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Families Together in New York State**

**Presents testimony to the Joint Legislative Budget Committee on  
Public Protection.**

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As the CEO of Families Together in New York State, a nonprofit parent-run organization serving families of youth with social, emotional and behavioral challenges, I have dedicated my career to serving our state's most vulnerable citizens, connecting them with community-based supports, and advancing sound social welfare policies in response to family identified needs. As such, we have been advocating for juvenile justice reforms, specifically, legislation to raise the age of criminal responsibility from 16 to 18.

As you are well aware, New York State continues to be only one of two states that automatically processes, prosecutes and incarcerates 16 and 17-year-olds as adults. Upon arrest, they are interrogated (without so much as a call to their parents), charged (should it be deemed appropriate) and incarcerated with the adult population in the local jail while awaiting trial. Should they be found guilty of charges (the majority of which are nonviolent offenses), they are incarcerated with the adult prison population where they are five times more likely to be sexually assaulted, two times more likely to be injured by prison staff, and five times more likely to complete suicide than if they were in a juvenile facility. They are also more likely to recidivate upon release, do so at a higher level, and perpetuate public safety concerns. While the Governor recently issued an interim measure Executive Order that will no longer allow for incarceration of youth in adult prison facilities, the measure does not have a reach into county jails.

Last year and the year before, I came before you and introduced you to several of the children we represent; Daniel, James, and now Kelley. If I may indulge your memory for a moment - Daniel is a young man who was sent to an adult facility for stealing Chinese food out of a delivery car. Once incarcerated, he was sexually assaulted and though he has since been released, he suffers from debilitating PTSD. James, a young man with social, emotional and behavioral challenges who was in custody for stealing a pair of shoes, decompensated so severely while inappropriately incarcerated, he was a scant 87 pounds upon release.

Now, I would introduce another story of a 17 year old girl, let's call her Kelley. Due to an unarmed altercation that occurred between her friend and a dealer while she accompanied her friend to pick up a small bag of marijuana, she was arrested and charged with armed robbery. After a grueling interrogation without an attorney present or parent notified, she was arraigned and bail was set at \$75,000. She lost 15 pounds the first 10 days she spent in jail. She spent her 18<sup>th</sup> birthday in adult jail last year.

Last year I also shared with you details of the US Attorney's scathing 79-page report depicting the realities of youth who were incarcerated at Rikers Island where they were routinely beaten, raped and remanded to solitary confinement for months on end. I discussed, in great detail, the case of a young man named Ben Van Zandt, who, despite his documented mental health challenges was imprisoned in an adult facility where, he too was physically and sexually assaulted and held in solitary confinement "for his own safety." It was in this very cell, where he took his life.

Late last spring, the story of Kalief Browder broke. Kalief was accused of stealing a backpack and as a result, was remanded to Rikers Island, where he would spend the next three years awaiting trial for charges that would ultimately be dropped. Over the course of his three years he too was routinely beaten and placed in solitary confinement where he, like so many others before

him, attempted suicide numerous times. While he was offered a plea deal on several occasions, he refused; always maintaining his innocence and his concern of the collateral consequences a criminal record would impose on his future. Kalief Browder was eventually released but never recovered from his time at Rikers. In early June of last year, he completed suicide.

Throughout the timespan of all the above noted horror stories, I, along with other advocates have been here in Albany, attempting to advance systemic reforms. Given the fact that I am here before you, yet again this year, it leads one to beg the question...How many more children will we irrevocably harm or lose before we implement reforms?

As you are aware, the Governor again included in his Executive Budget proposal, a comprehensive smart on crime initiative that allows us to keep intact, a strong response to violent offenses and cost effective evidenced driven reforms that will result in a higher level of public protection.

Over the course of the last several weeks, we have been meeting with members of the legislature and their staff in an attempt to advance these recommendations. Similar to last year, the overwhelming response has been one of openness, leading me to once again believe there is consensus that we need to alter our course. However, there have been a number of concerns raised as well. A common theme among such inquiries is related to the most violent offenses and a misguided notion that we are suggesting youth convicted of crimes such as murder or rape be slapped on the wrist and forgiven. That is not now, nor has it ever been the position of Raise the Age advocates. Nor has it ever been reflected in the many bill drafts. Under the current proposed language, these youth would still be processed through the adult court system with stiff sentencing. The difference is that they would not be remanded to an adult facility (until they are indeed an adult) and they would be given the appropriate services while incarcerated. It is however, important to remember that such heinous crimes are an infinitesimally small percentage of the crimes committed by youth.

The majority of initial crimes committed by youth are much less serious but despite evidence to the contrary, we continue to process, prosecute and in many instances, incarcerate them as adults. In one of many studies completed on the topic of juvenile offenders in adult courts, the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice examined the effectiveness of prosecuting teens as adults by comparing such New York teens with their cohorts in New Jersey. Findings have many questioning the effectiveness of New York's system. In New York, juveniles as young as 13 can be charged in adult court, while in New Jersey, most juvenile offenders under the age of 18 are processed in juvenile court. When comparing youth arrested for the same felony offenses in New York City and New Jersey, data showed that "adolescents processed in the New York adult courts were more likely to be rearrested, they were rearrested more often and more quickly and for more serious offenses, and they were reincarcerated at higher rates than those in the New Jersey juvenile courts." This is not a smart on crime approach, nor is one that takes public safety into consideration.

We've also heard concerns about costs. While there is a modest upfront capital cost associated with implementation, the overall results are expected to decrease costs. Connecticut, who recently implemented Raise the Age legislation (and now seeks to raise the age even higher-to

21) transformed its juvenile justice system by reducing the state's reliance on confinement and incarceration of youth in expensive facilities or prisons in favor of building a now nationally recognized continuum of cost-effective community-based programming that utilizes evidence-based diversion programs, rehabilitative interventions, and skill-building at a fraction of the direct costs of confinement. From 2009 to 2011, 16-and 17-year-olds were transferred to juvenile jurisdiction and during that time Connecticut continued to experience a steady decline in youth arrests. Meanwhile, the state agencies responsible for implementation spent \$2 million less on juvenile justice in the 2011-2012 fiscal year than they did ten years prior despite the introduction of many new programs and services. Beyond state fiscal impacts, a cost benefit study conducted by the Urban Institute projected that Connecticut society will save \$3 for every \$1 it spends moving older teens to juvenile jurisdiction in the form of indirect costs that would have been associated with lower future incomes, fewer high school graduates, more reliance on public assistance, increased likelihood to commit future crimes, and increased costs to future crime victims.

So again, we contend - the fears are unlikely to be realized.

The evidence overwhelmingly demonstrates our current model to be archaic in its design, ineffective as a deterrent model, and exorbitantly costly. Renown neuroscientists, respected researchers and even our nation's Supreme Court have all registered concerns and recommended we utilize the wide breadth of evidence before us to build a better system and horror stories of our youth have been recounted time and time again; it is time we heeded this advice. I urge you to lead New York down a path of reform in 2016.

Last year I left you with a quote from Maya Angelou that says, "When we know better, we do better." As I noted then, we know better and as a result, we need to do better. This year I will suggest we ponder the words of Mahatma Gandhi... "There is a higher court than courts of justice and that is the court of conscience. It supersedes all other courts." We cannot in good conscience leave this issue unattended again this session.

Thank you for your time.