

THE NEW YORK STATE
YOUTH JUSTICE COALITION

MEMORANDUM OF SUPPORT - S6009 (Hoylman) /A7818 (Wright)

The New York State Youth Justice Coalition (“YJC”) is a state-wide group of advocates who have joined forces to advocate for fairness, justice and humane treatment for children and adolescents in the juvenile and criminal justice systems. The YJC includes social workers, attorneys for children, public defenders, academics, non-profit organizations, and a broad range of advocates for New York State’s most vulnerable youth. We write in support of S6009/A7818, a bill to clarify the legislature’s intent to establish a single computerized state DNA identification index and requiring immediate expungement of any DNA record stored in any unauthorized county, city, town, village or municipal DNA identification index. While the law would have general application across people of all ages, this is especially necessary to protect children and young adults, where current DNA collection practices threaten to undermine New York’s recent advances away from punitive approaches to justice-involved youth.

This law would:

- Clarify that State law prohibits any municipality from establishing or maintaining a computerized DNA identification index.
- Clarify that that no person other than a designated offender shall be required to provide a DNA sample for inclusion in the DNA identification index.
- Create clear guidelines for the expungement of all DNA records that were provided as part of an investigation following the dismissal of charges or non-criminal adjudication (including family court proceedings or a Youthful Offender adjudication).
- Require any DNA record currently stored in a DNA identification index by any municipality to be expunged within 90 days of the effective date of the bill.

Indeed, children are routinely exposed to DNA-collection practices by police in New York City, regardless of whether they are actually charged with a crime. **In addition to an obvious infringement on their civil rights, this puts youth in jeopardy of being included in local indexes having never been convicted of any offense.**

This legislation advances the goals of our juvenile justice system by safeguarding young people from the long term consequences of encounters with the justice system. New York’s family court system promotes robust confidentiality protections with regards to records of youth conduct. Similarly, one objective of a Youthful Offender finding is to protect adolescents and young adults prosecuted in the adult criminal justice system from having a record of criminal behavior.¹ Allowing localities to collect and maintain DNA samples from children and young adults is inconsistent with and undermines the protections that New York has only recently made under Raise the Age. This law is necessary to protect New York youth by ending the practice of local DNA collection, and requiring the immediate expungement of such material.

New York State Youth Justice Coalition

Center for Community Alternatives
Children’s Defense Fund-New York
Families Together in New York State
The Bronx Defenders, Adolescent Defense Project
The Legal Aid Society, Juvenile Rights Practice

¹ Moreover, because youth are likely to age-out of criminal behavior, there is little rationale for collecting DNA from children and adolescents for inclusion in any database, which relies upon their likelihood of re-offending.