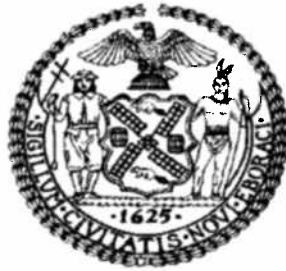


Committee on Juvenile Justice
Peggy Chan, Legislative Counsel
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THE COUNCIL

Committee Report of the Governmental Affairs Division

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COMMITTEE ON JUVENILE JUSTICE

Hon. Sara M. Gonzalez, Chair

November 1, 2011

RES. NO. 1067:

By Council Members Gonzalez, Crowley, the Speaker (Council Member Quinn), Barron, Brewer, Cabrera, Chin, Dickens, Dromm, Ferreras, Foster, Jackson, James, Lander, Mark-Viverito, Mendez, Nelson, Palma, Recchia Jr., Rose, Seabrook, Vann and Williams

TITLE:

Resolution supporting New York State Chief Judge Jonathan Lippman's call on the New York State Legislature to pass and the Governor to sign legislation raising the age of criminal responsibility for nonviolent offenses to 18 and permit the cases of 16 and 17 year-olds charged with such offenses to be adjudicated in the Family Court rather than the adult criminal justice system.

I. INTRODUCTION

On November 1, 2011, the Committee on Juvenile Justice, chaired by Council Member Sara M. Gonzalez, will hold a public hearing on Resolution No. 1067 supporting New York State Chief Judge Jonathan Lippman's call on the New York State Legislature to pass and the Governor to sign legislation raising the age of criminal responsibility for nonviolent offenses to 18 and permit the cases of 16 and 17 year-olds charged with such offenses to be adjudicated in the Family Court rather than the adult criminal justice system. Among those invited to testify are New York State Chief Judge Jonathan Lippman, The Legal Aid Society, Center for Court Innovation, advocates, and other interested parties.

II. BACKGROUND

History on Age Delinquency in New York City

Throughout most of New York's early history, children who committed criminal offenses were prosecuted in the criminal system. By the mid-19th century, recognizing the harms of incarcerating children in the adult penitentiary, the state legislated reforms to require that children be committed in "houses of refuge," publicly-funded institutions with the goal of rehabilitating juvenile transgressors, in lieu of imprisonment.¹ In 1909, New York State Legislature ("Legislature") enacted its first juvenile delinquency law by decriminalizing most offenses for youth between the ages of 7 to 16.² The enactment of the Family Court Act in 1962 established the Family Court system across the state and presented the Legislature an opportunity to reexamine the age threshold of juvenile responsibility. At the time, the Legislature could not agree on the age threshold and tentatively selected 16 as the upper age limit, until public hearings

¹ Merrill Sobie, *Pity the Child: The Age of Delinquency in New York*, 30 Pace L. Rev. 1061, 1066-68 (2010).

² *Id.* at 1069.

could be held and further studies could be presented.³ However, the issue was not subsequently revisited, and the “temporary” decision to set the age of 16 as the threshold of juvenile responsibility has remained in effect since 1962.⁴

Differences between the Criminal Justice System and Juvenile Justice System

The New York State Family Court Act gives Family Courts exclusive original jurisdiction to hear juvenile delinquency cases.⁵ A “Juvenile Delinquent” is a youth who is over 7 but less than 16 years of age who commits an act that would be a crime if he or she were an adult.⁶ A juvenile delinquent may face a maximum placement term of 12 months for a misdemeanor;⁷ 18 months for a felony;⁸ or 5 years for a violent felony designated by the Family Court Act.⁹ During the pendency of juvenile delinquency cases, juveniles are either supervised by the New York City Department of Probation (“DOP”)¹⁰ or detained in facilities overseen by the New York City Administration of Children’s Services (“ACS”). Adjudicated youth who receive a disposition of placement are placed in facilities overseen by the New York State Office of Children and Family Services (“OCFS”). Because a finding of juvenile delinquency is not considered a criminal conviction,¹¹ youth do not acquire any criminal record as a result of

³ *Id.* at 1071-73.

⁴ *Id.* at 1073.

⁵ N.Y. Fam. Ct. Act §115(a)(vi).

⁶ N.Y. Fam. Ct. Act §301.2(1).

⁷ N.Y. Fam. Ct. Act §353.3(5).

⁸ N.Y. Fam. Ct. Act §353.3(5).

⁹ N.Y. Fam. Ct. Act §353.5(4). *See* N.Y. Fam. Ct. Act §301.2(8) for the designated felonies.

¹⁰ DOP plays a significant role in New York City’s juvenile justice system. After the initial arrest, DOP interviews the youth and other stakeholders to determine whether the case should be dismissed, adjusted (diverted from court) or referred to the New York City Corporation Counsel for prosecution in the Family Court. If a juvenile delinquency petition is filed, DOP makes recommendations to the Family Court judge on whether the youth should be detained or released during the pendency of the case, and regarding the most appropriate disposition if the youth is adjudicated to be a juvenile delinquent, *See* Ashley Cannon, Richard Aborn and John Bennett, *Guide to Juvenile Justice in New York City*, Citizens Crime Commission, at 20-21, May 2010.

¹¹ N.Y. Fam. Ct. Act §380.1.

juvenile delinquency proceedings. In addition, upon motion of the youth, the Family Court judge may seal any records relating to the proceeding.¹²

One overarching goal of the juvenile justice system is to rehabilitate young people who commit offenses. It seeks to identify negative behavior in youth and to reform their actions by placing certain requirements on them and their families. Unfortunately, this task is often difficult due to the fact that most young people involved in the juvenile system have special needs. According to OCFS, more than half of the children admitted to its juvenile facilities suffer from mental illness.¹³ Nationwide, 72% of males and 87% of females in secure juvenile facilities have at least one mental health disorder.¹⁴ As such, an important goal of the juvenile justice system is to rehabilitate young people by providing them with necessary services such as evidence-based therapy, mentoring, mental health services, education and vocational training. On the other hand, the adult criminal justice system is typically thought to focus on punishment and incarceration, with limited educational or rehabilitative options available to young offenders. Even if services are available, they are often not tailored to the developmental needs of youth. When young people go through the adult criminal system, they often “fall through the cracks,” leaving the system with no education or skills and no services to address their special needs.¹⁵

Alternative Services for Youth in New York City’s Juvenile Justice System

Studies have shown that pretrial detention has been found to negatively impact youth and the decision to detain youth pending trial can have serious consequences. Detained youth are removed from their communities, families and support systems, and once released, they

¹² N.Y. Fam. Ct. Act §375.2.

¹³ Children Welfare Watch, *A Need for Correction: Reforming New York’s Juvenile Justice System*, at 5, Vol. 18 Fall 2009.

¹⁴ *Id.*

¹⁵ Campaign for Youth Justice, *State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*, at 11, April 2011.

encounter obstacles to re-enrollment in school or renewed participation in specialized treatment.¹⁶

Recognizing the poor outcomes associated with juvenile detention, many jurisdictions, including New York City, have instituted reforms to ensure that detention should be reserved only for those youth who pose the highest risk to themselves or to the community. For lower-risk youth who can be kept safely in the community, ACS may offer them Alternative-to-Detention (“ATD”) programs during the pendency of the court case. ATDs consist of evidence-based intensive treatment models that have been shown to be significantly effective in reducing youth violence.¹⁷ Such programs aim to keep youth in the community by working directly with families to help them manage their children more effectively and to reduce antisocial behavior.¹⁸ ATDs have been shown to reduce recidivism rates for youth and cost substantially less than institutional placement. The average cost of community-based alternatives is \$18,000 per child per year,¹⁹ compared to approximately \$266,000 it would cost to hold a youth in a juvenile facility.²⁰

Another type of alternative service available to youth is Alternative-to-Placement (“ATP”). Similar to ATDs, ATP programs have been developed to address disparities in disposition decisions, negative impacts on youth and excessive costs related to youth placement.²¹ ATPs allow youth to remain in their community under supervision in lieu of placement in OCFS facilities. Services offered by ATP programs aim at addressing the issues

¹⁶Bart Lubow and Joseph Tulman, *The Unnecessary Detention of Children in the District of Columbia*, *The District of Columbia Law Review*, at xv-xvi, Fall 1995, Vol. 3, No.2.

¹⁷ Children Welfare Watch, *supra* note 13, at 15.

¹⁸ *Id.*

¹⁹ New York City Department of Probation, *Presentation: NYC’s Success with Juvenile Justice Reform, and a Vision of a Community-Based Continuum of Care*, at 18.

²⁰ New York State Juvenile Justice Advisory Group, *Tough on Crime – Promoting Public Safety by Doing What Works*, at 9, December 2010.

²¹ Cannon, Aborn and Bennett, *supra* note 10, at 33.

that cause youth to enter the juvenile justice system, such as mental illness, substance abuse, family dynamics.²²

III. SHIFTS IN JUVENILE POLICY

A century ago, virtually every state restricted juvenile court's jurisdiction to children less than 16 years of age.²³ Today, the national norm is to prosecute juvenile transgressors over 16 in the juvenile system. In 37 states and the District of Columbia, the age of criminal responsibility starts at 18;²⁴ and in 11 states, the age is set at 17.²⁵ New York and North Carolina are the only two states that still try all 16- and 17-year-olds in the adult criminal court system, regardless of the severity of the offense.²⁶ Recently, North Carolina has introduced legislation to increase the age of adult prosecution for nonviolent offenses to 18, placing most 16- and 17-year-olds in the state's juvenile justice system.²⁷ If the North Carolina legislation is enacted into law, New York will remain the only state in the United States ("U.S.") that still prosecute 16- and 17-year-olds as adults for nonviolent offenses. Several factors have contributed to the states' shift from a "get tough" approach to one that recognizes the diminished responsibility of youth.

Decrease in the Juvenile Crime Rate and the Minor Nature of Most Juvenile Crimes

According to the Federal Bureau of Investigation, between 1999 and 2008, the number of juveniles arrested decreased by 15.7%.²⁸ Youth who have been arrested for violent crimes such as murder, rape, aggravated assault and robbery are rare and only account for about 5% of all

²² *Id.*

²³ Sobie, *supra* note 1, at 1061.

²⁴ Hon. Jonathan Lippman, *Statement to the Citizens Crime Commission of New York*, September 21, 2011, at 5, available at <http://www.nylj.com/nylawyer/adgifs/decisions/092211speech.pdf> (last accessed on October 26, 2011).

²⁵ These states are: Connecticut, Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas and Wisconsin. Campaign for Youth Justice, *State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*, at 29, April 2011.

²⁶ Lippman, *supra* note 24, at 5.

²⁷ Michael D. Abernethy, *Age of Offenders*, The Times News, October 1, 2011.

²⁸ Campaign for Youth Justice, *supra* note 15, at 13.

juveniles arrested each year.²⁹ The overwhelming majority of the crimes committed by adolescents are minor and nonviolent: approximately 28.1% are property crimes (including burglary, larceny, theft and vandalism), 17.2% are status offenses (such as runaways, curfew, loitering and liquor law violations), 8.9% are drug abuse violations, 8% are disorderly conduct, and 21.1% consist of miscellaneous offenses such as forgery, counterfeiting, fraud, gambling, prostitution, driving under the influence, drunkenness, weapons offenses and vagrancy.³⁰ Most youth who are tried in the adult courts are there for nonviolent offenses. While a large proportion of them only receive a sentence of probation, and the vast majority of those held in adult prisons are not given long sentences (such that 95% of youth will be released to the community before their 25th birthday),³¹ by virtue of being involved in the adult criminal system, they are less likely to receive an education and vocational training and their criminal records will make it harder for them to find jobs. Therefore, many states see it as bad policy to subject these youth to criminal prosecution, penalties and records, as opposed to provide them with juvenile court remedies to help youth get back on their feet.

Increased Recidivism for Youth Incarcerated in Adult Prison vs. Juvenile Facilities

Recent empirical studies show that youth who are incarcerated in adult penal institutions – as opposed to juvenile facilities – have significantly higher recidivism rates. A literature review by the Center for Disease Control and Prevention found that youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely to be re-arrested for crimes than youth retained in the juvenile court system.³² Another study

²⁹ *Id.* at 12.

³⁰ *Id.*

³¹ *Id.* at 14.

³² Center for Disease Control and Prevention, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services*, November 30, 2007.

compared the recidivism rates between 16- and 17-year-old youth who are prosecuted in New York and youth of the same age groups in New Jersey (which has a juvenile delinquency age limit of 18, such that youth over 16 are adjudicated in the juvenile courts). The study found that youth prosecuted in New York were 85% more likely to be re-arrested for violent crimes, and 44% more likely to be re-arrested for felony property crimes, compared to similarly situated New Jersey teenagers.³³

There are a number of reasons why youth who are tried in the adult system have a higher risk of re-offending compared to those who are involved in the juvenile justice system. Youth in the adult system do not normally receive rehabilitative and educational services that could help to turn their lives around. For those who are sentenced to imprisonment in adult prisons, they often become socialized into a violent prison culture where their role models are adult criminals.³⁴ Furthermore, having a criminal record makes it that much harder for a young person to get a job, and those who are not able to find employment might resort to re-committing crimes in order to support themselves.³⁵

Research on Adolescent Brain Development Suggesting Diminished Responsibility

A growing body of science research shows that the adolescent brain is not as fully developed as the adult brain. This developmental difference limits youth's capacity to exercise sound judgment, reasoning, impulse control and ability to resist peer pressure.³⁶ Such research suggests that youth should not be treated the same way as adults, but that punishment should be

³³ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court*, Issue Brief 5, available at http://www.adjj.org/downloads/3582issue_brief_5.pdf (last accessed on October 26, 2011).

³⁴ Campaign for Youth Justice, *supra* note 15, at 17.

³⁵ See *infra* notes 46-47 and accompanying text.

³⁶ The Governor's Children's Cabinet Advisory Board, *Advancing a Fair and Just Age of Criminal Responsibility for Youth in New York State*, at 1-2, January 2011.

proportionate to their diminished responsibility.³⁷ In fact, the United States Supreme Court (“Supreme Court”) has explicitly relied on advancing research in concluding that less severe penalties are appropriate for juveniles who commit serious crimes. In 2005, the Supreme Court held that it is unconstitutional to impose capital punishment for crimes committed by persons under 18 because young people’s irresponsible conduct is not as “morally reprehensible as that of an adult” and that from a “moral standpoint,” it would be misguided to put an adult and a minor on the same footing because “a greater possibility exists that a minor’s character deficiencies will be reformed.”³⁸ Based on similar reasoning, in 2010, the Supreme Court held that juveniles may not be sentenced to life without parole in non-homicide cases.³⁹ Many states increased the age of criminal responsibility because they recognized that holding young people as criminally accountable as adults goes against the principles accepted by both the science and legal communities.

IV. POTENTIAL IMPACT OF RAISING THE AGE OF JUVENILE JURISDICTION

Changes to the Juvenile Justice System and the Criminal Justice System

During 2009, there were 47,339 youth ages 16 and 17 years arrested in New York State, out of which 26,802 arrests occurred in New York City.⁴⁰ Over three-quarters of these arrests were for misdemeanors.⁴¹ Shifting tens of thousands of cases involving 16- and 17-year-old nonviolent offenders from the Criminal Court to Family Court will likely place heavy strain on the existing infrastructure and staffing of the Family Court and the entire juvenile justice system. In order to handle the large increase in caseload, the state may have to make significant upfront investments to hire additional Family Court and prosecutorial staff. Probation services will also

³⁷ *Id.*

³⁸ *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

³⁹ *Graham v. Florida*, 130 U.S. 2011 (2010).

⁴⁰ The Governor’s Children’s Cabinet Advisory Board, *supra* note 36, at 1.

⁴¹ New York State Juvenile Justice Advisory Group, *supra* note 20, at 48.

have to be expanded to handle additional case intake and community supervision. Since the vast majority of the 16- and 17-year-olds who are affected by the age increase are low-level offenders, they will likely be eligible for community-based programs, including ATDs and ATPs.⁴² The state must increase the capacity of such programs if it wishes to continue its reform to keep low-risk youth out of institutional placement. Increasing the age of juvenile jurisdiction can potentially increase the youth population in the city's juvenile detention centers and the OCFS placement facilities. Residential services may therefore need to be expanded.⁴³

On the other hand, increasing the age limit will reduce the workload of the criminal justice system. The increase in the costs to the juvenile justice system will be partially offset by an immediate decrease in the Criminal Courts' and the adult probation system's caseload and a reduction in the adult jail and prison population. In the long run, lower recidivism is expected to further reduce future criminal justice expenditures, as youth who go through the juvenile justice system, rather than the adult criminal system, are less likely to be re-arrested in the future.⁴⁴ Fewer arrests mean that law enforcement will devote less resource to investigate crimes and process arrests, the Criminal Court, probation and prosecutors will have smaller caseload and the state will realize savings from further reduction in the adult jail and prison population.⁴⁵

Benefits Associated with Increasing the Age of Criminal Responsibility

An adult criminal conviction can limit a youth's opportunities for the rest of his or her life. While most juvenile records are sealed, adult convictions become public record and often diminish a person's employment prospects throughout life. Employers are sometimes unwilling to hire people with criminal records because of potential liability if the person harms a customer

⁴² Sobie, *supra* note 1, at 1086-88.

⁴³ *Id.*

⁴⁴ Christian Henrichson and Valerie Levshin, *Cost-Benefit Analysis of Raising the Age of Juvenile Jurisdiction in North Carolina*, Vera Institute of Justice, at 18, January 10, 2011.

⁴⁵ *Id.*

or coworker, if the person engages in theft, or because of general mistrust of the person's skills and reliability. Prosecuting 16- and 17-year-old low-level offenders in Family Court will benefit youth because they will no longer have criminal records that restrict their future employment opportunities.⁴⁶ Access to services within the juvenile justice system, such as mental health treatment, education and vocational programs, may further enable young people to cultivate the skills necessary to succeed in the future. These benefits can be significant as studies have shown that a criminal conviction reduces a person's future earnings by 10 to 40%.⁴⁷ The increase in employment prospect will further reduce recidivism as youth are less likely to resort to criminal activities in order to support themselves.

Furthermore, the absence of criminal records will benefit youth by removing potential impediments that may prevent them from voting, receiving financial aid for college, or applying for public housing.⁴⁸ It also produces intangible benefits in allowing youth and their families to avoid the stigma of criminal conviction.

As recidivism decreases, crimes reduce and fewer people will incur the costs associated with being the victims of crimes. These costs include direct out-of-pocket expenses, such as medical costs, cash loss, value of stolen or damaged property, lost earnings, as well as costs arising from sufferings due to physical injuries or psychological pain.⁴⁹ Not only will potential victims benefit from not having to incur these real and substantial costs, society at large will also realize the intangible benefits of living in a safer environment.

V. RESOLUTION NO. 1067

⁴⁶ *Id.* at 8-9.

⁴⁷ *Id.*

⁴⁸ See Mosi Secret, *New York Judge Seeks New System for Juveniles*, The New York Times, September 16, 2011; see also Brennan Center for Justice, *Can I Vote: Frequently Asked Questions by People with Criminal Records in New York*, available at <http://www.brennancenter.org/page/-/Democracy/NY%20State%20Voting%20FAQs%20updated%205-5-10.pdf> (last accessed on Oct. 26, 2011).

⁴⁹ Henrichson and Levshin, *supra* note 44, at 8.

Resolution 1067 supports New York State Chief Judge Jonathan Lippman's call on the New York State Legislature to pass and the Governor to sign legislation raising the age of criminal responsibility for nonviolent offenses to 18 and permitting the cases of 16- and 17-year-olds charged with such offenses to be adjudicated in the Family Court rather than the adult criminal justice system.

On September 21, 2011, New York State Chief Judge Jonathan Lippman spoke before the Citizen's Crime Commission of New York. In recognizing that the guiding principles of Family Court is to focus on problems specific to youth and to promote rehabilitation for those youth involved in the juvenile justice system, Chief Judge Lippman outlined the need for New York State to align its juvenile justice practices with the rest of the country by raising the age of criminal responsibility for nonviolent crimes.

Resolution 1067 identifies New York as one of only two states in the country in which youth arrested at age 16 or older are tried in adult court and confined in adult jails and prisons. Consequently, youth who are tried in Criminal Court are not provided adequate alternative rehabilitative services, which are often present in Family Court. These alternative services allow family court judges an option to divert youth from secure detention by placing such youth in community programs, which are both cost-effective and successful in helping to prevent future crime. Additionally, Resolution 1067 calls for youth between the ages of 16 to 18 years of age who are accused of certain nonviolent crimes to be tried in Family Court, which would prevent such youth from obtaining a criminal record that could potentially bar them from future employment and educational opportunities.

Resolution 1067 supports Chief Judge Lippman's call on the New York State Legislature to introduce legislation increasing the age of criminal responsibility from 16 to 18 years of age in

order to permit 16- and 17-year-olds charged with less serious crimes to have their cases adjudicated by the New York State Family Court. Furthermore, Resolution 1067 recognizes that adolescents' brains are not fully developed, and this lack maturity limits their ability to make reasoned judgments and engage in the kind of thinking that weighs risks and consequences. Finally, Resolution 1067 notes Chief Judge Lippman's emphasis on prosecuting those adolescents charged with less serious crimes as adults in the criminal court neither improves public safety nor quality of life in our communities.

Res. No. 1067

Resolution supporting New York State Chief Judge Jonathan Lippman's call on the New York State Legislature to pass and the Governor to sign legislation raising the age of criminal responsibility for nonviolent offenses to 18 and permit the cases of 16 and 17 year-olds charged with such offenses to be adjudicated in the Family Court rather than the adult criminal justice system.

By Council Members Gonzalez, Crowley, the Speaker (Council Member Quinn), Barron, Brewer, Cabrera, Chin, Dickens, Dromm, Ferreras, Foster, Jackson, James, Lander, Mark-Viverito, Mendez, Nelson, Palma, Recchia Jr., Rose, Seabrook, Vann and Williams

Whereas, At the time of enactment of the 1962 New York State Family Court Act, the New York State Legislature chose 16 to be the age of criminal responsibility as a temporary measure until public hearings and research could be conducted; and

Whereas, The age set by the New York State Legislature was never revisited and has now lasted half a century without meaningful reconsideration; and

Whereas, According to the Correctional Association of New York, New York is one of only two states in the country, along with North Carolina, in which youth arrested at age 16 or older are tried in adult court and confined in adult jails and prisons regardless of the crime with which they are charged; and

Whereas, In 37 states, including the District of Columbia, the age of criminal responsibility is 18 with 11 other states setting the age at 17; and

Whereas, According to the New York State Division of Criminal Justice Services ("DCJS"), 45,873 16 and 17 year-olds were arrested in New York State during 2010; and

Whereas, According to John Jay College of Criminal Justice, the majority of arrests for 16 and 17 year-olds were for nonviolent crimes; and

Whereas, According to the DCJS, 3,854 16 and 17 year-olds were convicted of felonies and misdemeanors in New York City in 2008; and

Whereas, Studies have shown that youth receiving juvenile sanctions had lower recidivism rates than youth receiving adult sanctions; and

Whereas, Youth subject to the jurisdiction of the Criminal and Supreme Court do not have access to the array of services and alternatives to incarceration, reentry based programs, and support services available to those under the jurisdiction of Family Court; and

Whereas, According to the New York Law Journal, scientific studies of the adolescent mind have shown that 16 and 17 year-olds lack the maturity and judgment to understand the legal consequences of their actions; and

Whereas, In the 2005 U.S. Supreme Court ruling *Roper v. Simmons*, the Court drew on new research on adolescent brain development to prohibit the imposition of the death penalty for youth under the age of 18; and

Whereas, In the 2010 U.S. Supreme Court ruling *Graham v. Florida*, the Court further held that juvenile offenders may not be sentenced to life imprisonment without parole for non-homicide offenses; and

Whereas, On September 21, 2011, New York State Chief Judge Jonathan Lippman addressed the Citizens Crime Commission of New York City regarding the need for juvenile justice system reform in the State of New York; and

Whereas, Chief Judge Lippman called on the New York State Legislature to introduce legislation increasing the age of criminal responsibility from 16 to 18 years of age in order to permit 16 and 17 year-olds charged with less serious crimes to have their cases adjudicated by the New York State Family Court, which is better suited to their needs; and

Whereas, In describing differences between adolescents and adults, Chief Judge Lippman stated, "In particular, [adolescents'] brains are not fully matured, and this limits their ability to

make reasoned judgments and engage in the kind of thinking that weighs risks and consequences. Teenagers have difficulty with impulse control, and with resisting outside influences and peer pressure;” and

Whereas, Chief Judge Lippman stated the adult criminal justice system is focused on punishment and incarceration and is not designed to address the special problems and needs of 16 and 17 year-olds; and

Whereas, Chief Judge Lippman referred to the New York State Family Court as “a system that is focused on rehabilitation and getting children back on the right track, that offers supervision, mental health treatment, remedial education and other services and programs where judges are obligated by law to act in the best interests of the children who come before them - a mandate that does not exist in criminal court;” and

Whereas, Chief Judge Lippman questioned whether society is best served by burdening adolescents charged with less serious, nonviolent crimes with criminal records that may bar them from future employment and educational opportunities rather than providing them with rehabilitative options; and

Whereas, Chief Judge Lippman highlighted the financial and logistical concerns attached to raising the age of criminal responsibility for nonviolent crimes; and

Whereas, These complex issues include: (i) shifting thousands of cases a year to family court, (ii) strengthening the juvenile probation system, and (iii) increasing community-based services, all of which require funding; and

Whereas, Nevertheless, the Vera Institute of Justice recently completed a cost-benefit analysis of North Carolina’s attempt to raise the age of criminal responsibility to age 18 and concluded that the economic benefits to the state would greatly exceed the costs - both over the

short and long term; and

Whereas, Chief Judge Lippman underscored that prosecuting those adolescents charged with less serious crimes as adults in the criminal court does not improve public safety or quality of life in our communities; now, therefore, be it

Resolved, That the Council of the City of New York supports New York State Chief Judge Jonathan Lippman's call on the New York State Legislature to pass and the Governor to sign legislation raising the age of criminal responsibility for nonviolent offenses to 18 and permit the cases of 16 and 17 year-olds charged with such offenses to be adjudicated in the Family Court rather than the adult criminal justice system.

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