



NEW YORK STATE SENATOR

Jamaal T. Bailey

Bailey, Hevesi announce signing into law of A4982 / S4051, raising the lower age of juvenile delinquency from 7 to 12-years- old

JAMAAL T. BAILEY December 30, 2021

| ISSUE: **JUVENILE JUSTICE, JUVENILE JUSTICE REFORM, CRIMINAL JUSTICE REFORM, RAISE THE AGE, CHILDREN AND FAMILIES**

ALBANY, NY– Senator Jamaal T. Bailey and Assemblyman Andrew Hevesi announced on December 30th, 2021 Governor Kathy Hochul’s signing into law of their legislation, **A4982/S4051**, which raises the lower age at which children in New York may be arrested and prosecuted as juvenile delinquents from 7-years-old, to 12-years-old.

New York had prior set its minimum age for arrest and prosecution of children as juvenile delinquents at age 7, the lowest set by statute in the U.S. Children as young as 10 could be detained in secure facilities.

Studies show that over 90% of youth in the juvenile justice system have experienced childhood trauma, a majority having experienced that trauma within their first five years of life. These types of Adverse Childhood Experiences (ACEs) include sexual abuse, physical abuse, emotional abuse, witnessing domestic violence, mental illness of a family member, and death of a parent or caregiver among others.

Each traumatic experience triggers the child’s fight or flight response, which includes producing the stress hormones adrenaline and cortisol. Cortisol at increased rates changes

the structure and function of a child's prefrontal cortex, the part of the brain which regulates impulse control, emotional regulation, and self-monitoring.

Children with deficiencies in these skills, like those that have experienced repeat trauma at an early age, frequently engage in impulsive risk-taking behavior that results in an increased risk of delinquency, contact with law enforcement, school suspension, and juvenile justice involvement.

This law ensures that New York State's 7 to 11-year-old children will no longer be subjugated to the family court and juvenile justice systems, being arrested and placed in pretrial detention with older children, processed, interrogated, and detained in secure facilities.

Exposure to this process for 7 to 11-year-old kids increases the risk of dropping out of school, raises barriers to gaining meaningful employment later in life, and increases the likelihood of future criminal convictions and incarceration.

New York State will, under this law, create differential response programs and services for children under the age of twelve who would have otherwise been brought within the jurisdiction of family court and the juvenile justice system.

This law will address racial disparities in the state's youth justice system. In 2019 in New York City, 86% of delinquency petitions were for black or Latinx kids, with Black New Yorkers constituting 22% of the population and those of Latinx origin constituting 36% of the population, with similar numbers for the rest of the state.

This law addresses the reality that children cannot meaningfully participate in their own defense and the judicial process. They are unable to understand the legal implications of their actions and don't have the cognitive ability to understand the court process. These children lack both the capacity (the inability of children to appreciate the nature and

wrongfulness of what they have done, to fully know right from wrong) and the constitutional right to be competent to stand trial (whether they have sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding – and whether they have a rational and factual understanding of the proceedings against them.)

In addition, this law will save limited state and local resources by diverting young children from delinquency probation and prosecution into less costly and more effective, age-appropriate community-based services.

“Thank you to Assembly Speaker Carl Heastie, Senate Majority Leader Andrea Stewart-Cousins, my friend and colleague, Senator Jamaal Bailey for leading this fight in the Senate, all of my colleagues who voted for this bill, the team at Program and Counsel, without whom this would not have been possible, as well as the Children’s Defense Fund, Legal Aid Society, Families Together NY, Citizens Committee For Children, Youth Represent, and all of the advocates who fought for the passage of this bill. We would not be here today if not for their efforts,” said Assemblyman Andrew Hevesi (28th Assembly District) Chair, Committee on Children and Families. “No traumatized child, especially those as young as 7 should have to endure the added trauma of the court and juvenile justice systems, especially when we know those experiences lead to worse outcomes. It has been my honor to carry this bill in the Assembly and I send a huge thank you to Governor Hochul for signing this crucial legislation into law.”

“The signing of this bill marks another step in the right direction to meaningfully change the lives of young people and families across the state. From violent arrests by law enforcement to the use of physical restraints and mentally and physically taxing interrogations, the criminalization of young – disproportionately Black and brown – children perpetuates racial disparities in the justice system and cycles of youth incarceration that many can never recover from. Young children who fall into the juvenile system at an early age are subjected

to trauma and harm that follows them into their adult lives and puts them at increased risk for continued justice involvement. Raising the minimum age of entry into the juvenile justice system will reduce the number of children who come in contact with the system in the first place and ensure our young people have meaningful pathways to rehabilitation. I applaud Governor Hochul for signing this necessary legislation to protect our young people. I would like to thank Assembly Speaker Carl Heastie, Senate Majority Leader Andrea Stewart-Cousins, Assemblyman Andrew Hevesi for championing this legislation in the Assembly, as well as the Children's Defense Fund, The Legal Aid Society, Families Together in New York State, Citizens' Committee for Children of New York, and all of the advocates who fought for the passage of this bill. I also want to extend my gratitude to the great Velmanette Montgomery for trusting us with her legacy in carrying on this important reform," **said Senator Jamaal T. Bailey (36th Senate District), Chair, Committee on Codes.**

"Governor Hochul, Assemblyman Hevesi and Senator Bailey have helped New York take another step towards centering the needs of children and strengthening community safety. With this law we continue to expand youth justice, 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. We thank the Governor for listening to the voices of young people, their families and communities and signing this important bill into law," **said Julia Davis, Director of Youth Justice & Child Welfare, Children's Defense Fund-New York.**

"For decades, our young clients - the overwhelming majority of whom come from communities of color - have suffered significant trauma from these draconian practices, including lifelong harm," **said Dawne Mitchell, Attorney in Charge of the Juvenile Rights Practice at The Legal Aid Society.** "Raising The Lower Age builds on the successes of Raise the Age and other recent reforms to further justice for New York State's children and youth. We laud Governor Hochul, Senator Bailey and Assembly Member Hevesi for ensuring this critical

legislation's passage into law."

"CCC thanks Governor Hochul for signing and Assembly member Hevesi and Senator Bailey for championing legislation to raise the lower age of juvenile delinquency and end the arrest of children under twelve years of age. Research has long demonstrated the impact that traumatizing court proceedings, use of handcuffs, and other punitive measures, have on children and how such experiences can result in continued justice system involvement into adulthood. With this historic reform, New York is leading with evidence-supported youth justice reforms that advance race equity and justice and result in better and safer outcomes for children and communities," **said Jennifer March PhD, Executive Director, Citizens' Committee for Children of New York.**

"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," **said Charles Anthony Rice, Regional Youth Partner, Families Together in New York State, Impacted Young Person.**

"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, New York State recognizes 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. By signing this bill, Governor Hochul has made clear that New Yorkers value the potential of all our children, including those who make mistakes. Today, we right a wrong that has, for far too long, disproportionately traumatized Black and Latinx children and their families," **said Paige Pierce, CEO, Families Together in New York State.**

RELATED LEGISLATION

2021-S4051A

- Introduced

- - In Committee Assembly
 - In Committee Senate

- - On Floor Calendar Assembly
 - On Floor Calendar Senate

- - Passed Assembly
 - Passed Senate

- Delivered to Governor

- Signed By Governor

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Relates to raising the lower age of juvenile delinquency jurisdiction from seven to twelve years of age and establishing differential response programs for children under the age of twelve

February 02, 2021

Signed by Governor

Sponsored by [Jamaal T. Bailey](#)

Do you support this bill?