

RAISE the AGE | NY

Legislature Passes Bill to Raise the Lower Age and End the Arrest and Prosecution of Children Under 12

June 10, 2021. Yesterday the Senate and today the Assembly passed ground-breaking legislation to end the arrest and prosecution of children as young as 7 as juvenile delinquents in New York State. The result of years of advocacy led by young people, defenders, community-based organizations and advocates, the bill builds on the success of Raise the Age by keeping the youngest children out of the criminal legal system. This reform puts New York in a leadership position nationally: joining Massachusetts, California and Utah as one of only four states raising the lower age for delinquency arrest and family court prosecution to 12.

Championed by Assemblyman Andrew Hevesi and Senator Jamaal Bailey, the bill was also endorsed by the [Black, Puerto Rican, Hispanic & Asian Legislative Caucus as part of a robust commitment to Expanding Youth Justice in New York.](#)

This legislation recognizes that criminalizing young children runs contrary to scientific research, the recommendations of leading pediatric experts, and the fact that children involved with the juvenile legal system are more likely to have mental health issues and be involved in the adult justice system later in life. Prosecuting children as young as 7 raises significant concerns about their capacity to meaningfully participate in the court process. Moreover, the juvenile legal system's more punitive responses — probation, detention and institutional placement — are harmful and inappropriate for very young children. Today, New York opens a new chapter.

"I am extremely proud that the Senate and Assembly passed S.4051/A.4982. This legislation raises the lower age for arrest and prosecution from 7 to 12 years old, prohibiting children from being charged as juvenile delinquents, and creates a differential response system for the child to get services and support. Exposing youth to the juvenile justice system actually increases their likelihood of recidivism and further involvement with the criminal justice system as adults. This is a racial justice issue with Black and Latinx children disproportionately represented within the juvenile system, often exhibiting the same behaviors as their white counterparts. This overrepresentation of children of color is due in large part to inherent racism as well as the adultification of Black and brown children — that is to say they are looked at by authority figures as older than they really are and have their behaviors criminalized," said **Assemblyman Andrew Hevesi, Chair of the Children and Families Committee.** "The American Academy of Pediatrics has found that 90% of justice-involved youth have experienced at least one form of childhood trauma, and according to the National Child Traumatic Stress Network the average justice-involved youth will have experienced 5 different forms of childhood trauma, 62% of whom having experienced that trauma within the first 5 years of life. These are our little ones, and rather than help them get the services and support they need to succeed and ensure they are not doomed or defined by their trauma, our state has retraumatized them and put them on a trajectory to fail. This bill aims to correct that. I would like to thank my colleague, Senator Jamaal Bailey, for leading this fight in the Senate as well as the Children's Defense Fund-NY, The Legal

Aid Society Juvenile Rights Practice, Families Together in New York State, Citizens' Committee for Children of New York, and all of the other advocates who fought for the passage of this bill. We would not be here today if not for their efforts."

"Today we took a historic step towards fundamentally changing how the justice system treats children and ending the destructive cycles of youth incarceration. This bill will help keep children out of the systems that have disproportionately harmed young people of color, raising the lower age of juvenile delinquency jurisdiction from seven to twelve years of age and establishing differential response programs for children under twelve. We know the younger a child is at their first contact with the justice system, the more likely they are to enter the system later in life. The immense harm done to children exposed at an early age can destroy a child's future at the critical moments when they most need support and guidance. Raising the minimum age of juvenile delinquency will reduce the number of children who come in contact with the justice system in the first place and allow the system to serve the purpose of rehabilitation rather than punishment.

I want to thank the advocates and Senate staff who have worked long and hard on this reform. I'm incredibly grateful to Senator Stewart-Cousins, Assemblyman Hevesi, and my colleagues for their support of this legislation. Finally, I want to extend my gratitude to the great Senator Velmanette Montgomery, the original sponsor of this bill, for her leadership in criminal justice reform and tireless advocacy on behalf of young people throughout her entire career." **Senator Jamaal T. Bailey.**

"I am so very happy that my colleagues Senator Bailey and Assemblyman Hevesi have been willing to continue the progress of addressing how the state responds to children in crisis in New York. They have been steadfast in picking up the baton and completing this extremely important charge to end the arrest and prosecution of children under the age of 12. I am also so thankful to the Majority Leader and the Speaker for their commitment to continue the progress in passing this important piece of legislation. Also thanking the Raise the Age coalition for their dedication, leadership, and advocacy on this and so many other issues related to juvenile justice." **Former Senator Velmanette Montgomery.**

"Arresting elementary school kids is wrong! Kids don't belong in handcuffs, or police cars, or detention. In New York City, most of these very young children who are arrested are Black and Latinx. We need to help kids, get them services if they need them, and build systems of restorative justice that help them learn from their experiences and move away from punitive practices. Although further work remains ahead to provide our most marginalized Black and Latinx children with the safe communities they need and deserve, today I'm glad that lawmakers in Albany heard us on the steps of the Capitol and in all of those Zoom meetings, and that we finally raised the age of delinquency to 12." **KJ Morris, Beat the Odds Scholar, Youth Advocate with Children's Defense Fund-NY.**

"Passage of the bill to Raise the Lower Age is a huge step in the right direction. This bill allows for youth not much different than myself to get the help they need and desire immediately. It took me nearly two decades to get help and work through the trauma of my childhood. This bill helps to break the cycle and helps to eliminate the criminalization of childhood." **Charles Anthony Rice, Regional Youth Partner, Families Together in New York State, Impacted Young Person.**

“I’m passionate about the way my community and young people are impacted by the system, which is one of the many reasons I spoke up about ending the arrest of young children. It’s a youth justice issue and a racial justice issue. Now with this bill passing we can make sure that children and families get what they need! Families are able to feel a huge relief in their own communities.” **Jaramin Gomez, Youth Mentor, Community Connections for Youth.**

“In 2017, New York State passed landmark legislation to raise the age of juvenile delinquency jurisdiction from 16 to 18. Unfortunately, at that time the lower age was left on the chopping room floor. Finally, in 2021, the state legislature has recognized what families intuitively know: second graders who commit unlawful acts are not criminals to be feared and punished, but children who need the support and understanding of kind, compassionate adults. This week, the Senate and Assembly have voted to right this wrong that has, for far too long, disproportionately traumatized Black and Latinx children and their families. We call on the Governor to sign expeditiously and make clear that New Yorkers value the potential of all our children, including those who make mistakes.” **Paige Pierce, CEO, Families Together in New York State.**

“What young children that come in contact with law enforcement need most are support services, not handcuffs, traumatizing court proceedings, or punitive measures that increase the likelihood of continued justice system involvement into adulthood. With this historic reform, New York is on course to being a national model in evidence-supported youth justice reform and can make meaningful strides in advancing race equity and racial justice in Black and brown communities. Citizens’ Committee for Children thanks Assemblyman Hevesi and Senator Bailey for their tireless leadership to serve New York’s children and families. This legislation, passed by the Senate and Assembly, will lead to better outcomes for children and ultimately safer communities.” **Raysa S. Rodriguez, Associate Executive Director for Policy and Advocacy, Citizens’ Committee for Children of New York.**

"No child belongs in handcuffs or courtrooms," said **Kate Rubin, Director of Policy at Youth Represent.** "This legislation brings New York State one step closer to treating children as children by responding to them with effective services and interventions rather than detention and prosecution. Thank you to Assemblyman Hevesi, Senator Bailey and the young people, families, and advocates who have been fighting for years to end this practice."

“New York State is just a pen stroke away from abolishing its longstanding and appalling practice of arresting and prosecuting children who are under the age of 12,” said **Dawne Mitchell, Attorney-in-Charge of the Juvenile Rights Practice at The Legal Aid Society.** “In the vast majority of cases, this bill will bring New York's practices into accord with the science of child development and basic humanity. This is an essential step as New York continues to reform longstanding and ingrained biases in the state’s criminal and juvenile legal systems, and we call on Governor Cuomo to sign the bill into law at once.”

“Our young children need us to understand: behavior is often a cry for help. It is good to see legislation finally catch up to the science for young children, bringing New York in line with other states across the country. With this bill, we are one step closer to righting the wrongs of our juvenile justice system, particularly for black and brown children, giving all kids a chance to recognize their full potential.” **Allison Lake, Executive Director, Westchester Children’s Association.**

“Collectively as a society we must stop criminalizing our youth. Our systems have been compounding the trauma our children are experiencing and creating deeper negative effects. We are finally moving in the right direction with this legislation. We are responsible for our children and if we truly believe they are our future, then let’s start acting like it. Our children need resources and opportunities, not handcuffs.” ***Empowerment Collaborative of Long Island.***

“This bill is another step toward expanding youth justice in New York, aligning our response to children with current research on child development, helping to close the school-to-prison pipeline, and addressing the persistent overrepresentation of Black and Latinx youth in the system. Thank you Assemblyman Hevesi and Senator Bailey for championing this legislation and standing with our children and families.” ***Julia L. Davis, Director of Youth Justice & Child Welfare, Children’s Defense Fund-New York.***

This legislation, which will go into effect one year from the date it becomes law:

- raises the lower age of delinquency jurisdiction from age 7 to 12 for all offenses except most homicide offenses;
- ends the use of secure detention for children under 13 (except in homicide offenses);
- creates an alternative response pathway for assessment and services for youth through local departments of social services (LDSSs);
- provides training for police and LDSS staff to ensure appropriate response and that children and families can access services, when necessary;
- ensures records associated with services for youth are confidential and cannot be disclosed to anyone who is not involved in their treatment;
- funds the alternative response through existing funding streams; and,
- requires the Office of Children and Family Services to produce an annual report documenting how programs are ensuring the safety and well-being of children, and addressing adverse impacts on minority communities in light of the well-documented racial disparities in the youth justice and child welfare systems.

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For more information, please contact:

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