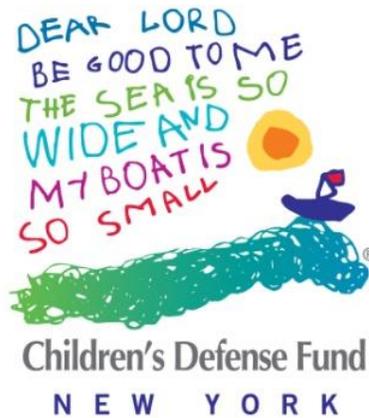


**FY2015 Joint Legislative Hearing on Human Services**  
*2015-2016 Executive Budget Proposal*

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***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 and Senate committees for this opportunity to submit testimony on the Human Services proposals in the Governor's Executive Budget for State Fiscal Year 2015-2016.

### **Overview**

To dismantle the cradle to prison pipeline that is funneling thousands of New York's youth into the juvenile and criminal justice systems, we must ensure that every child has appropriate and necessary support starting at birth. CDF-NY's FY2015 Legislative and Budget Priorities related to Human Services reflect our commitment to advancing effective policies and investments to provide children and youth with the support they need to be successful.

Specifically, we enthusiastically support the following elements of the Governor's FY2015 Budget:

- **Raising the Age of Criminal Responsibility** and implementing the comprehensive set of recommendations developed by the Commission on Youth, Public Safety and Justice to remove all 16 and 17 year olds from adult jails and prisons, eliminate long-term collateral consequences for youth and increase diversion and other services to support justice-involved youth and make communities safer; \$25M to begin implementation of Raise the Age in FY2015; \$110M in capital budget investments to OCFS to support Raise the Age infrastructure.
- \$25M to extend **pre-kindergarten** to low-income three year-olds.
- \$3M to fund **QUALITYstarsNY**.

We urge the Legislature to act further by prioritizing the following to support children this year:

- An additional \$150M in upfront funding, on top of the promised \$340 million for **UPK** in FY2015, to serve an additional 15,000 four year-olds in full-day UPK outside of New York City.
- An additional \$100M in **child care subsidies** to serve at least an additional 13,000 children who are eligible and waiting.
- An additional \$178.5 M in additional funding for **afterschool programs** to fund all qualified applicants.

### **Early Care and Education: Universal Pre-K**

CDF-NY understands that some of the major challenges children encounter in their first years can push them off of a successful trajectory and into the pipeline to prison very early. Children who are not school-ready experience an achievement gap when they enter school, and this gap persists over a child's school career. In New York State, one out of three children starts kindergarten behind in basic skills.<sup>1</sup>

The benefits of early care and education (ECE) and its ability to eliminate these disparities are well documented. Studies have shown that children enrolled in high quality early childhood programs are more likely to graduate from high school, hold a job, and make more money and less likely to commit a crime than

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<sup>1</sup> QualityStarsNY brochure, Early Childhood Advisory Council, New York State Council on Children and Families, [http://ccf.ny.gov/ECAC/WG/Quality/Resources/ECAC\\_BrochureLowRes.pdf](http://ccf.ny.gov/ECAC/WG/Quality/Resources/ECAC_BrochureLowRes.pdf)

their peers who do not participate.<sup>2</sup> Additionally ECE programs have a strong return on investment. Every \$1 investment in early childhood has a lifelong economic rate of return of 7 to 10 percent per year per dollar.<sup>3</sup>

We applaud Governor Cuomo's commitment to early childhood education through the addition of \$25 million to extend pre-kindergarten to low-income three year-olds; as well as the continuation of \$340 million (\$300M for the city and \$40M for the rest of the state) this year for universal, full-day pre-K for four year-olds, which will continue to serve over 80,000 children. We urge the Legislature to build on this investment by including additional funding of \$150M to expand the number of children served statewide. In FY 2014, a total of 90,000 four year-olds statewide did not receive any pre-k at all.

**For FY 2015, we promote an additional investment of \$150M in upfront funding for outside of New York City to serve an additional 15,000 four year-olds in full-day UPK on top of the promised \$340 million for FY2015.**

In addition to more funding, **we urge that the following administrative changes be made to increase access to programs:**

- Provide upfront funding for UPK: the current reimbursement structure of the new full-day UPK program limits the number of districts that can participate. It should be corrected to provide districts with upfront funding, as is the case with the other Universal Prekindergarten (UPK) and Priority Pre-k programs, and remove the hurdle to participate as the program expands.
- Alignment of the pre-K funding streams to ensure balanced funding across the state, consistent quality standards and regulations, and streamlined data reporting methodologies.

### **Early Care and Education: Child Care Subsidies**

Ensuring positive child development of infants and toddlers, particularly those from low income families, is also critical to ensuring young children's success. CDF's 2014 State of America's Children report found the youngest children in New York to be our poorest age group. More than 1 in 4 children under age six (346,565) were poor in 2012, and more than 1 in 9 children under age six (163,334) were extremely poor.

The Executive Budget for the Child Care Block Grant received flat funding this year (a total of \$961 million in state and federal funding). Despite last year's increase of \$21M, more than 75% of eligible children go unserved.<sup>4</sup> Now is a particularly important time to increase child care funding since the 2014 Federal reauthorization of the Child Care and Development Block (CCDB) Grant will require states to enhance their health and safety standards, requiring increased investment in safety and quality. New York State officials estimate the costs associated with the new rules, including inspections, fingerprinting and background checks would be at least \$72 million in the first year alone. Without further funding, that could translate into a loss of care for at least 21,000 children statewide.<sup>5</sup>

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<sup>2</sup> Schweinhart, Lawrence J., Jeanne Montie, Zongping Xiang, W. Steven Barnett, Clive R. Belfield, and Milagros Nores. 2005. "The High/Scope Perry Preschool Study Through Age 40: Summary, Conclusions, and Frequently Asked Questions." High Scope Press.

<sup>2</sup> Heckman, James J. 2011. "The Economics of Inequality: The Value of Early Childhood Education." The American Educator. <http://www.aft.org/pdfs/americaneducator/spring2011/Heckman.pdf>

<sup>3</sup> Heckman, James J. 2011. "The Economics of Inequality: The Value of Early Childhood Education." The American Educator. <http://www.aft.org/pdfs/americaneducator/spring2011/Heckman.pdf>

<sup>4</sup> New York State law provides that working families are eligible for child care assistance if their income is under 200% of the federal poverty level (\$38,180 for a family of three for example). Per data from the NYS Office of Children and Family Services, an estimated 600,000 children are eligible for subsidies, but only about 22% or fewer than 130,000 children are being served at any time.

<sup>5</sup> OCFS testimony indicates the new rules could cost as much as \$131 million, which would translate into a cut of 51,000 children losing care.

**The Executive Budget should invest an additional \$100M in child care subsidies in FY2015-2016 to serve at least an additional 13,000 children who are eligible and waiting.**

**Early Care and Education: QUALITYstarsNY**

The Governor has proposed \$3M for QUALITYstarsNY, the state's quality rating and improvement system. While nearly \$100M is needed to expand the system statewide, we believe this is a vital initial investment to raise the quality of early care and education for young children. Research shows that access to early care and education is not enough, it must be a high-quality program to make a difference. QUALITYstarsNY offers research-based standards, professional development and technical assistance, data monitoring and accountability, financial incentives, and outreach to families. It is currently being implemented in 10 high-need communities across the state however, New York lags far behind other states in its funding and implementation of a quality rating and improvement system. This lack of investment led to missed opportunities for additional federal funding, such as the Early Learning Challenge grant that New York unsuccessfully applied for.

**We applaud the addition of \$3M for QUALITYstarsNY in the Executive budget.**

**After-School Care**

According to the Afterschool Alliance, 1 in 4 children is left alone and unsupervised after-school in New York City. That means teenagers are left to spend after-school hours—the peak window for juvenile crime & violence—out on the streets. Research on high quality after-school programs has found that children who participate have improved attendance, behavior, coursework, and test scores in school. A real investment in after-school programs will make a big difference in the lives of thousands of children, who will find stability and skill-building in high-quality programs.

There was no additional funding in this year's Executive Budget for after-school programs. Funding for New York's three major after-school funding streams remains 40% below pre-recession levels, and leaves several of NYC's 1.1 million students who want to attend an afterschool program with no place to go. Governor Cuomo's proposed \$160 million in new afterschool funding in the FY2014-15 Executive Budget, which would have created opportunities for more than 100,000 students but was not included in the final budget, is a huge missed opportunity for New York's children and families.

**The Executive budget should invest \$178.5M in additional funding for afterschool programs (on top of \$57.4 M from FY2014-15<sup>6</sup>) which would fund all qualified applicants.**

**Raise the Age**

New York is one of only two states in the country to automatically charge youth as adults at age 16. In 2013, 34,000 16 and 17 year olds were arrested and involved in New York's adult criminal justice system, subject to adult jails and prisons, and saddled with criminal records that negatively impact the rest of their lives. Processing young people in the adult criminal justice system increases their likelihood of being abused, and increases the likelihood that they will recidivate and return to the criminal justice system in the future.

CDF-NY applauds the Governor for his leadership in convening the Commission on Youth, Public Safety and Justice to raise the age of criminal responsibility in New York and his integrating The Commission's comprehensive recommendations into his FY2015 Budget legislation. CDF-NY strongly believes that the

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<sup>6</sup> According to the New York State Afterschool Network there was \$57.4 million allocated for afterschool program in the FY2014-15 state budget. <http://www.nysan.org/policy-priorities/state/state-budget/>

following key elements of the Commission's recommendations are economically smart and will serve to protect adolescents and young adults and enhance public safety.

- ***Raising the age of juvenile jurisdiction to 18 by January 2018*** (January 2017 it is raised to 17 and January 2018 it is raised to 18.)
- ***Removal of youth from adult facilities*** - Youth are 5 times more likely to be sexually assaulted in adult facilities - often within the first 48 hours of incarceration. Youth are twice as likely to be beaten by staff and 50 percent more likely to be attacked with a weapon. This Commission recommendation would ensure that youth are placed in juvenile facilities and not in adult settings, like Rikers Island or upstate prisons by December 2015.
- ***Age-appropriate system processing*** - Currently all 16 and 17 year olds are charged under adult Criminal Procedure law regardless of the severity of their offense, and 7 year olds can be arrested and charged with acts of juvenile delinquency. The Commission's recommendations and the Governor's Article VII legislation raise the age of juvenile jurisdiction to 18 years old by January 2018 for all misdemeanors and non-violent felonies, allows a rebuttable presumption for non-JO violent felony offenses and subdivision two of 2<sup>nd</sup> degree robbery that these cases will be removed from criminal court to Family Court where the prosecutor does not demonstrate that criminal prosecution is appropriate, maintain current standards for removal for JO crimes, and raise the lower age of juvenile jurisdiction to 12, except for homicide cases which is raised to 10. By way of these age-appropriate jurisdictional reforms, 86% of 16 and 17 year olds, those charged with misdemeanors, would automatically have their cases heard in Family Court and remaining youth would have the opportunity to have the Family Court Act applied to their cases in special Youth Parts within superior court. These Youth Parts would be presided over by specially-trained judges clothed with concurrent Family Court and Criminal Court jurisdiction. In addition, regardless of where cases are heard, the Commission's recommendations provide additional processing protections to all 16 and 17 year old youth ranging from parental notification of arrest to interrogation protections including restrictions on interrogation locations to expanded use of videotaping.
- ***Age-appropriate services*** – On average, there are 700 16 and 17 year olds in adult jails and 100 in adult prisons in New York State every day. In adult corrections youth have poor access to mental health services, are subject to solitary confinement, and have limited access to quality education. In DOCCS facilities, adolescents are housed with older inmates and there are long waits for vocational and therapeutic programming. The Commission's recommendations would ensure that youth have access to age-appropriate services, such as juvenile probation and would not allow youth to be housed in adult facilities. For placed youth, the Commission encourages the use of best practices for residential facilities including new, smaller facilities consistent with the Missouri Model, expanding the August Aichorn RTF model for youth with mental health disorders, and creating programs that meet the specialized needs of LGBT youth.
- ***Modified sentencing*** - The Supreme Court has established that most extreme adult sentences are rarely if ever appropriate for youth under 18. The proposal would allow many youth the benefit of Youthful Offender and Juvenile Offender sentencing structures as opposed to adult sentencing structures.
- ***Protection from permanent criminal records*** - Criminal records cause youth lifelong barriers to education, employment, housing, public benefits, and immigration status. The proposal broadens categories for Youthful Offender Status and allows some opportunities for youth to have their records sealed if conviction free for specified periods of time. This eliminates barriers to meaningful contributions to communities by allowing access to higher education, job opportunities, and stable housing, as well as protecting immigration status.
- ***A Continuum of Diversion Services*** - 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. Community based interventions are cost

effective compared to detention and out of home placement and 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. The proposal mandates diversion attempts for certain low-risk appropriate cases and broadens categories of cases able to be considered for diversion.

- ***Decreased Use of Unnecessary Detention*** - The proposal addresses the need to ensure that youth are not unnecessarily detained in any facility such as for low risk non-violent offenses, technical probation violations, and PINS placements.
- ***Expanded educational opportunities for young adults***: Incarcerated young adults with access to education and vocational programs show significantly lower recidivism rates among high-risk prison populations. The Commission recommends that young people under age 25 have priority for education and vocational education programs while incarcerated.
- ***Replication of the Monroe County Juvenile Reentry Task Force*** - The model offers a wide range of re-entry services, substance abuse, mental health, housing, literacy, employment skills, education, and family supports. In the first 19 months participants had 20% recidivism rates compared to 63% of a control group.
- ***Increased Support Services for PINS***: Borrowing from a successful model in Connecticut, the Commission recommends making available a range of services, such as crisis intervention and respite care, to allow families to access needed services without necessitating a PINS petition. These services would be housed in Family Support Centers which would be located in high PINS referral localities.

**CDF-NY enthusiastically supports raising the age of criminal responsibility in New York; the Governor's Executive Budget investment of \$25M to plan, create and expand raise the age services including diversion and probation services; and \$110M in capital investments to OCFS to develop needed raise the age, secure placement infrastructure.**

### Conclusion

New York has an opportunity to set nation-wide precedent for the development and treatment of children. We know that difficult decisions must be made to keep New York on the path to economic recovery. Bold actions are needed to ensure that the budget is balanced and that New Yorkers continue to have the kinds of opportunities that make our state strong.

In this year of opportunity, we urge the Legislature to invest in opportunities for children by ensuring sufficient and high-quality early childhood supports and treating justice-involved children as children by raising the age of criminal responsibility. These investments will promote school success, improve accountability, increase safety and save money over time in New York's most at-risk communities.

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 carefully considering our testimony. If you have any questions or you would like further information, please contact CDF-NY at (212) 697-2323.