

## Memorandum in Support of Raising the Age of Criminal Responsibility

NYSBA #6

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By: BUDGET  
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Senate Committee: Finance  
Assembly Committee: Ways and Means

The New York State Bar Association (NYSBA) has long supported raising the age of criminal responsibility in New York. There is overwhelming national consensus recognizing that children should not, except in extraordinary circumstances, be charged criminally as adults until they attain the age of 18 and the recognition that New York is now one of only two states in which children who are age 16 are criminally prosecuted as adults.

Research has shown that the adolescent brain is not as fully developed as the adult brain; limiting youths' critical decision-making, reasoning, impulse control, ability to resist peer pressure and understanding of risk. The United States Supreme Court in a series of landmark decisions based in part on the adolescent brain research, has determined that the penalties accorded juveniles who commit serious crimes should take into account their youth and ability to be rehabilitated.

Children in New York age 16 years and over could benefit greatly from the different treatment of young offenders upon which the Family Court is premised - as responsible but less blameworthy by reason of their age and to provide rehabilitation and age-appropriate services - and from the programs and services available only for children found to be delinquent in Family Court and not convicted in a criminal court.

Governor Cuomo in 2014 created the Commission on Youth, Public Safety, and Justice. The Commission was to "develop a concrete plan to raise the age of juvenile jurisdiction in the most effective and prudent manner possible, and to make other specific recommendations as to how New York State's juvenile and criminal justice systems could better serve youth, improve outcomes, and protect communities."<sup>i</sup>

The Commission released its Report in 2015. Beyond the just and humane basis for raising the age, the recommendations for juvenile justice reform in New York State detail key developments that make reform necessary and possible as well as demonstrate the social, emotional, health and economic benefits of this reform. The Report cites "experience in states like Connecticut and Illinois that have raised the age of criminal

responsibility recently has demonstrated that recidivism and juvenile crime rates can be lowered through evidence-based interventions that steer non-violent young offenders out of the justice system and into family mental health or other needed services.”<sup>ii</sup> The Commission also relied on the “extensive research on the significant negative impacts on adolescents of incarceration in adult jails and prisons has brought a sense of urgency for reform. Higher suicide rates, increased recidivism, and many other measures all suggest that both offenders and their communities are harmed by placing adolescents into adult jails and prisons.”<sup>iii</sup> Additionally, the Report documents the unacceptable over-representation of our young men of color in the criminal justice system.

The Governor has included this long overdue reform in his proposed executive Budget. NYSBA, through its Committee on Children and the Law, urges the Governor and Legislature to work together to pass legislation to raise the age of criminal responsibility.

Based on the foregoing, the New York State Bar Association **SUPPORTS** the subject provisions in this legislation to raise the age of criminal responsibility, which is among our legislative priorities for 2017.

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<sup>1</sup> New York Executive Order No. 131: Establishing Commission on Youth, Public Safety, and Justice. (April 9, 2014). Accessed 2/26/15 at <https://www.governor.ny.gov/news/no-131-establishing-commission-youth-public-safety-and-justice>.

<sup>2</sup> Final Report of the Governor’s Commission on Youth, Public Safety, and Justice: Recommendations for Juvenile Justice Reform in New York State. (January 19, 2015). Accessed 2/26/15 at [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ReportofCommissiononYouthPublicSafetyandJustice\\_0.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ReportofCommissiononYouthPublicSafetyandJustice_0.pdf)

<sup>3</sup> Id.