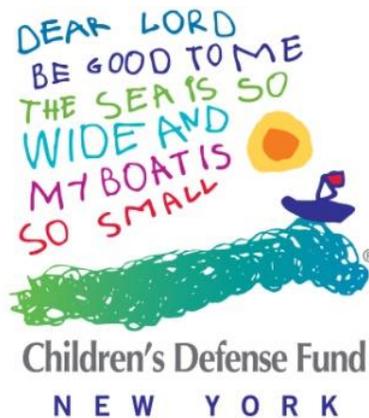


**Assembly Standing Committee on Codes
Assembly Standing Committee on Judiciary
Assembly Standing Committee on Correction
New York State Black, Puerto Rican, Hispanic, and Asian
Legislative Caucus**

Hearing on Criminal Justice Reform

May 7, 2015



Testimony of The Children's Defense Fund – New York

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The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor children, children of color and those with disabilities. CDF – New York's unique approach to improving conditions for children combines research, public education, policy development, community organizing and advocacy activities, making us an innovative leader for New York's children, particularly in the areas of health, education, early childhood and juvenile justice.

We would like to thank the Assembly Committees on Codes, Judiciary, and Correction and the New York State Black, Puerto Rican, Hispanic, and Asian Caucus for this opportunity to submit testimony on Criminal Justice Reform. We applaud your for your close attention to issues concerning youth, especially youth and communities of color across the state, and thank you for championing the importance of raising the age of criminal responsibility in New York.

CDF-NY co-leads the Raise the Age – New York Campaign, a statewide public awareness campaign that seeks to raise the age at which youth are automatically prosecuted as adults and to reform the justice system to provide comprehensive services and policy changes that improve public safety and outcomes for youth and communities. Since the launch of the campaign, more than 100 organizations and activists from law enforcement, civil right and faith leaders, public defenders, child and juvenile justice advocates, and service providers have been very clear about the need for the Governor and Legislature to immediately enact comprehensive reform that raises the age of criminal responsibility. With more than 30,000 16- and 17-year olds arrested each year, with a disproportionate amount of these youths are of color, we cannot wait another year to debate this issue and the need for reform.

Over the past year, I had an opportunity to deeply consider New York's opportunity to raise the age as part of the Governor's Commission on Youth, Public Safety, and Justice. I heard the perspectives of many stakeholders on this issue from my colleagues on the Commission to the many other parties across the state, including impacted individuals, who contributed to focus groups and public hearings before the Commission.

The comprehensive set of recommendations laid out in the Governor's budget bill go far beyond simply changing the age of adult criminal responsibility. Through careful review of efforts to raise the age in other states, and a thorough assessment of New York State's youth justice infrastructure, the recommendations propose a comprehensive approach to decreasing the overall juvenile detention and incarceration rates, diminishing the long-term consequences related to criminal justice involvement for youth, and significantly decreasing crime victimizations to make communities safer.

On behalf of the Raise the Age-New York campaign, CDF-NY and our partners thank the Governor and Legislature, especially the leadership Codes, Judiciary, Correction and Caucus committees, for the inclusion of \$135 million in the New York State 2015-16 Enacted Budget that allows the State and counties to initiate a thorough planning process, including facilities, for implementation of needed reform. Now, we call upon the Governor and Legislature to enact legislation that will positively transform the justice system for youth, their families and communities.

We strongly urge the Governor and Legislature to agree upon a comprehensive bill that includes the following key elements:

1) Ensure that all youth are treated appropriately for their age in the court system. The Family Court Act is the most appropriate legal mechanism by which courts can address the needs of young people. The Governor's budget bill automatically placed 86% of 16- and 17-year old cases in Family Court. This automatically allowed all of those youth to receive a juvenile adjudication rather than adult conviction, mitigating the long-term collateral consequences that inhibit their access to higher education, housing and employment; to be processed under the Family Court Act that involves parents rather than the punitive framework of the adult criminal court that does not; and to access age-appropriate programming and interventions to help them avoid future criminal activity. For the small percentage of youth charged with serious felonies who would have their cases processed under the criminal procedure law, the Governor's proposal called for their cases to be presided over by specially trained judges in youth parts of the criminal court. For the first time, these parts would have provided 16- and 17-year olds charged with serious felony offenses access to age-appropriate services, youthful sentencing structures as appropriate, and, in some instances, avoidance of long-term collateral consequences caused by adult convictions. Studies have found that young people prosecuted in adult criminal justice systems are 34% more likely to be re-arrested for violent or other crime than youth retained in the youth justice system. To keep our communities safer, and most importantly, to ensure that youth are not just repeatedly processed by an adult system that is void of age-appropriate interventions to meet their needs and divert them toward more productive lives, we continue to support these elements.

2) Guarantee that no youth are housed in adult jails and prisons. Youth housed in adult facilities are more likely to be abused physically and sexually than juveniles held in youth facilities. Youth are twice as likely to be beaten by staff and 50 percent more likely to be attacked with a weapon. Youth are five times more likely to be sexually assaulted in adult facilities - often within the first 48 hours of incarceration. Adult jails lack age-appropriate rehabilitative services, and are not acceptable locations for youth to be detained. In New York City, hundreds of youth are held daily at Rikers Island, the conditions of which have been documented by the United States Department of Justice as an environment of excessive abuse and violence, detailing the frequent serious injuries caused to adolescents detained in the care of the Department of Correction.

3) Address and remediate the negative collateral consequences of justice system involvement. Criminal records cause youth lifelong barriers to education, employment, housing, public benefits, and immigration status. New York lags behind the rest of the country in opportunities for young people to have their records sealed regardless of the amount of time that had lapsed since their offense. Outside of the protections offered some youth by Youthful Offender Status, New York currently has no mechanism for youth to seal records, leaving young people facing a lifetime of negative collateral consequences following a conviction in their adolescent years. The Governor's proposal extends youthful offender status up to age 21 and, provides first-of-their-kind sealing opportunities for youth if they meet certain eligibility criteria. The conditional civil sealing recommendations included in the Governor's bill recognize that adolescent youth are more likely to be rehabilitated and make positive change than any other age group, and that they need protection from life-long collateral consequences related to convictions if they are to be contributing members of society. These reforms eliminate barriers to meaningful contributions to communities and restore critical opportunities for youth to serve as productive members of society.

4) Other necessary, age-appropriate measures to decrease the overall numbers of court-involved and detained youth, including: expanded diversion and opportunities for adjustment, limit the use of out of home placement for youth detained on juvenile delinquency cases, eliminate the use of detention for PINS youth (who are currently detained in detention despite having committed no crime), and raising the age of juvenile jurisdiction so that 7-11 year olds are no longer arrested and processed through the juvenile justice system (with an exception for homicide cases). These measures will right size the overall youth justice system, facilitating similar declines in overall youth crime as were experienced in other states that raised the age. Intervening and diverting appropriate cases before they reach the courts both improves outcomes for youth and better protects public safety. Low-risk kids pulled deeply into the system are actually more likely

to re-offend. In both Connecticut and Illinois, raising the age of criminal responsibility and using evidence-based interventions to steer non-violent young offenders away from the justice system demonstrated reduced recidivism and juvenile crime rates. Reductions in overall juvenile crime meant that actual costs related to raising the age were significantly less than projected in both states. Community-based interventions are cost effective compared to detention and out of home placement, and are effective in regard to decreasing future offending. Diversion can be provided for an average cost of \$3,000 per case while the cost of out of home placement can reach over \$200,000 a year per child. Including these types of interventions, the Governor's proposal was estimated to facilitate 1,500 to 2,400 less crime victimizations every five years.

Communities of color are disproportionately impacted by incarceration as well as by crime. Adopting the comprehensive set of recommendations to raise the age as put forth by the Commission will tremendously impact youth of color not only on an individual level but also more broadly on a community level by decreasing recidivism and restoring opportunities. Through our conversations with stakeholders around the state we have found that most concerned parties are not opposed to raising the age, rather they raise important practical questions regarding implementation and cost. We hope that you agree with us, that disagreements in opinion on how this necessary reform should be implemented cannot stand in the way of a bill to raise the age passing this session.

We urge the Legislature to change the fate of thousands of youth, primarily youth of color, in New York by raising the age this legislative session. The consequences of New York's outdated policy of treating all 16 and 17 year olds automatically as adults in the criminal justice system cause a life-time of hardship for youth and communities. New York's youth cannot wait any longer to receive the treatment that they need to achieve better outcomes and lead more productive lives. By passing a state budget that includes \$135M to raise the age, the Governor and Legislature have created an opportunity now to significantly improve outcomes for youth. It is our sincerest hope that this opportunity will not languish as a result of ineffective communication and a lack of careful attention to this issue by our State leaders in Albany.

We are eager to work with you and your colleagues in the Legislature to implement a comprehensive and thoughtful agenda for New York's children and their families. Thank you for the opportunity to present our testimony.