

Raising the Age of Criminal Responsibility



New York State Association
of Counties

February 2015

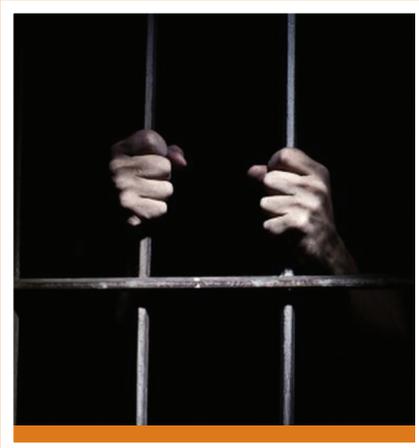


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OVERVIEW

In his 2015-16 Executive State Budget proposal, Governor Andrew M. Cuomo wants to phase out the practice of treating 16 and 17 year olds as adults in the criminal justice system. New York is one of only two states that still treat 16 and 17 year olds as adults. This Governor's budget would prohibit confinement of any minor convicted of a non violent crime in an adult jail or prison.

COUNTY ROLE AND PRIORITIES

Because counties play many roles in the criminal justice and social service systems, these changes will have a direct impact on county costs and services, and therefore must address the concerns raised by the county officials who work with this population on a daily basis.

Counties support the philosophy and intent of raising the age of criminal responsibility as long as there is a full commitment on the part of the state to create and fund an expanded juvenile justice system that will rehabilitate these teenagers. That system is not currently in place.

County leaders recommend that state leaders:

- pledge to fully cover all new costs associated with changing the age of criminal responsibility to avoid the imposition of a new unfunded mandate on counties,
- establish a 100 percent State-funded escrow account from which counties can draw funds to implement this new public policy to ensure no new costs are placed on county property taxpayers, and
- provide for flexibility in recognition of the differences between small and large counties and rural versus urban areas, such that, a staggered roll-out may be appropriate in some counties depending on local conditions and service capacity.

Age Changes and Phase-in Periods

The budget proposed raising the age of juvenile jurisdiction from age 16 to age 17 on January 1, 2017; and to age 18 on January 1, 2018, as well as raising the lower age of juvenile jurisdiction from seven to 12 years of age for all offenses except homicide. The proposal expands Family Court jurisdiction to include 16 and 17 year-olds charged with nonviolent felonies, misdemeanors, or harassment or disorderly conduct violations. Beginning on December 1, 2015, newly sentenced 16 and 17 year olds who would have gone to prison would be directed to Office of Children and Family Services (OCFS) facilities.

Court Modifications

The proposal creates "Youth Parts" within a superior court to process juvenile offender cases and allow the Youth Part to hear cases removed to family court under the provisions of the Family

Court Act. Crimes committed by individuals 16 and 17 years of age will originate in the Youth Part for the following offenses: all violent felony offenses, class A crimes, homicide offenses, sexually motivated felonies, crimes of terrorism, felony vehicular assaults, aggravated criminal contempt, and conspiracy to commit any of these offenses or tampering with a witness related to any of these offenses. In addition, the proposal would ensure juvenile offender cases are removed to family court and 16 and 17 year olds' cases to the Youth Part for the current juvenile crime of second degree robbery and for any violent felony offense that is not a juvenile offender crime for youth 15 and under.

Detention, Placement and Arrest Procedural Changes

This legislation prohibits detention and placement for youth who are low risk if they are adjudicated for first or second time misdemeanors that do not involve harm to another person. This legislation also prohibits detention for youth who have a technical violation of probation and do not impose an imminent risk to public safety. The current juvenile practice of parental notification of arrest would be expanded to 16 and 17 year olds. Probation would be required to divert misdemeanor cases where the offender scored as low-risk on a risk assessment.

Impact on Probation Departments

This proposal requires probation departments to establish family engagement specialists to facilitate adjustments of cases. Probation is also to leverage a continuum of evidence-based diversion services for impacted youth. The proposal also allows for additional time for probation adjustment in order to access necessary services to create the capacity for probation to obtain an order of protection while adjusting a case.

Persons In Need of Supervision

Under the current law Persons in Need of Supervisions (PINS) can be held in non-secure detention centers if the court feels it is in the best interest of the youth and the public. Under this proposal, effective January 1, 2018, the use of detention facilities in PINS proceedings will be prohibited, amending section 720 of the Family Court Act to prevent the detention of a child. The foster care placement of PINS will only be authorized for sexually explicit youth whom may be in needs of specialized services. PINS, as well as young children are no longer subject to authority as juvenile delinquents, through the establishment of Family Support Centers.

Family Support Centers (FSC) are established under the Article 6 of the Social Service Law. FSC will provide services either directly or through referral with partner agencies, including crisis intervention, assessment and screenings, mental and behavioral health services, case management and respite services.

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Juvenile Offenders and Youthful Offenders

This proposal requires using an established sentencing for both Juvenile Offenders and Youthful Offender status, including 16 and 17 year olds. Youthful Offender status will be expanded to include 18, 19 and 20 year olds. This proposal will provide the confidentiality of felony filings for those individuals who have youthful offender's status and conditional sealing of records for 16 and 17 years olds in certain convictions.

Juvenile Offender youth coming out of Office of Children and Family Services (OCFS) facilities will have a system in place to ensure that recidivism does not occur. The Office of Children and Family Services is required to provide post-release supervision for Juvenile Offender youth coming out of their OCFS facilities.

Education Services

The proposal continues a 2014/15 budget action that gave OCFS authority to contract with the Boards of Cooperative Educational Services (BOCES) for certain educational services for youth. This proposal would expand such authority to allow OCFS to contract with BOCES to provide any educational services at OCFS youth facilities that BOCES provides to school districts. It further authorizes Civil Service in consultation with OCFS to develop the required experience and qualifications for OCFS facility director positions.

Expenditures

The cost of family engagement specialists would be included in a probation department's application for state aid. Additional aid to probation departments will include funding for juvenile risk intervention services. The commissioner of DCJS shall provide funding for probation departments for a continuum of evidence-based intervention services for youth sentences in family court or under the youth part.

The proposal authorizes state reimbursement for 100 percent of foster care, afternoon care and independent living services, detention and Close-to-Home for 16 and 17-year-old youth newly placed as a result in the changes of age of juvenile jurisdiction.

The proposal requires no Local Social Service Districts to reimburse OCFS or youth cared for under this proposal after December 1, 2015. Further, the law amends language stipulating the state's reimbursement to counties for youth in detention facilities prior to January 1, 2018. After January 1, 2017, state reimbursement will be made available to cover 100% of the county's expenditures for youth in non-secure and secure detention.

The New York State Association of Counties is a bipartisan municipal association serving the counties of New York State including the City of New York. Organized in 1925, NYSAC's mission is to represent, educate and advocate for member counties and the thousands of elected and appointed county officials who serve the public.

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