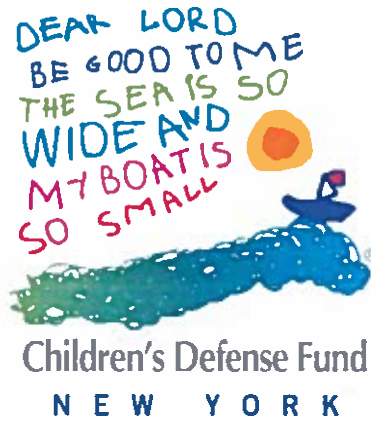


FY 2017 Joint Legislative Hearing on Human Services

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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 Public Protection and Safety proposals in the Governor's Executive Budget for State Fiscal Year 2017-2018.

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 FY2017 Legislative and Budget Priorities related to Human Services reflect our commitment to advancing effective policies and investments to provide children and families with the support they need to be successful.

Specifically, we enthusiastically support the following elements of the Governor's FY2017 Budget:

- Phasing-in a state-wide minimum wage increase to \$15 in New York City by 2018 and 2021 in the rest of the state. The budget proposal to increase the minimum wage to \$10.50 in New York City and to \$9.75 in the rest of the state will be effective July 1, 2016.
- Proposed legislation to create Paid Family Leave. Under the plan, employees would be eligible for 12 weeks of paid family leave while caring for an infant or sick family member.
- Raising the Gross Income Test for SNAP eligibility from 130 percent of the federal poverty level to 150 percent, extending eligibility to about 750,000 households currently not participating in SNAP.

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

- To fund primary prevention services in NY. This could be accomplished by resuming the 65% State share, as is written in the statute, setting aside the 3% restoration for community-based primary prevention services to strengthen families and prevent child maltreatment.
- Fund KinGAP separately outside of the Foster Care Block Grant, with no reduction to the Foster Care Block Grant.
- Invest an additional \$100 million in child care subsidies to serve more families.
- Raise the overall age of juvenile jurisdiction to 18

- Ensure no youth who is 16 or 17 years old is placed in an adult jail or prison
- Ensure parental notification upon the arrest of a 16 or 17 year olds and ensure 16 and 17 year olds are interviewed using practices employed for youth, including parental involvement prior to waiving Miranda rights
- Address the collateral consequences of court involvement and help youth become successful adults by sealing records and expanding Youthful Offender status to age 21 and to additional non-violent crimes
- Increase investments in the front-end diversion services that keep youth in their communities rather than incarceration. These alternative to detention, placement and incarceration services are less expensive and more effective at reducing recidivism
- Originate as many cases of 16 and 17 year olds in Family court as possible; create Youth Parts in adult court for remaining cases, and apply the Family Court Act to as many as possible, regardless of which courthouse in which the case is heard
- Raise the lower age of juvenile delinquency from age 7 to age 12 (except for homicide offenses, which should be raised to 10)

Primary Prevention

Child maltreatment is a major social problem in New York. In 2014, state child protective services identified 66,676 abused and neglected children¹. Researchers have found an association between childhood maltreatment and long-term social and psychological problems such as depression, aggression, self-injurious behavior, post-traumatic stress disorder, increased risk of criminal activity, and substance abuse². Childhood abuse and neglect places a financial burden on society. Once child protective services (CPS) substantiates a report, the mistreated youth and their family become involved in a complex network of public and private social and legal services meant to ensure the safety of the children and family integrity³. One way to avert childhood maltreatment and diminish the financial burden for protecting abused children is through the implementation of primary prevention programs that aim to stop maltreatment before it occurs. Although protecting children who have experienced abuse is essential, primary prevention programs have the potential to reduce the number of minors who need protection and costly intervention services.

¹ U.S. Department of Health and Human Services, Administration For Children and Families, Children's Bureau. (2016) Child maltreatment 2015. Washington, DC: Government Printing Office. . Retrieved from <https://www.acf.hhs.gov/sites/default/files/cb/cm2014.pdf>

² Trickett, P. K. & McBride C. (1995) The developmental impact of different forms of child Abuse and neglect. *Developmental Review*, 15(3), 311-337. doi:10.1006/drev.1995.1012

³ Paxon, C. & Haskins, R. (2009). Introducing the issue. *The Future of Children Journal*, 19(2), 3-18. Retrieved from http://futureofchildren.org/futureofchildren/publications/docs/19_02_FullJournal.pdf

The Executive budget does not include funding for primary prevention services. And the legislature is continuing to reduce the State's share for preventive, protective, independent living, and adoption administration services at 62% rather than the 65% prescribed by statute. CDF-NY urges the legislature to fund primary prevention services in NY. This could be accomplished by resuming the 65% State share, as is written in the statute, setting aside the 3% restoration for community-based primary prevention services to strengthen families and prevent child maltreatment.

Kin Gap

The Kinship Guardianship Assistance Program (KinGAP) is designed to promote permanency for youth in foster care. It provides financial support, and in most cases, medical coverage to related caregivers who assume legal guardianship of children formerly under their care as foster children. The social services district and the Administration for Children's Services in New York City no longer have legal custody of the child and no longer supervise the child and family after KinGAP is in place. KinGAP provides relative guardians a monthly payment that is comparable to the children's foster care board rate or no less than what the guardians would receive if they adopted the child. The program is an appealing permanency alternative for related foster parents because legal guardianship does not require termination of parental rights. Legal guardianship also leaves open the possibility that children might someday return home to their biological parents should the issues that brought them into foster care be ameliorated.

The Executive Budget continues funding KinGAP within the Foster Care Block Grant, which includes a \$62 million decrease. CDF-NY urges the legislature to fund KinGAP separately outside of the Foster Care Block Grant, with no reduction to the Foster Care Block Grant.

Economic Security

Minimum Wage

We applaud the Governor for phasing-in a state-wide minimum wage increase to \$15 in New York City by 2018 and 2021 in the rest of the state. The budget proposes to increase the minimum wage to \$10.50 in New York City and to \$9.75 in the rest of the state will be effective July 1, 2016.

Paid Family Leave

CDF-NY is also pleased that there was proposed legislation to create Paid Family Leave. Under the plan, employees would be eligible for 12 weeks of paid family leave while caring for an infant or sick family member.

Earned Income Tax Credit (EITC)

The Executive Budget does not include an increase in the State Earned Income Tax credit (EITC). Research indicates that families mostly use the EITC to pay for necessities and in some cases, obtain additional education to boost their employability and earning power. CDF-NY urges the State to raise the EITC to 40% of the federal benefit.

Supplemental Nutrition Assistance Program (SNAP):

More than 2.6 million New York State residents, or 13.5%, are food insecure and 39% of SNAP recipients are children. The average cost of a meal in New York City is \$3.15, higher than the national average of \$2.74, making it more difficult for struggling New Yorkers to achieve food security. In recent years, New York State has taken many positive steps towards maximizing access to, and participation in the Supplemental Nutrition Assistance Program (SNAP). **CDF-NY applauds the Governor for proposing to raise the Gross Income Test for SNAP eligibility from 130 percent of the federal poverty level to 150 percent, extending eligibility to about 750,000 households currently not participating in SNAP.**

Child Care Subsidies

Currently, New York only provides subsidies for 17% of families eligible for child care assistance. Under the Governor's proposal to flat-fund subsidies, 83% of low-income families will continue to receive no subsidies, and that percentage may rise should the state be required to implement some of the new federal Child Care and Development Block Grant rules.

- 1. As this year's budget process moves forward, we urge the Governor and Legislature to:**
 - a. Invest an additional \$100 million in child care subsidies to serve more families.**
 - b. Improve access to child care for children who are homeless by making them categorically eligible for child care and providing increased funding.**

- c. Reject the Executive Budget proposal to replace \$27 million in child care funding with Title XX funding that currently supports other social services.**
- d. Invest an additional \$56 million to cover the costs of new federal requirements without passing the costs down to child care providers or reducing child care subsidies for children.**

Youth Justice

As a lead-member of the state-wide Raise the Age NY Campaign, we are enthused at the inclusion of legislation to raise the age of criminal responsibility within the Fiscal Year 2017-2018 Executive Budget. We urge the Governor and the Legislature to adopt a budget that includes raise the age legislation and ensures that both the state and the localities will have the resources necessary to effectively raise the age of criminal responsibility.

New York is one of only two states in the country to automatically charge youth as adults at age 16, regardless of the severity of the offense. The majority of states set their age of criminal responsibility at age 18 with five states continuing to automatically prosecute youth at age 17, and only two states in the country setting the age of 16 as the age at which youth are automatically considered adults in the justice system – New York and North Carolina. In 2016 South Carolina⁴ and Louisiana⁵ raised the age of criminal responsibility from 17 years old to 18 years old. The most recent states to leave New York behind as one of two states setting their age at 16 were Connecticut⁶ and Illinois⁷. In 2016 Connecticut introduced a proposal to further raise the age from 18 years old to 21 years old⁸.

Neuroscience indicates that brain development continues into the mid-twenties. Later stages of brain development include areas responsible for impulse control, planning, and thinking ahead, amongst others⁹. Youth under 25 years old often exhibit more impulsive behavior with less ability

⁴ Campaign for Youth Justice. (2016, June 15). *CFYJ Applauds South Carolina and Louisiana for Raising the Age* [Press release]. Retrieved from <http://www.campaignforyouthjustice.org/news/cfyj-news-press-releases/item/cfyj-applauds-south-carolina-and-louisiana-for-raising-the-age>.

⁵ Louisiana Youth Justice Coalition. (2016, June 14). *Raise the Age LA Becomes Law!* [Press release]. Retrieved from http://www.laccr.org/youth-justice/?jjpl_newspost=4706.

⁶ Mendel, R. (2013, February 27). *Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth*. Justice Policy Institute. Retrieved from http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_juvenile_justice_reform_in_ct.pdf.

⁷ Illinois Juvenile Justice Commission. (2013, February 1). *Raising the Age of Juvenile Court Jurisdiction: The Future of 17-yr-olds in Illinois' Justice System*. Retrieved from <http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/IJJC%20-%20Raising%20the%20Age%20Report.pdf>.

⁸ Schein, Z. (2016, March 24). *Illinois, Connecticut Propose Bills to Raise the Age to 21* [Press Release]. National Juvenile Justice Network. Retrieved from <http://www.njjn.org/article/illinois-connecticut-propose-bills-to-raise-the-age-to-21>.

⁹ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. Issue Brief #3: Less Guilty by Reason of Adolescence, http://www.adjj.org/downloads/6093issue_brief_3.pdf.

to focus on consequences of behavior than older individuals¹⁰. For meaningful intervention to be successful, young people require age-appropriate services and programming that recognize their stage of development and ensure that their unique needs are appropriately met.

In 2015, nearly 28,000 16- and 17-year olds were arrested and involved in New York's adult criminal justice system – 72% for misdemeanor offenses¹¹. Considered adults by the criminal justice system, these adolescents were potentially interrogated without parental involvement, exposed 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 the likelihood that they will be physically and sexually abused¹², results in elevated rates of suicide¹³ and increases the likelihood that they will recidivate. Studies have shown that youth charged as adults are more likely to be rearrested sooner and for more serious offenses compared to young people treated in the juvenile justice system¹⁴.

New York's current way of treating 16 and 17 year olds charged with committing a crime is not only out of step with the rest of the county, it harms youth and compromises public safety. Youth of color are disproportionately impacted by this antiquated policy, with Black and Latino youth representing 70% of youth arrested and 80% of youth sentenced to incarceration¹⁵.

Raising the age of criminal responsibility requires more than simply increasing the age at which a young person can be charged as an adult. CDF-NY supports seven principles key to comprehensively raising the age in New York:

- 1. Raise the overall age of juvenile jurisdiction to 18**
- 2. Ensure no youth who is 16 or 17 years old is placed in an adult jail or prison**

¹⁰ Brief for the American Psychological Association, American Psychiatric Association, National Association of Social Workers, and Mental Health America as Amici Curiae, *Graham v. Florida*, 130 S. Ct. 2011 (2010), <http://www.apa.org/about/offices/ogc/amicus/graham-v-florida-sullivan.pdf> III Dispositions of Youth Arrests (16 and 17 year olds), New York State Division

¹¹ Dispositions of Youth Arrests (16 and 17 year olds), New York State Division of Criminal Justice Services, <http://www.criminaljustice.ny.gov/crimnet/ojsa/youth-arrests/nys.pdf>

¹² National Prison Rape Elimination Commission, Report 18, June 2009, <https://www.ncjrs.gov/pdffiles1/226680.pdf>

¹³ "Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America", Campaign for Youth Justice, November 2007.

¹⁴ Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services, Centers for Disease Control and Prevention, November 30, 2007, <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>

¹⁵ Governor's Commission on Youth, Public Safety and Justice. (2015, January). Final Report of the Governor's Commission on Youth, Public Safety and Justice: Recommendations for Juvenile Justice Reform in New York State. https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ReportofCommissiononYouthPublicSafetyandJustice_0.pdf.

- 3. Ensure parental notification upon the arrest of a 16 or 17 year olds and ensure 16 and 17 year olds are interviewed using practices employed for youth, including parental involvement prior to waiving Miranda rights**
- 4. Address the collateral consequences of court involvement and help youth become successful adults by sealing records and expanding Youthful Offender status to age 21 and to additional non-violent crimes**
- 5. Increase investments in the front-end diversion services that keep youth in their communities rather than incarceration. These alternative to detention, placement and incarceration services are less expensive and more effective at reducing recidivism**
- 6. Originate as many cases of 16 and 17 year olds in Family court as possible; create Youth Parts in adult court for remaining cases, and apply the Family Court Act to as many as possible, regardless of which courthouse in which the case is heard**
- 7. Raise the lower age of juvenile delinquency from age 7 to age 12 (except for homicide offenses, which should be raised to 10)**

Conclusion

Passing Raise the Age legislation in this budget is critical for the youth, families and communities throughout New York State. CDF-NY strongly supports raising the age of criminal responsibility in New York. We urge the Governor and the Legislature to adopt a budget that includes raise the age legislation and ensures that both the state and the localities will have the resources necessary to effectively raise the age of criminal responsibility.