

**REPORT ON LEGISLATION BY THE
CHILDREN AND THE LAW COMMITTEE,
CORRECTIONS AND COMMUNITY REENTRY COMMITTEE,
FAMILY COURT AND FAMILY LAW COMMITTEE
AND JUVENILE JUSTICE COMMITTEE**

A.2006-A / S.1506-A (Budget Article VII) – Part K

Enacts into law major components of legislation necessary to implement the state education, labor housing and family assistance budget for the 2019-2020 state fiscal year; to amend the family court act, the social services law and the executive law, in relation to persons in need of supervision; and to repeal certain provisions of the family court act and the executive law relating thereto

A.2003-A / S.1503-A (Aid to Localities Budget)

AN ACT making appropriations for the support of government

**Concerns Regarding the 2019-2020 Executive Budget Impact on
Child Welfare and Youth Justice Services in New York City**

On behalf of the New York City Bar Association, we are writing to express our concerns about (1) the disparate support New York State provides for the children and families of New York City compared to the rest of the state when it comes to juvenile delinquents in placement (the “Close to Home” program) and Raise the Age implementation, and (2) the state’s proposed Persons In Need of Supervision (PINS) reform¹ that will negatively impact the safety and stability of youth and families in NYC and statewide.

SUPPORT FOR JUVENILE JUSTICE REFORM IN NEW YORK CITY

With the support and leadership of the Governor and Legislature, New York State has made tremendous progress with regard to juvenile justice reform. Juvenile crime, arrests, detention and placement are all down.² The state has been a progressive leader in these efforts,

¹ See Part K of the Article VII Education, Labor, and Family Assistance (ELFA), available at: <https://www.budget.ny.gov/pubs/archive/fy20/exec/artvii/elfa-artvii.pdf> (all websites last visited March 7, 2019).

² See DCJS Statewide Juvenile Justice Indicators (4/2018), available at: <https://www.criminaljustice.ny.gov/crimnet/ojsa/jj-reports/JJ%20Indicators%202010-2017.pdf>, at 1 (JD/JO Arrests/Criminal Activity) (JD/JO Detention); OCFS Youth in Care Report (2016), available at: [https://ocfs.ny.gov/main/reports/Youth In Care Report.pdf](https://ocfs.ny.gov/main/reports/Youth%20In%20Care%20Report.pdf) at 1 (Table 1. Total Admissions); New York State Raise the Age data, Arrests involving 16-17 Year Olds by County and Region, January-June 2018 vs. 2017

closing facilities, creating the Close to Home program³ and raising the age of criminal responsibility.⁴ In New York City, Close to Home has changed the landscape for juvenile justice, dramatically reducing the number of youth adjudicated as juvenile delinquents from New York City in out-of-home (or residential) placement⁵, improving educational outcomes, supporting children returning to the community, and serving as a model for other jurisdictions.⁶ Similarly, Raise the Age has opened a new chapter in youth justice, which is delivering on its promise to treat adolescents in a way that meets their developmental needs, while improving public safety.⁷

Unfortunately, despite these victories, New York City's youth are not reaping the same benefits from the state as youth elsewhere. While New York State supports 50% of the placement costs for all youth adjudicated as juvenile delinquents outside New York City, the City's youth in placement (Close to Home) receive no state support in the Executive Budget.⁸ While New York State is reimbursing all other communities for the costs of Raise the Age implementation outside the City, New York City is receiving no state support because receipt of funding is subject to the 2% tax cap requirement, which renders the City ineligible.⁹ We believe this is unjust, unfair and inequitable. New York City children are New Yorkers too, and thus they too should receive state support.

(8/2018), available at: <https://www.criminaljustice.ny.gov/crimnet/ojsa/NYS%20RTA%20Arrests%20YTD.pdf>;
DCJS 2013-2017 Arrests Involving 16 and 17 year olds, available at:
<https://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nys.pdf>.

³ See Close to Home enabling legislation, SSL § 404.

⁴ See 2017-2018 NY State Budget legislation, A.30009-C/S.2009-C, part WWW.

⁵ Placement is a disposition imposed in Family Court, following a delinquency adjudication for youth considered inappropriate for a dismissal, conditional discharge, probation or an alternative to placement; outside of New York, this can also be referred to as "commitment." After Close to Home was implemented, "delinquent" youth from New York City were no longer placed with the State for non-secure or limited secure placements. The Family Court now places such youth under the care and custody of ACS, the City's child welfare/juvenile justice department, which then determines a local Close to Home facility for placement.

⁶ See Marsha Weissman, Vidhya Ananthakrishnan, and Vincent Schiraldi, *Moving Beyond Youth Prisons: Lessons from New York City's Implementation of Close to Home* (2019), available at: https://justicelab.columbia.edu/sites/default/files/content/Moving%20Beyond%20Youth%20Prisons%20-%20C2H_0.pdf.

⁷ See generally, FY 2019-2020 Budget Testimony, Division of Criminal Justice Services, Jan. 29, 2019, available at: https://www.nysenate.gov/sites/default/files/testimony_given_by_division_of_criminal_justice_services.pdf.

⁸ See the Governor's Proposed Budget 2019-2020, Aid to Localities Legislation, 342:47-61, available at: <https://www.budget.ny.gov/pubs/archive/fy20/exec/approps/local.pdf> (there are no appropriations for Close to Home following the 2017-2018 state fiscal year). In the 2018-2019 budget cycle, the Close to Home enabling legislation was reauthorized, but the state budget did not include continued funding to support the initiative. Fortunately, NYC closed this gap with \$30.5 million in city funds, but it is not certain that the City will be able to remain the sole funder of Close to Home in future years. As of April 2018, NYC has been solely responsible for funding Close to Home. See Note 6 *supra* at 26, 53.

⁹ See *id.* at 816 (Raise the Age provisions, making state funding for local implementation available pursuant to section 54-m of the state finance law – the municipal tax cap provision - which renders NYC ineligible). These implementation costs are incurred by the City of New York's Administration for Children's Services and Department of Probation.

PROTECTING PINS YOUTH

In addition, we are very concerned about the proposal to change the state's approach to serving Persons in Need of Supervision (PINS) youth.¹⁰ While we support the proposal's prohibition against detaining PINS youth (something NYC has abandoned), we are concerned about two aspects of the proposal. First, the proposal would eliminate the family court's ability to place a PINS youth in foster care (except when the court determines the child is sexually exploited). Although placement of PINS youth in foster care should be rare, since most youth are best served in their communities, we oppose the wholesale elimination of this option, even with the sexually exploited youth exception. Second, the proposal would eliminate the state's support for the PINS diversion services currently strengthening parent/child relationships so children remain safely with their families through uncapped child welfare preventive dollars. Notably, in New York City, approximately 5,000 families seek PINS diversion services and today there are about 100 youth in the City's foster care system on a PINS petition. This shows both that the services are working and that foster care is limited to youth who truly need to be in foster care. It is our collective view that these changes will negatively impact child safety and increase their risk of involvement in the juvenile justice system.

RECOMMENDATIONS

Given the foregoing, we respectfully ask the Legislature and Governor to:

- Restore state funding for the Close to Home program and permit New York City to access Raise the Age implementation dollars;
- Adopt the proposed language that ends the detention of PINS youth;
- Reject the proposed language that prohibits placement of youth, which will maintain the status quo under the law, and allow PINS youth to be placed with the Commissioner¹¹ (in foster care) when the family court determines it is necessary; and
- Reject the proposed language that cuts off access to child welfare preventive services funding to support PINS diversion services, which will maintain the status quo under the law and permit the New York City Administration for Children's Services to continue to obtain state support to serve these youth.

¹⁰ See Part K of the Article VII Education, Labor, and Family Assistance (ELFA), available at: <https://www.budget.ny.gov/pubs/archive/fy20/exec/artvii/elfa-artvii.pdf>.

¹¹ In New York City, this is the Administration for Children's Services (ACS).

Thank you for considering our position on these important proposals impacting child welfare and youth justice services in New York City.

Children and the Law Committee
Sara L. Hiltzik, Chair

Corrections and Community Reentry Committee
Alex Lesman, Chair

Family Court and Family Law Committee
Glenn Metsch-Ampel

Juvenile Justice Committee
Fredda Monn, Chair

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