



Legislation Text

File #: Res 1067-2011, **Version:** *

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, Williams, Arroyo, Sanders Jr., Rodriguez, Levin, Van Bramer and Gennaro

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.

WJH
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