



Raise the Age

Overview and Implementation

Legislation Signed into Law

Raise the Age (RTA) legislation was enacted on April 10, 2017 (Part WWW of Chapter 59 of the Laws of 2017):

- It prohibits 16- and 17-year-olds from being held in adult jails and prisons
- It makes substantive changes to the procedures and mechanisms used to process 16- and 17-year-olds in the criminal and youth justice systems
- It allows for additional services for youth and alters the types of detention and/or placement they may receive



Implementation will be phased in

- October 1, 2018: law takes effect for 16-year-olds
- October 1, 2019: law takes effect for 17-year-olds



Terms used in this presentation

- References to youth's age refer to their age on the date the alleged act occurred, unless otherwise noted
- Use of “16- and 17-year-olds” refers to individuals affected by the law when it is phased-in
- References to crime refer to the most severe offense the youth was charged with or was alleged to have committed



Three types of Offender Categories

- **Adolescent Offender (AO)** – New category created by *RTA*
- **Juvenile Offender (JO)**
- **Juvenile Delinquent (JD)**



Adolescent Offender (AO)

- **Age:** 16- or 17-years-old at the time of the offense
- **Alleged Crime:** Felony; if convicted, current adult sentencing applies
- **Court:** Youth Part of Superior (Criminal) Court
- **Pre-trial detention:** New “specialized secure juvenile detention facilities for older youth”
- **Probation Service:** Eligible for voluntary case planning services prior to conviction
- **Probation Supervision:** AOs will receive probation terms consistent with current law
- **Post-Sentence Confinement Options:**
 - Definite sentence of one year or less – new specialized secure juvenile detention or Office of Children and Family Services (OCFS) secure facility (judicial choice)
 - Sentence of one year or more and under 18-years-old at sentencing – new Department of Corrections and Community Supervision (DOCCS) AO facility
 - Sentence of one year or more and 18 or older at sentencing – existing DOCCS adult facility



Juvenile Offender (JO)

- **Age:** 13- to 15-years-old at the time of the offense
- **Alleged Crime:** Select set of serious offenses (e.g. murder, manslaughter, rape, robbery 1)
- **Court:** Youth Part of Superior (Criminal) Court
- **Pre-trial Detention:** Existing local detention facilities licensed by OCFS
- **Probation Service:** Eligible for voluntary case planning services prior to conviction
- **Probation Supervision:** JOs will receive probation terms consistent with current law
- **Post-Sentence Confinement:** Existing OCFS Secure Facilities



Juvenile Delinquent (JD)

JD classification is extended to include 16- and 17-year-olds under the appropriate circumstances

- **Age:** Under 16-years-old at the time of the offense
- **Alleged Crime:** non-JO felony or a misdemeanor
- **Age:** 16- or 17-years-old at the time of the offense
- **Alleged Crime:** misdemeanor (except VTL)
- **Age:** 16- or 17-years-old at the time of the offense
- **Alleged Crime:** non-violent or violent felony offense (VFO) AND was removed to Family Court by the Youth Part
- **Court:** Family Court
- **Pre-trial Detention:** Existing secure or non-secure juvenile detention facility licensed by OCFS
- **Probation Service:** Eligible and suitable youth may receive adjustment services
- **Probation Supervision:** Not to exceed two (2) years consistent with current law
- **Post-sentence confinement:** Existing OCFS limited secure or non-secure facility or voluntary agency (OCFS or Local Departments of Social Services (LDSS) custody)



Pre-Adjudication Youth Process

- Juvenile questioning rooms, inspected and approved by the appropriate court administrator and usually located in police administrative offices, will be used for questioning youth who have been arrested
- Youth may be brought to his/her home by police, and with consent of the parent or legal guardian, be questioned there for a reasonable period of time
- Parental notification of arrest will be required for 16- and 17-year-olds, similar to what is now available for youth 15 years of age and under in Family Court



Court Jurisdiction

- **New Youth Part – County/Superior Court:** Family Court Judges and Criminal Court Rules
 - all 16- and 17-year-old felony (violent and non-violent) offenses and vehicle and traffic law (VTL) misdemeanors start in the Youth Part
 - all 13- to 15-year-old JOs
- **Existing Family Court:** Family Court Judges and Rules
 - all 7- to 15-year-old offenses start in Family Court (except JO offenses)
 - all 16- to 17-year-old misdemeanors start in Family Court (except VTL offenses)
 - 16- and 17-year-old felonies removed by Youth Part
- **Existing Local Criminal Courts:** Criminal Court Judges and Rules
 - all 16- and 17-year-old violations and infractions (e.g. traffic violations)



Youth Part

- The *RTA* legislation creates a “Youth Part” within the Superior (Criminal) Courts in each county and in New York City
- Judges presiding in the Youth Parts will be specially-trained Family Court judges



Youth Part Jurisdiction

- The following cases will be heard in the Youth Part:
 - 16- and 17-year-olds charged with felonies (i.e. AOs) whose cases are not removed to Family Court
 - 16- and 17-year-olds charged with VTL misdemeanors
 - 13-, 14-, and 15-year-old Juvenile Offenders (JOs) whose cases are not transferred to Family Court



Features of Youth Part

- Voluntary probation services tailored to youth will be available for AOs and JOs
- There is a presumption against detention



Removal from Youth Part to Family Court: Non-Violent AOs

- VTL misdemeanors cannot be removed to Family Court
- AOs accused of non-violent felonies will automatically be removed to Family Court within 30 days of arraignment, unless:
 - The defendant waives removal; or
 - The District Attorney (DA) moves to prevent removal
- If the DA moves to prevent removal, they must prove “extraordinary circumstances” that warrant keeping the case in the Youth Part or the case will be removed to Family Court

Removal from Youth Part to Family Court: Violent AOs

- Removal of AOs for violent felony offenses and Class A offenses (other than drug offenses) is based upon a three-part test. Cases will *not* be removed if:
 - The defendant displayed a firearm, shotgun, rifle, or deadly weapon;
 - The defendant engaged in certain criminal sexual conduct; or
 - The defendant caused significant physical injury on a non-participant in the crime
- If one of these three circumstances is not found, the case will be removed within 30 days unless the DA moves to prevent removal and demonstrates extraordinary circumstances
- Cases may be removed in less than 30 days with agreement from all parties



Removal from Youth Part to Family Court: JOs

- For Juvenile Offenders (JOs) in the Youth Part, the criteria for removal to Family Court will not differ from current law



Family Court Jurisdiction

- Juvenile Delinquent (JD) cases will continue to be heard in Family Court
- Family Court jurisdiction will expand to include 16- and 17-year-olds when:
 - They are accused of a misdemeanor (except VTL); or
 - Their cases are transferred from the Youth Part
 - AOs that are transferred to Family Court will then be classified and treated as JDs
- 16- or 17-year-olds in Family Court will be treated the same as 15-year-olds currently:
 - They will have an opportunity to limit detention and placement through available alternatives to detention
 - They will have the same dispositional options, such as placement or probation



Eligibility for Adjustment Services

- **Adolescent Offenders** removed to Family Court may receive adjustment services through probation
- **Juvenile Offenders** will not be eligible for adjustment services
- **Juvenile Delinquents** deemed eligible and suitable may receive adjustment services consistent with current law

3 Types of Pre-Sentence Confinement

- New specialized secure juvenile detention facilities
- Existing secure juvenile detention facilities
- Existing non-Secure juvenile detention facilities



Specialized Secure Juvenile Detention Facilities

- New type of detention created by the *RTA* legislation that is reserved exclusively for AOs
- Will be jointly certified and regulated by OCFS and the State Commission of Correction (SCOC)
- These facilities will be locally administered:
 - Outside of New York City, counties may opt to have the local probation or social services department administer the program in conjunction with the local sheriff
 - In New York City, the Administration for Children's Services (ACS) will administer these facilities in conjunction with the NYC Department of Correction (NYC DOC)
 - Not every county will be required to *operate* a facility, but all must have one *available* for use
- These facilities will not be co-located with local jails



Specialized Secure Juvenile Detention Facilities

- These facilities may be co-located with currently operating juvenile secure detention facilities, provided the following conditions are met:
 - AOs must be assigned to separate housing units from JDs and JOs
 - Facilities may share common spaces (e.g. cafeteria, medical, vocational and recreational) for AOs and JDs/JOs, but physical access between the populations must be prevented
 - Facilities may be allowed to share space for AOs, JDs, and JOs for educational purposes
 - Facilities must abide by all OCFS and SCOC regulations
- OCFS and SCOC have notified all sheriffs and juvenile detention agencies of this update
- OCFS and SCOC are actively working to promulgate regulations for the establishment, certification, and operation of these facilities



Specialized Secure Juvenile Detention Facilities

- **Pre-trial Detention:** AOs may be confined to a specialized secure detention facility while their criminal trial is pending
- **Post-conviction Sentencing:** These facilities will also be a post-conviction sentencing option for AOs with a definite sentence of one year or less



Rikers Island

- *RTA* legislation prohibits the placement of youth at Rikers Island
- **April 1, 2018:** All youth under the age of 18 must be removed from Rikers Island, if practicable
- **October 1, 2018:** All youth must be removed from Rikers Island



Adolescent Offender Facilities

- The law requires that DOCCS create one or more facilities to house AOs impacted by this legislation that are under 18 years of age at sentencing and sentenced to one year or more
- These facilities will operate a two-year treatment model developed in collaboration between DOCCS and OCFS
- A council made up of representatives from DOCCS, OCFS, SCOC and the Division of Criminal Justice Services (DCJS) will jointly oversee the facilities



AO Facilities: Hudson CF Model

- Pursuant to Governor Cuomo's Executive Order in 2015, Hudson CF in Columbia County currently houses incarcerated 16- and 17-year-olds and provides age-appropriate programming for its residents
- Hudson CF will transition to an AO Facility:
 - Hudson will remain the reception center for all (male and female) AOs received into DOCCS Custody
 - Hudson will remain an Office of Mental Health (OMH) and Medical Level 1 facility, providing medical and mental health services 24 hours a day
 - Hudson will be the only facility to house female AOs



AO Facilities: Additional Site Locations

Two sites were selected by DOCCS to serve as AO facilities:
Adirondack CF and the former Groveland Annex

Adirondack CF:

- Essex County
- Current Status: Medium Security, Male Facility
- Operational Date: October 1, 2018

Former Groveland Annex:

- Livingston County
- Current Status: Decommissioned Medium Security, Male Facility
- Operational Date: October 1, 2019



AO Facilities: County Housing

- As an interim measure before the law takes effect, DOCCS will continue to review requests from counties to house 16- and 17-year-olds who receive a definite sentence of imprisonment in excess of 90 days at Hudson CF
- If approved, due to limited capacity, there will be a per capita cost associated with housing these youth from the counties
- After Phase 1 of *RTA* implementation, DOCCS will continue this practice as it relates to 17-year-olds



AO Facilities: Program Treatment Model

- AO Facilities will operate under the Program Treatment Model:
 - Specialized therapeutic programs designed for adolescents to develop cognitive skills
 - Academic transition plans will be developed with the AO student and the school psychologist to transition the AO student to education programs, vocational training, and/or employment
 - Substance abuse treatment will be offered
 - AOs that complete the 2 year program model and are transferring to a DOCCS adult general confinement facility will have a transition plan in place



AO Facilities: Discharge Planning Services

- Discharge Planning Services are a coordinated effort between DOCCS correction and community supervision staff, Re-Entry Services, County Re-Entry Task Forces (CRTFs), and OCFS
- Where appropriate, this includes:
 - Family reintegration
 - Housing assistance
 - Mental health and medical continuity of care
 - Employment support
 - Educational needs
- Counties can sign up for a monthly automated email notification that will provide information on AOs released to their counties



Post Release Supervision

- DOCCS Community Supervision staff will provide post release supervision to both AOs released from DOCCS and JOs released from OCFS and DOCCS:
 - They will be supervised by a Parole Officer in bureaus based on county/area of residence
 - Until the age of 18, they will be supervised at a Youthful Offender risk level, which is a supervision ratio of 40:1
 - At age 18, a risk assessment instrument will determine the appropriate level of supervision



Sealing Provision

- Effective October 7, 2017, *RTA* provides individuals previously convicted of certain crimes with the opportunity to apply to have their criminal record sealed
- An application for sealing cannot be made until at least ten years has passed since the individual's date of conviction or date of release from confinement – and the individual has remained crime-free during that time period
- Individuals who were convicted of two or more felonies, a sex offense, violent felony, or other specified serious felonies are not eligible to have their records sealed
- This provision does not apply solely to youth – rather, all eligible, previously convicted individuals can apply to have their record sealed
- This provision will not impact the information available to law enforcement



Possible Impacts on Social Services Departments

- Counties may require more contracts with voluntary agencies to accommodate an increase in JD placements
- Local Social Services Departments that operate detention centers may have an increase in youth to be served in those facilities
- Localities may choose to operate specialized secure detention facilities with local sheriffs' departments (or NYC DOC)
- Unlike previous versions, the enacted *RTA* legislation does not include reforms for youth alleged or adjudicated to be a Person in Need of Supervision (PINS)
- Instead, state funding to localities for PINS detention and placement will expire in 2020 pending further policy actions



Possible Impacts on Social Services Departments, cont.

- Localities may need to change their claiming practices to isolate *RTA*-related expenses
- Local Social Services Departments designated the lead agency for Supervision and Treatment Services for Juveniles Program (STSJP) should anticipate expanded programs with increased eligibility
- **Effective October 1, 2018:** OCFS will expand eligibility for the Supervision and Treatment Services for Juveniles Program (STSJP) to include youth who are alleged to be or are convicted as Adolescent Offenders (JOs and JDs are already eligible by law)

OCFS-supported Juvenile Justice Alternatives Continuum



Prevention

Early Intervention

Alternative to Detention
[including specialized
secure]

Alternative to
Placement (ATP)

Aftercare / Reentry
Programming

Possible Impacts on Voluntary Agencies

- Voluntary agencies (VAs) will treat new youth in residential settings
- For VA placement, youth must be adjudicated JDs placed in non-secure care with OCFS or a Local Social Services Department; or placed with NYC ACS under the Close to Home program



Possible Impacts on Voluntary Agencies, cont.

- VAs may need additional staff and beds to meet the needs of the new population
- OCFS will determine the best Maximum State Aid Rate (MSAR) for the new population
- OCFS will review and modify current regulations as well as create new regulations, policies, and procedures to address the population, including searches, security, programming, law enforcement engagement, etc.

Possible Impacts on Probation Departments

- Probation Departments may need additional staff to meet the needs of the new population
- Probation Departments may need access to additional community-based services to meet the needs of the new population – e.g. educational, vocational, cognitive behavioral interventions, behavioral health, family treatment, intensive case management
- Probation Departments that operate detention centers may experience an increase in youth to be served in those facilities
- DCJS will review and modify current regulations to address the population, including case planning and the provision of services to AOs and JOs, intake and adjustment services, court ordered investigations, supervision, and other related regulatory changes

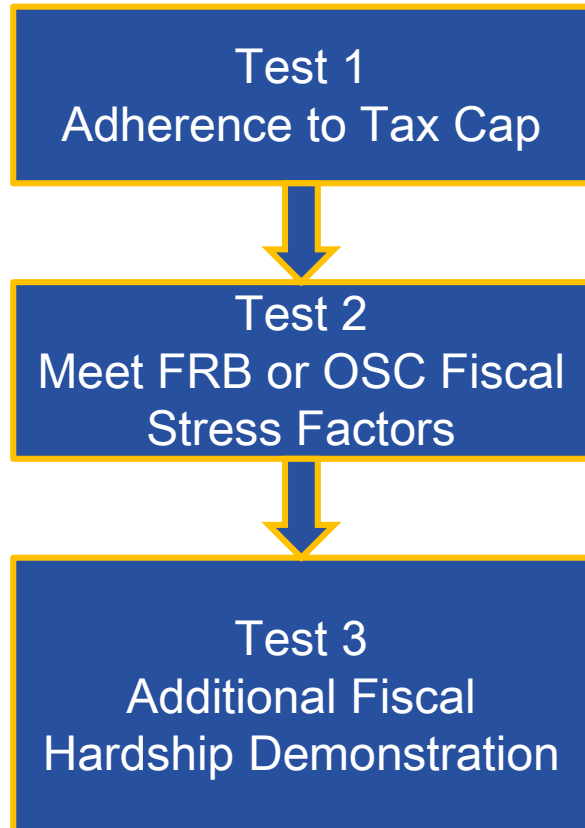


Local Costs

- State statute authorizes and the State Financial Plan assumes **100% State reimbursement** to eligible localities for *RTA*-related expenditures – this includes all incremental capital, personnel, and non-personnel costs counties/municipalities incur as a result of *RTA*
- The State will cover incremental costs, such as: law enforcement; local detention; court services; Sheriffs' transportation; probation services; youth placement; and aftercare services
- Counties that meet the following criteria are eligible for reimbursement:
 - **Remain under the tax cap** – counties that remain under the tax cap are NOT required to contribute a local share of expenditures for *RTA*-related costs
 - **Demonstrate financial hardship** – for those counties not subject to or that exceed the tax cap, the State is authorized to waive the local share for each that can demonstrate financial hardship



Local Costs



If the locality adheres to the tax cap, the State will reimburse the costs

If the locality is a Fiscally Eligible Municipality under the Financial Restructuring Board's (FRB) statutory criteria OR received a fiscal distress designation from the Office of the State Comptroller's (OSC) Fiscal Stress Monitoring System, the State will reimburse the costs

If the locality does not adhere to the tax cap or meet FRB or OSC fiscal stress factors, the Division of Budget will determine whether fiscal hardship is demonstrated, factors include: incremental cost of *RTA*; changes in state or federal aid payments; extraordinary costs, such as a disaster; infrastructure costs; growth in tax receipts; prepayment of expenses; fund balances, reserves, and surpluses; and control board oversight

Local Costs

- The State intends to maintain the current reimbursement process – where modifications are necessary, the State is dedicated to ensuring ease of execution
- Reimbursement will require cost tracking at the local level, but the State is committed to establishing a reimbursement process that is: timely; streamlined; user-friendly; simple to navigate; and easy to implement
- Information about the application process for state reimbursement will be available on the NYS Division of the Budget and *RTA* websites





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