Committee on General Welfare

Aminta Kilawan, *Senior Legislative Counsel*

Cristy Dwyer, *Legislative* *Policy Analyst*

Dan Kroop, *Senior* *Financial Analyst*

A close up of a logo

Description automatically generated

**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

**Andrea Vazquez, Legislative Director**

**Smita Deshmukh, Deputy Director, Human Services**

**COMMITTEE ON GENERAL WELFARE**

**Hon. Diana Ayala, Chair**

**June 15, 2022**

**Oversight: Juvenile Detention in NYC**

**INT. NO. 139:** By Council Members Abreu, Ayala, Cabán, Stevens, Won, Williams, Sanchez, Velázquez, Riley, Schulman, Menin, Gennaro, Restler, Dinowitz, Narcisse, Krishnan, Gutiérrez, Marte, Ung, Ossé, Rivera, Hudson, Brooks-Powers, Hanif, Salamanca, Joseph, Nurse, Farías, De La Rosa, Avilés, Brannan, Holden, Powers, Hanks, Moya, Lee, Feliz, Kagan, Bottcher, Louis, Borelli, Carr, Ariola, Vernikov and Paladino

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to report on the impact of the deaths of parents and guardians from COVID-19 on children and the repeal of such requirement upon the expiration thereof

**ADMINISTRATIVE CODE:** Adds new section 21-922 to the Administrative Code

**INT. NO. 294:** By Council Members Ung, Hanif, Hudson, Sanchez, Stevens, Velázquez, Williams, Joseph, Ayala, Restler, Abreu and Nurse

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to provide a multilingual disclosure form to parents or guardians during a child protective investigation

**ADMINISTRATIVE CODE:** Adds new section 21-922 to the Administrative Code

**RES. NO. 35:** By the Public Advocate (Mr. Williams) and Council Members Hanif, Cabán and Restler

**TITLE:** Resolution calling on the New York State Office of Children and Family Services to prohibit juvenile justice agencies from using room confinement as a form of restraint in secure detention facilities and from using transitional hold as a form of restraint in detention and placement facilities.

1. **Introduction**

On June 15, 2022, the Committee on General Welfare, chaired by Deputy Speaker Diana Ayala, will hold a hearing on New York City’s juvenile detention system. The Committee will additionally hear Introduction. Number 139 (“Int. No. 139”), sponsored by Council Member Abreu, a local law to amend the administrative code of the city of New York, in relation to requiring the Administration for Children’s Services (“ACS”) to report on the impact of the deaths of parents and guardians from COVID-19 on children and the repeal of such requirement upon the expiration thereof, and Introduction Number 294 (“Int. No. 294”), sponsored by Council Member Ung, a local law to amend the administrative code of the city of New York, in relation to requiring ACS to provide a multilingual disclosure form to parents or guardians during a child protective investigation. Additionally, the Committee will hear Resolution Number 35 (“Res. No. 35”), a resolution calling on the New York State Office of Children and Family Services (“OCFS”) to prohibit juvenile justice agencies from using room confinement as a form of restraint in secure detention facilities and from using transitional hold as a form of restraint in detention and placement facilities. Those expected to testify include representatives from ACS’s Division of Youth and Family Justice (“DYFJ”), social service providers, advocacy organizations, community organizations, and members of the public.

1. **Background**

The New York State Family Court Act gives Family Courts exclusive original jurisdiction to hear juvenile delinquency cases.[[1]](#footnote-2) A “juvenile delinquent” is a youth who is over 7 but less than 18 years of age, who commits an act that would be a crime if they were an adult.[[2]](#footnote-3) During the pendency of juvenile delinquency cases, juveniles are either supervised by the New York City Department of Probation (DOP) or detained in facilities overseen by DYFJ.[[3]](#footnote-4) Adjudicated youth who receive a disposition of placement in a secure setting are placed in facilities overseen by OCFS.[[4]](#footnote-5) A finding of juvenile delinquency is not considered a criminal conviction and therefore does not result in a criminal record.[[5]](#footnote-6) Moreover, Family Court judges, in response to a motion, may seal any records relating to a delinquency proceeding.[[6]](#footnote-7)

1. *Raise the Age*

In April of 2017, the New York State Legislature enacted “Raise the Age,” legislation that raised the age of criminal responsibility from 16- to 17-years-old starting in October of 2018 and then to 18-years-old in October of 2019.[[7]](#footnote-8) Pursuant to Raise the Age, 16- and 17-year-olds cannot be sentenced to or detained in facilities that also house adults.[[8]](#footnote-9)

Raise the Age amended certain legal classifications for youth accused of otherwise criminal conduct:

* As mentioned above, juvenile delinquents (“JDs”) are youth who engage in behavior that would otherwise be considered criminal were they committed by an adult and have their cases processed in Family Court. Following the implementation of Raise the Age, JDs are youth 7 to 17 years old arrested for misdemeanors and most felony offenses. Youth charged with misdemeanors are JDs as a matter of statute.[[9]](#footnote-10)
* “Juvenile offenders” (“JOs”) are youth between 13- and 15-years old who are charged and tried as adults for committing certain enumerated serious felony crimes, such as murder or arson.[[10]](#footnote-11) Cases against JOs are processed in the Youth Part of adult criminal court, which was newly created under Raise the Age legislation.[[11]](#footnote-12)
* “Adolescent offender” (“AO”) is a category created under Raise the Age and includes 16- and 17-year-olds arrested and charged with felony offenses whose cases are heard in the Youth Part of adult criminal court. Citywide, 79% of youth initially charged as AOs ultimately have their cases transferred to Family Court, where they are adjudicated as juveniles.[[12]](#footnote-13)

1. *ACS Division of Youth and Family Justice*

The DYFJ is the primary entity responsible for coordinating the City’s youth detention services and overseeing youth remanded to the City’s juvenile justice system. The DYFJ provides a wide range of services and programs for youth at every stage of the juvenile justice process, with the goals of building stronger communities, preventing juveniles from entering the juvenile justice system, providing services to youth in custodial care, and helping juveniles develop the tools to prosper once they leave the system.[[13]](#footnote-14) Juveniles over 7, but under 18 years of age who are detained in the DYFJ facilities include alleged juvenile delinquents and offenders whose cases are pending before the courts, and those whose cases have been adjudicated and are awaiting transfer to New York City or New York State placement facilities.[[14]](#footnote-15) From Fiscal Year 2019 to Fiscal Year 2020, after years of decline, there were significant increases in the average daily population in detention (70 to 129 youth) and average length of stay (17 to 29 days).[[15]](#footnote-16) There were also significant increases in the average daily population of youth in secure detention from Fiscal Year 2019 to Fiscal Year 2021 (45 to 101 youth).[[16]](#footnote-17) Notably however, the total number of admissions to New York City detention facilities in Fiscal Year 2021 was 987, a decrease from Fiscal Year 2020 (1,442).[[17]](#footnote-18) Additionally, recidivism rates have remained around 57% for Fiscal Year 2018 to Fiscal Year 2020 but decreased to 49% for Fiscal Year 2021.[[18]](#footnote-19)

The DYFJ manages two full-service secure detention facilities: Horizon Juvenile Center (“Horizon”), located in the Mott Haven section of the Bronx, and Crossroads Juvenile Center (“Crossroads”), located in Brownsville, Brooklyn.[[19]](#footnote-20) The DYFJ also operates two non-secure facilities and contracts with providers for non-secure facilities,[[20]](#footnote-21) limited-secure placement,[[21]](#footnote-22) and aftercare programs.[[22]](#footnote-23)

1. *Detention Facilities and Placements*

Secure detention facilities have the most restrictive security features and are typically reserved for youth who pose the highest risk or have been accused of committing serious offenses.[[23]](#footnote-24) Normal programming and services at these detention facilities include case management, medical, dental, mental health and trauma assessment, in addition to education, recreation and chapel services.[[24]](#footnote-25) ACS and DOC operate Horizon, which held 16- and 17-year-olds who were tried as adults and moved from Rikers Jail while Raise the Age was being implemented.[[25]](#footnote-26) DOC staff remained at Horizon until the last of the Rikers youth who were detained there left Horizon during the summer of 2020.[[26]](#footnote-27) During this transition period, ACS slowly replaced DOC corrections officers with ACS youth development specialists.[[27]](#footnote-28) ACS’s hiring of youth development specialists was impacted by the citywide hiring freezing at the onset of the COVID-19 pandemic.[[28]](#footnote-29) During the Raise the Age transition, any newly charged and detained juvenile delinquent, juvenile offender, or adolescent offender was detained at the other secure detention facility, Crossroads, while ACS sought certification by the State for certain areas at Horizon to be specialized secure detention (SSD) and thus able to house AOs.[[29]](#footnote-30) ACS now has the flexibility to house detained youth closer to their homes and communities in the two secure detention facilities, given that one facility is in the Bronx and the other is in Brooklyn.[[30]](#footnote-31)

Non-Secure Detention (NSD) offers a less restrictive setting for lower-risk juvenile delinquents who have court cases pending in the Family Court.[[31]](#footnote-32) NSD group homes house up to 12 youth, offering environments that are meant to be supportive and home-like while offering close supervision.[[32]](#footnote-33) ACS manages a network of NSD group homes in Queens, Manhattan, Brooklyn, and the Bronx.[[33]](#footnote-34) The agency operates two homes while others are operated by non-profit organizations contracted and overseen by ACS.[[34]](#footnote-35)

In 2012, New York State launched the “Close to Home Initiative,” a program that allows City youth who were previously sentenced and placed in remote, state-run facilities, to be placed into small, therapeutic settings closer to their families and communities.[[35]](#footnote-36) The initiative was fueled, in large part, by a high-profile U.S. Department of Justice investigation into abuse and violence in state-run juvenile facilities,[[36]](#footnote-37) as well as the rising costs and growing evidence of a failed system.[[37]](#footnote-38) In Fiscal Year 2021, 71 juveniles were admitted to New York City’s Close to Home placement facilities.[[38]](#footnote-39)

**III. Juvenile Detention Centers: Issues and Concerns**

1. *Covid-19*

On February 19, 2021 the New York City Council Committee on General Welfare held a hearing on Oversight: The Juvenile Justice System During COVID-19.[[39]](#footnote-40) At the time of the hearing, researchers found that youth in the juvenile correctional system often had unmet physical, developmental and behavioral health needs.[[40]](#footnote-41) Moreover, teenagers in the justice system were found to be more likely to have underlying conditions, such as HIV, mental health and substance use disorders, putting them at greater risk for more serious illness [[41]](#footnote-42) and at higher risk of becoming seriously ill should they contract COVID-19.[[42]](#footnote-43) In New York City, COVID-19 has been twice as deadly for Black and Latinx residents as White residents.[[43]](#footnote-44) In 2020, approximately 89 percent of total admissions to ACS juvenile secure detention centers were either Black or Latinx youth.[[44]](#footnote-45) In 2021, that number increased by five percent, and nearly 94 percent of total admissions to ACS juvenile secure detention centers were comprised of Black and Latinx youth.[[45]](#footnote-46)

1. *Covid 19 Response*

In response to the COVID-19 crisis, on May 5, 2020, ACS released a revised *Emergency Guidance for Congregate Care Providers: Staffing, Training and Clearances Requirements for COVID-19*, which covered temporary modifications to staffing and training requirements for congregate care programs, ACS-contracted foster care and juvenile justice providers.[[46]](#footnote-47) The guidance addressed efforts to maintain an appropriate staff-to-youth ratio necessary for providing essential services and programs including youth supervision, preventing and deescalating conflict, health and wellness, and therapeutic and educational services and facilitating family time (including virtual visits via Skype).[[47]](#footnote-48)

Significantly, in April 2020, ACS implemented a “consolidation plan,” which included transferring apparently healthy or asymptomatic or COVID-negative youth to the Crossroads facility so that youth who tested positive or showed symptoms of the virus could be cared for at Horizon.[[48]](#footnote-49) While reports found children in juvenile detention to be at lower risk of dying from COVID-19 than adults in prisons, children were still able to transmit the virus to staff.[[49]](#footnote-50) According to reporting in April 2020, there was one COVID-related death of a Crossroads staff person, with at least 13 staff persons from both facilities having been hospitalized, and at least 23 confirmed positive cases of COVID-19.[[50]](#footnote-51) Many additional staff persons were reportedly too sick to come to work but had not been tested.[[51]](#footnote-52)

According to testimony provided by the New York County Defender Services at a hearing conducted by the New York City Council Committee on Criminal Justice and the Committee on Justice System, youth in juvenile detention reported “dire and unsafe circumstances,” including insufficient access to basic supplies such as face masks, socks and underwear.[[52]](#footnote-53) Testimony from the Bronx Defenders found that social distancing within juvenile facilities was next to impossible reporting, “children conduct most of their lives within 6 feet of other residents on their hall” [while] eating and showering and [are] spending most of the day together.”[[53]](#footnote-54) Additionally, the media reported on several incidents regarding conditions inside the two secure detention facilities that raised concerns for youth and staff safety including multiple reports of a violent riot at Crossroads after ACS carried out its first youth transfer.[[54]](#footnote-55) The report raised questions as to whether ACS utilized best practices for minimizing harm when removing youth from their known, established routines.[[55]](#footnote-56)

In addition to safety concerns, regarding the spread of COVID-19 as well as the potential for physical violence, youth in juvenile detention facilities experienced challenges receiving educational services. According to reporting conducted by The City in November 2020, children in juvenile detention facilities were kept off camera and muted during remote learning.[[56]](#footnote-57) Advocates and teachers denounced this[[57]](#footnote-58) and in December 2020, The City further reported that ACS and the Department of Education were exploring programs that would permit secure voice communication for students behind bars in addition to expanding tutoring services.[[58]](#footnote-59)

Despite court closures due to COVID-19, ACS and the nonprofits with which it holds contracts used strategies for moving cases forward including discretion in extending visitation in instances where families were close to reunification.[[59]](#footnote-60) In April 2020, the number of youth in ACS's Close to Home facilities dropped from 108 to 76, with 25 young people home on extended passes, according to ACS.[[60]](#footnote-61) According to the 2022 Preliminary Mayor’s Management Report (PMMR), the Close to Home census for FY21 stands at 65.[[61]](#footnote-62)

Finally, COVID-19 forced the City’s family courts to move to virtual courtrooms[[62]](#footnote-63) on March 26 in an effort to reduce the spread of COVID-19 among members of the public and court staff. [[63]](#footnote-64) At present, the court reports that “due to the ongoing risk of COVID-19 transmission, the New York City Family Court conducts proceedings in person, by telephone and via video conference.”[[64]](#footnote-65)

1. *Rise in Census*

In late 2019 the *Raise the Age* law went into effect and created a new category for 16- and 17-year-olds accused of committing felony level crimes called “adolescent offender,” which remanded those individuals to juvenile detention centers rather than adult jails.[[65]](#footnote-66) As a result, with the influx of older youth, the population in juvenile detention centers increased and also resulted in a need for change in programming and operational service delivery by staff.[[66]](#footnote-67) While the purpose of the Raise the Age law was “to ensure that more youth would benefit from the Family Court’s rehabilitative focus and sealed records policies,”[[67]](#footnote-68) the outcomes data is still in the process of being collected, studied and analyzed.[[68]](#footnote-69)

As of June 6, 2022, the Daily Secure and Specialized Secure Bed Capacity and Potential Availability[[69]](#footnote-70) reflected the “most recent maximum operational bed available” reported Horizon’s census at 60 individuals and Crossroad’s census at 81 individuals which is reportedly 100 percent in each facility.[[70]](#footnote-71)

1. *Staffing Shortages*

On March 15, 2022, The City reported that Bronx’s Horizon and Brooklyn’s Crossroads “juvenile detention centers continue to struggle through a severe staffing crunch as a result of the *Raise the Age*” transfer of teens “from adult jails to juvenile detention centers and courts.”[[71]](#footnote-72) According to The City, “As of late February, only 362 “youth development specialists” who have taken the place of former Department of Correction (DOC) guards are “actively working at the facilities” which is down from over 400 in October.[[72]](#footnote-73) This is a reported “fraction of the 850 specialists the city once said it needed to run the city’s two most secure detention centers for minors.”[[73]](#footnote-74) In addition to working 12 hour shifts plus overtime at the facilities “while dealing with potentially dangerous conflicts,” there are reports of “outbursts of violence from both detained youth and the guards meant to protect them.”[[74]](#footnote-75) KPMG was initially contracted in 2018 for the hiring and development of “700-plus youth development specialists—part guard, part social worker,” according to a contract obtained by The City.[[75]](#footnote-76) According to The City, ACS has extended the contract of KPMG consultants who are looking into “tackling work sidelined by the pandemic, including staff retention, technology and facility renovations.”[[76]](#footnote-77)

At a recent visit to Horizon by Mayor Adams for a listening session, SSEU Local 371 Union Vice President Darek Robinson told The City “the staff were gravely concerned about their safety and the safety of everyone in the building.”[[77]](#footnote-78) Vice President Robinson attributed this to “his exhausted workers in managing an aging and ballooning youth population,” and also requested more age-appropriate programming “and structure to combat boredom” along with “additional ways to punish older youth who act out.”[[78]](#footnote-79)

1. **Bill Analysis**

**Int. No. 139** – A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to report on the impact of the deaths of parents and guardians from COVID-19 on children and the repeal of such requirement upon the expiration thereof

Int. No. 139 would require ACS to report on the impact of the deaths of parents and guardians from COVID-19 on children. The first such report would provide quarterly data for the period of January 1, 2020 to April 30, 2022. The subsequent quarterly reports would provide data for each quarter beginning May 1, 2022. ACS would submit the reports to the Mayor and the Speaker of the Council and post such reports on its website. If passed, the bill would take effect immediately and expire 10 years after it becomes law, at which point the bill would be deemed repealed.

**Int. No. 294** – A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to provide a multilingual disclosure form to parents or guardians during a child protective investigation

Int. No. 294 would require ACS to produce and make available to the parent or caretaker a multilingual disclosure form available in designated citywide languages and post on its website such form. The form would be provided at the commencement of a child protective investigation and would include information regarding the rights of a parent or caretaker during a child protective investigation, resources which may be available to such parent or caretaker including legal services, and information about ACS’ Office of Advocacy. If passed, the bill would take effect 90 days after it becomes law.

1. **Conclusion**

At the hearing, the Committee will examine the status of the juvenile justice system, including secure, limited-secure, and non-secure juvenile detention facilities. The Committee will seek a better understanding of ACS’ efforts to ensure that resources, adequate safety measures, services and sufficient staffing are provided for youth across all juvenile detention facilities.

Page intentionally left blank

Int. No. 139

By Council Members Abreu, Ayala, Cabán, Stevens, Won, Williams, Sanchez, Velázquez, Riley, Schulman, Menin, Gennaro, Restler, Dinowitz, Narcisse, Krishnan, Gutiérrez, Marte, Ung, Ossé, Rivera, Hudson, Brooks-Powers, Hanif, Salamanca, Joseph, Nurse, Farías, De La Rosa, Avilés, Brannan, Holden, Powers, Hanks, Moya, Lee, Feliz, Kagan, Bottcher, Louis, Borelli, Carr, Ariola, Vernikov and Paladino

A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to report on the impact of the deaths of parents and guardians from COVID-19 on children and the repeal of such requirement upon the expiration thereof

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-922 to read as follows:

§ 21-922 COVID-19 deaths of parents, guardians; impact on children; report. a. Definitions. For the purposes of this section, the following terms have the following meanings:

COVID-19. The term “COVID-19” means the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Death from COVID-19. The term “death from COVID-19” means a death of a parent or guardian who had contracted or likely contracted COVID-19.

Young adult. The term “young adult” means a person who is 18 to 26 years of age.

b. Reporting required. Within 60 days of the effective date of the local law that added this section, and quarterly thereafter, ACS shall submit to the mayor and speaker of the council and post on its website a report regarding the impact of the deaths of parents and guardians from COVID-19 on children in New York City. The first such report shall provide quarterly data for the period of January 1, 2020 to April 30, 2022. The subsequent quarterly reports shall provide data for each quarter beginning May 1, 2022. The reports shall include, but not be limited to, the following information:

1. For each child placed into foster care due to a death from COVID-19, such child’s race, ethnicity, primary language, income and community district of residence;

2. For each household receiving services from ACS in which young adults are the legal guardians of their younger siblings due to a death from COVID-19, the head of household’s race, ethnicity, primary language, income and community district of residence;

3. The unique needs of such children and households and the plan of ACS, if any, to address such needs; and

4. Any additional information that ACS deems germane to such report.

c. The report required by subdivision b of this section shall include a data dictionary.

d. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law.

§ 2. This local law takes effect immediately and expires and is deemed repealed 10 years after it becomes law.

NLB

LS #6717

3/8/2022

Int. No. 294

By Council Members Ung, Hanif, Hudson, Sanchez, Stevens, Velázquez, Williams, Joseph, Ayala, Restler, Abreu and Nurse

A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children’s services to provide a multilingual disclosure form to parents or guardians during a child protective investigation

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-922 to read as follows:

§ 21-922 Multilingual Disclosure Form. a. Definitions. For purposes of this section, the following terms have the following meanings:

Designated citywide languages. The term “designated citywide languages” has the meaning ascribed to such term in section 23-1101.

Designated organization. The term “designated organization” means a not-for-profit organization or association that has the capacity to provide legal services to parents or caretaker.

Office of advocacy. The term “office of advocacy” means the office within ACS which provides information and responds to the concerns of parents, youth, foster parents, and others affected by the child welfare system, juvenile justice system, and other ACS services.

b. Upon the commencement of a child protective investigation, ACS shall provide to the parent or caretaker a multilingual disclosure form available in the designated citywide languages. Such form shall be posted on the ACS website and shall include, but need not be limited to:

1. Information regarding the rights of parents and caretakers during a child protective investigation;

2. Resources which may be available to parents and caretakers including access to legal services from a designated organization;

3. The telephone number and address of ACS’ office of advocacy and information on common issues handled by the office; and

4. Any other information ACS deems appropriate.

§ 2. This local law takes effect 90 days after it becomes law.

Session 12

AV

LS 8681

4/8/22

Session 11

ACK

LS 10412

Int. 1718

Res. No. 35

Resolution calling on the New York State Office of Children and Family Services to prohibit juvenile justice agencies from using room confinement as a form of restraint in secure detention facilities and from using transitional hold as a form of restraint in detention and placement facilities.

By the Public Advocate (Mr. Williams) and Council Members Hanif, Cabán and Restler

Whereas, The New York City Administration for Children’s Services (ACS) Room Confinement Policy for Secure Detention, dated March 7, 2016, defines room confinement as the involuntary confinement of a youth in a room, including the youth’s own room, when locked or when the youth is authoritatively told not to leave; and

Whereas, According to an article in the Detroit Free Press dated July 16, 2020, a prone hold is a form of restraint that consists of pinning a person face-down on the ground; and

Whereas, On November 18, 2020, the New York State Office of Children and Family Services (OCFS) proposed amendments to Sections 441.4(a), 441.17, 441.22(a), 441.22(b), and 442.2 of the New York State Department of Social Services Regulations to eliminate the authority of child care agencies to use room isolation and prone holding as a form of restraint of children in foster care and to preclude a child care institution from maintaining or operating an isolation room; and

Whereas, The November 18, 2020 OCFS amendments are in recognition of the risk of trauma to children when placed in foster care and the ongoing need to address that risk while preparing the child for discharge, particularly as children often experience trauma before entering foster care; and

Whereas, On December 1, 2020, the Legal Aid Society announced that it secured a guarantee from OCFS that OCFS will no longer employ prone restraints on children in residential treatment centers or OCFS facilities; and

Whereas, New York State Executive Department Regulations Section 180-1.9(c)(11) continues to authorize the use of room confinement on youth in secure detention facilities; and

Whereas, The ACS Safe Intervention Policy for Secure and Non-Secure Detention, dated November 7, 2014, allows the use of prone hold for the amount of time it takes to defuse a situation, but no longer than three minutes; and

Whereas, In Fiscal Year 2020, the ACS Annual Detention Incident Report reported 149 room confinements at the Crossroads Secure Detention Facility, including 96 of five hours or more in duration, and 58 room confinements at the Horizon Secure Detention Facility, including 23 of 10 hours or more in duration; and

Whereas, According to the ACS Annual Detention Incident Report for Fiscal Year 2020, staff used 1,948 physical restraints, defined as physical hold techniques and other non-offensive physical safety interventions, on youth at the Crossroads Secure Detention Facility and the Horizon Secure Detention Facility, including 69 physical restraints that resulted in injury; and

Whereas, According to the ACS Quarterly Close to Home Incident Report for Fiscal Year 2021, Second Quarter, staff used 51 physical restraints on youth in limited secure and non-secure placement facilities, including one physical restraint that resulted in physical injury or impairment; and

Whereas, According to the November 1, 2018 study, “Adverse Childhood Experiences and Justice-Involved Youth: The Effect of Trauma and Programming on Different Recidivistic Outcomes,” adverse childhood experiences are prevalent in justice-involved youth and related to recidivism; and

Whereas, According to the Alliance Against Seclusion and Restraint, the use of restraint and seclusion is traumatic, and traumatic stress can be associated with lasting changes in the amygdala, hippocampus, and prefrontal cortex areas of the brain; and

 Whereas, OCFS is reforming its use of prone holding and room isolation, and eliminating the use of room confinement in secure detention facilities and transitional holds in detention and placement facilities to diminish the trauma to already traumatized youth in placement and detention facilities; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Office of Children and Family Services to prohibit juvenile justice agencies from using room confinement as a form of restraint in secure detention facilities and from using transitional hold as a form of restraint in detention and placement facilities.

Session 12

NLB

LS 5607

1/3/2022

Session 11

NLB

LS# 16832

1. N.Y. Fam. Ct. Act §115(a)(vi). [↑](#footnote-ref-2)
2. N.Y. Fam. Ct. Act §301.2(1). [↑](#footnote-ref-3)
3. 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 Law Department for prosecution in the Family Court. *See* Mayor’s Office of Criminal Justice, October 2019 Report “Raise the Age in New York City,” available at: <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/11/Raise-the-Age-in-New-York-City__.pdf> [↑](#footnote-ref-4)
4. N.Y. Fam. Ct. Act §353.3. [↑](#footnote-ref-5)
5. N.Y. Fam. Ct. Act §380.1. [↑](#footnote-ref-6)
6. N.Y. Fam. Ct. Act §375.2. [↑](#footnote-ref-7)
7. See A3009/S2009, Part WWW; available at: <http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A03009&term=2017&Summary=Y&Memo=Y&Text=Y> (last accessed on June. 8, 2022). [↑](#footnote-ref-8)
8. Id., §36-a. [↑](#footnote-ref-9)
9. *See* Mayor’s Office of Criminal Justice, October 2019 Report “Raise the Age in New York City,” available at: <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/11/Raise-the-Age-in-New-York-City__.pdf> [↑](#footnote-ref-10)
10. “For 13-year-olds, these felonies include murder or a sexually motivated felony; for 14- and 15-year-olds, these felonies include murder (including attempted), kidnapping (including attempted), arson, assault, manslaughter, rape, criminal sexual act, aggravated sexual abuse, burglary, robbery, and weapon possession.” See <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/10/Raise-the-Age-in-New-York-City.pdf> [↑](#footnote-ref-11)
11. Page 4 <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/10/Raise-the-Age-in-New-York-City.pdf> [↑](#footnote-ref-12)
12. Page 22 <http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/10/Raise-the-Age-in-New-York-City.pdf> [↑](#footnote-ref-13)
13. New York City’s (NYC) Administration for Children’s Services. *Mission and Organization: ACS Divisions*. Available at <https://www1.nyc.gov/site/acs/about/acs-divisions.page#14>. [↑](#footnote-ref-14)
14. *See* N.Y. Exec. Law §502(3). [↑](#footnote-ref-15)
15. *Id.* [↑](#footnote-ref-16)
16. *Id.* [↑](#footnote-ref-17)
17. Fiscal 2022 Preliminary Mayor’s Management Report, available at <https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf>. [↑](#footnote-ref-18)
18. *Id.* [↑](#footnote-ref-19)
19. NYC Administration for Children’s Services. *Juvenile Justice, Secure Detention*. Available at <http://www1.nyc.gov/site/acs/justice/secure-detention.page>. [↑](#footnote-ref-20)
20. NYC Administration for Children’s Services. *Juvenile Justice, Non-Secure Detention*. Available at <https://www1.nyc.gov/site/acs/justice/non-secure-detention.page> [↑](#footnote-ref-21)
21. NYC Administration for Children’s Services. *Juvenile Justice, Limited Secure Detention*. Available at <https://www1.nyc.gov/site/acs/justice/limited-secure-placement.page> [↑](#footnote-ref-22)
22. NYC Administration for Children’s Services. *Juvenile Justice, Alternatives*. Available at <https://www1.nyc.gov/site/acs/justice/alternatives.page> [↑](#footnote-ref-23)
23. NYC Administration for Children’s Services. *Juvenile Justice, Secure Detention*. Available at <http://www1.nyc.gov/site/acs/justice/secure-detention.page>. [↑](#footnote-ref-24)
24. *Id.* [↑](#footnote-ref-25)
25. Grench, Eileen, *City Agrees to Extend Federal Oversight of Youth Lockup After Grim Reports Persist*, Nov 8, 2020

    <https://www.thecity.nyc/2020/11/8/21555778/nyc-federal-oversight-youth-lockup-bronx-grim-reports> [↑](#footnote-ref-26)
26. *Id.* [↑](#footnote-ref-27)
27. *Id.* [↑](#footnote-ref-28)
28. ACS Testimony, NYCC Committee on General Welfare Hearing on February 19, 2021. [↑](#footnote-ref-29)
29. ACS Testimony, NYCC Committees on Justice System and Criminal Justice Hearing, <https://www1.nyc.gov/assets/acs/pdf/testimony/2019/TestimonyDecemberHearing.pdf> [↑](#footnote-ref-30)
30. *Id.* [↑](#footnote-ref-31)
31. NYC Administration for Children’s Services. *Juvenile Justice, Non-Secure Detention*. Available at <https://www1.nyc.gov/site/acs/justice/non-secure-detention.page> [↑](#footnote-ref-32)
32. *Id.* [↑](#footnote-ref-33)
33. *Id.* [↑](#footnote-ref-34)
34. *Id.* [↑](#footnote-ref-35)
35. Kramer, Abigail, *Closing in On Closer to Home: NYC to Open New Juvenile Justice Homes*, available at <http://www.centernyc.org/closing-in-on-close-to-home> [↑](#footnote-ref-36)
36. King, Loretta “Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tyron Girls Center” United States Department of Justice Civil Rights Division August 2009 *available at* <https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/NY_juvenile_facilities_findlet_08-14-2009.pdf> [↑](#footnote-ref-37)
37. Kramer, Abigail, *Closing in On Closer to Home: NYC to Open New Juvenile Justice Home, available at* <http://www.centernyc.org/closing-in-on-close-to-home> [↑](#footnote-ref-38)
38. Fiscal 2022 Preliminary Mayor’s Management Report, *available at* <https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf>. [↑](#footnote-ref-39)
39. New York City Council (2021). Committee on General Welfare hearing, February 19, 2021 on Oversight: The Juvenile Justice System During COVID-19. Available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4792980&GUID=2FCEBB2E-A623-4011-BF23-F266CFE17D50&Options=&Search=> [↑](#footnote-ref-40)
40. American Academy of Pediatrics, *Health Care for Youth in the Juvenile Justice System*, available at

    <https://pediatrics.aappublications.org/content/pediatrics/128/6/1219.full.pdf> [↑](#footnote-ref-41)
41. Eli Hager. “I want to See my Child.” Juvenile Lockups Cut Visits Over COVID-19 Fears.” The Marshall Project. March 23, 2020. *Available at* <https://www.themarshallproject.org/2020/03/23/i-want-to-see-my-child-juvenile-lockups-cut-visits-over-covid-19-fears>. [↑](#footnote-ref-42)
42. *Id.* [↑](#footnote-ref-43)
43. Jeffery C. Mays and Andy Newman, *Virus Is Twice as Deadly for Black and Latino People Than Whites in N.Y.C.*, available at

    <https://www.nytimes.com/2020/04/08/nyregion/coronavirus-race-deaths.html> [↑](#footnote-ref-44)
44. NYC Administration for Children's Services, *Detention Demographic Data Fiscal Year 2020*, available at

    <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2020/DetentionDemographicReportFY20.pdf> [↑](#footnote-ref-45)
45. NYC Administration for Children’s Services, *Detention Demographic Data Fiscal Year 2021*, available at <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2021/DetentionDemographicReportFY21.pdf> [↑](#footnote-ref-46)
46. NYC Administration for Children's Services, *ACS EMERGENCY GUIDANCE FOR CONGREGATE CARE PROVIDERS: Staffing, Training and Clearances Requirements - COVID-19*, available at

    <https://www1.nyc.gov/assets/acs/pdf/covid19/Congregatecarestaff.pdf> [↑](#footnote-ref-47)
47. *Id.* [↑](#footnote-ref-48)
48. *Id.* [↑](#footnote-ref-49)
49. Eli Hager. “’I want to See my Child.” Juvenile Lockups Cut Visits Over COVID-19 Fears.” The Marshall Project. March 23, 2020. *Available at* <https://www.themarshallproject.org/2020/03/23/i-want-to-see-my-child-juvenile-lockups-cut-visits-over-covid-19-fears?utm_medium=social&utm_campaign=sprout&utm_source=twitter>. [↑](#footnote-ref-50)
50. Eileen Grench. “COVID Kills Staffer at Juvenile Center Where Youth Are Being Sent for Safety.” April 9, 2020. *Available at* <https://www.thecity.nyc/2020/4/9/21216821/covid-kills-staffer-at-juvenile-center-where-youth-are-being-sent-for-safety>. [↑](#footnote-ref-51)
51. *Id.* [↑](#footnote-ref-52)
52. Testimony by New York County Defender Services at NYC Council Committee on Criminal Justice and Committee on Justice System hearing, May 19, 2020. [↑](#footnote-ref-53)
53. Testimony by Bronx Defenders at NYC Council Committee on Criminal Justice and Committee on Justice System hearing, May 19, 2020. [↑](#footnote-ref-54)
54. Parker Quinlan and Daryl Khan. “Riot at NY Juvenile Justice Facility Stemmed from Coronavirus-related Move, Sources Say.” Juvenile Justice Information Exchange. April 15, 2020. *Available at* <https://jjie.org/2020/04/15/riot-at-ny-juvenile-facility-stemmed-from-coronavirus-related-move-sources-say/> [↑](#footnote-ref-55)
55. *Id.* [↑](#footnote-ref-56)
56. Eileen Grench. “Stuck on Mute: Kids in Juvenile Lockups Can’t Be Seen or Heard by Teachers During Remote Learning.” The City. November 19, 2020. *Available at* <https://www.thecity.nyc/2020/11/19/21578814/kids-in-juvenile-lockups-cant-be-seen-or-heard-by-teachers-during-remote-learning>. [↑](#footnote-ref-57)
57. *Id.* [↑](#footnote-ref-58)
58. Eileen Grench. “City Moves to Take Students Off Mute in Juvenile Lockups, But Due Date Elusive.” *The City*. December 10, 2020. *Available at* <https://www.thecity.nyc/2020/12/10/22168850/juvenile-lockups-to-be-unmuted-but-due-date-remains-elusive>. [↑](#footnote-ref-59)
59. Kramer, Abigail, "COVID-19 Paused Family Reunification Cases; They’re Resuming But at What Pace?” The New *School, Center for New York City Affairs, April 20, 2020 Available At http://www.centernyc.org/reports-briefs/2020/4/20/covid-19-paused-family-reunification-cases-theyre-resuming-but-at-what-pace* [↑](#footnote-ref-60)
60. *Id.* [↑](#footnote-ref-61)
61. Preliminary Mayor’s Management Report (PMMR). February, 2022. Available at <https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf> [↑](#footnote-ref-62)
62. NYS Unified Court System. “Coronavirus and the New York City Family Court.” *Available at* <https://ww2.nycourts.gov/coronavirus-and-new-york-city-family-court-29611>. [↑](#footnote-ref-63)
63. *Id.* [↑](#footnote-ref-64)
64. New York City Family Court (2022). Court Operating Hours and Filing Information. Available at <http://ww2.nycourts.gov/court-operating-hours-and-filing-information-29611> [↑](#footnote-ref-65)
65. New York State (2022). Programs: Raise the Age. Available at <https://www.ny.gov/programs/raise-age-0> [↑](#footnote-ref-66)
66. Adilia Watson. (2022). Raising the Age of Criminal Prosecution: How Does It Serve Youth and The Public? *The Imprint,* March 10, 2022. Available at <https://imprintnews.org/justice/juvenile-justice-2/raising-the-age-of-criminal-prosecution-how-does-it-serve-youth-and-the-public/63258> [↑](#footnote-ref-67)
67. *Id.* [↑](#footnote-ref-68)
68. *Id.* [↑](#footnote-ref-69)
69. New York State Bureau of Detention Services, June 6, 2022. Juvenile Detention Facilities – SD/SSD Cenus. Available at <https://ocfs.ny.gov/programs/youth/detention/census.php> [↑](#footnote-ref-70)
70. *Id.* [↑](#footnote-ref-71)
71. Eileen Grench. (2022). “Raise the Age” Youth Jail Consultants Get $1.2M Extension as Situation Worsened. *The City*, March 15, 2022. Available at <https://www.thecity.nyc/2022/3/15/22978412/raise-the-age-jail-consultants-get-extension-as-situation-worsened> [↑](#footnote-ref-72)
72. *Id.* [↑](#footnote-ref-73)
73. *Id.*  [↑](#footnote-ref-74)
74. *Id.* [↑](#footnote-ref-75)
75. *Id.* [↑](#footnote-ref-76)
76. *Id.* [↑](#footnote-ref-77)
77. *Id.*  [↑](#footnote-ref-78)
78. *Id.* [↑](#footnote-ref-79)