felony cases against 16- and 17-years-olds should start in the Youth Part of the Criminal Court, where they are processed under specially-designed laws.
- Misdemeanors are processed by family courts, which cannot impose criminal liability and provide opportunities for adjustment.
- Non-violent felonies are transferred to family courts unless the prosecutor files a motion alleging extraordinary circumstances.
- Youth charged with violent felonies can be transferred to Family Court if the charges do not include the accused displaying a deadly weapon during the crime, causing significant physical injury, or engaging in unlawful sexual conduct.
- Youth aged 16 and 17 can no longer be held in adult jails or prisons.

RAISE THE AGE FLOW CHART

Non-criminal Violations



Local Court

¹Family Court Judge presiding

Misdemeanors



Family Court

Case automatically goes to Family Court if DA does not file motion to try to retain the case in Criminal Court within 30 days.

Non-violent Felonies

Starts in Youth Part (Criminal Court)¹



Case is presumptively removed to Family Court unless the DA files a motion in 30 days to prevent removal and shows extraordinary circumstances that warrant the case remaining in the criminal Youth Part.

Violent Felonies

Starts in Youth Part (Criminal Court)¹

Evaluated as part of a three-part test. If offense involves any one of the following, the case will remain in youth court:

- (1) Significant Physical Injury
- (2) Display of a Weapon
- (3) Sex Offenses

Passes **Fails**

Youth Part
(Criminal Court)

No Extraordinary Circumstances Extraordinary Circumstances

VTL criminal offenses go to Youth Part and cannot be removed to Family Court