

Raise the Age Implementation Guide

Overview

The Raise the Age Implementation Task Force was established by the Mayor's Office of Criminal Justice following the passage of new legislation in April 2017 that raises the age of criminal accountability for 16-year-olds effective October 1, 2018 and 17-year-olds effective October 1, 2019. Since September 2017, the Task Force has been working diligently to prepare New York City to implement this seismic system change. Creating a safe, fair justice system requires the efforts and coordination of many, and we are privileged to have had the opportunity to work with so many of you to ensure the best outcomes for New York City's youth and families.

Made up of four interdisciplinary working groups—focused respectively on court processes, programming and diversion, data analytics and risk assessment, and facilities—the Task Force has worked quickly to develop sound, data-driven policies that will translate into new practices on the ground.

The charge of the Task Force is to ensure:

- New York City operates a best-in-class juvenile justice system that ensures fair and just outcomes for children 17 years of age or younger without compromising public safety.
- New York City continues to safely reduce the detention, jail, and prison population, and does not detain or incarcerate more people after Raise the Age takes effect.
- Crime levels remain at historic lows.

The Working Groups have been co-chaired by individuals with significant expertise and who represent critical government and community stakeholders.

A change of the magnitude of Raise the Age comes around once in a generation. We have the unique opportunity and the urgent challenge to implement this legislation with excellence and position our young people for success.

Values

The passage of Raise the Age legislation is a significant moment for the state of New York. Until this development, New York and North Carolina were the only two states in the country not to recognize and codify what research has confirmed—adolescents are children, and prosecuting and punishing them in adult facilities neither advances the goal of rehabilitating youth nor protects public safety.

Adolescence is a transitional period during which a child is becoming, but is not yet, an adult. As a society, we recognize the limitations of adolescents by restricting their privileges to vote, serve on a jury, consume alcohol, marry, enter into contracts, and even watch movies with mature content. When it comes to the criminal justice system, however, for too long we have drawn no distinction.¹

¹https://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_ju_vjus_Adolescence.authcheckdam.pdf

New York State’s Raise the Age legislation was drafted with the intention of treating 16- and 17-year-olds as children in the justice system—meaning most cases, depending on severity, would be seen in the Family Court system, as most cases for youth 15-years-old and younger are today. Most importantly, Raise the Age implementation will extend rehabilitative and supportive resources to older children and their families.

New York City has articulated the following shared values to anchor its implementation of Raise the Age:

1. *Fairness.* Justice outcomes for 16- and 17-year-olds should improve following the implementation of Raise the Age, not worsen.
2. *Safety.* Detain or incarcerate children no more than necessary to preserve public safety and ensure appearance in court. Incarceration is not an appropriate response for children with challenging needs who have no place to go.
3. *Continuity.* Whenever possible, ensure continuity of defense counsel, court of record, and prosecutorial agency.
4. *Speed.* Remove appropriate cases from the Superior Court Youth Part to the Family Court system in a swift and timely manner.

Key concepts

The following are key concepts either introduced or modified by the implementation of Raise the Age:

Juvenile Delinquents (JDs)

Under Raise the Age, the definition of Juvenile Delinquent (JD) is expanded to include 16- and 17-year-old children who have allegedly committed a misdemeanor crime, except for misdemeanors defined in the Vehicle and Traffic Law. By statute, a JD is a person who, having committed an act that would constitute a crime if committed by an adult, (a) is not criminally responsible for such conduct by reason of infancy, or (b) is the defendant in an action ordered removed from a criminal court to the Family Court pursuant to Article 725 of the Criminal Procedure Law.

The court of record in JD cases is the Family Court. The Family Court has exclusive and original jurisdiction over any proceeding to determine whether a person is a Juvenile Delinquent. Eligible and suitable JDs may receive adjustment services from the Department of Probation.

Adolescent Offenders (AOs) and newly created Youth Parts

Alleged Adolescent Offenders (AOs) are 16- or 17-years-olds who are arrested on felony charges.

The Raise the Age legislation directs the chief administrator of the courts to establish, in the superior court in each county, “a part of the court to be known as the ‘Youth Part’ of the superior court for the county in which such court presides.” The Youth Part will have exclusive jurisdiction in all proceedings relating to Adolescent Offenders. The cases of Juvenile Offenders (JOs), or children aged 13-15 years old and prosecuted for designated violent felonies in the adult court system, will also be heard in the Youth Parts. Below are a number of key points regarding the processing of AOs:

All Adolescent Offender cases must originate in the newly created Youth Part of the Superior Court, where there is a presumption against detention in non-violent felony cases.

Judges presiding in the newly created Youth Parts will be specially trained Family Court judges or judges designated to serve as Family Court judges. These judges will also be designated or elected Supreme Court justices.

There is a presumption of removal to Family Court for Adolescent Offenders charged with non-violent felonies, except when extraordinary circumstances are present. The Raise the Age legislation preserves access to, and eligibility for, probation adjustment services for Adolescent Offenders accused of non-violent felonies whose cases are transferred to Family Court.

Next steps on implementation of Raise the Age

Successful implementation of this law will require rigorous monitoring and consistent adjustment. To understand how successfully Raise the Age has been implemented, the City will be relentless in answering the following kinds of questions:

- How is implementation playing out on the ground? How have practices changed?
- How are young people and their families experiencing the change? Is this experience consistent across court jurisdictions?
- Where are we running into unexpected obstacles?
- Have new opportunities arisen that we didn't expect?
- Are we collecting the data we need to effectively monitor implementation efforts?
- How can we do better?

To ensure we are equipped to answer these questions, the City has established an approach to gather information about implementation, review the information regularly, and resolve problems in real time.