

17

Written Testimony by the New York State Council of Probation Administrators to the
New York State Legislative Budget Committee

5
February 26, 2015

This written testimony is being provided by the New York State Council of Probation Administrators (COPA), who represents all the County Probation Directors in NYS.

We appreciate the opportunity to provide written testimony on the Governor's proposed budget and its ramifications on local government, in particular on County Probation Departments.

This testimony will speak to the Governor's new proposal to Raise the Age of Criminal Responsibility and will speak directly about the language of the bill contained in Education, Labor and Family Assistance, Article VII Bill (ELFA) in Part J.

Since the beginning of the discussions on raising the age of criminal responsibility, COPA has been at the forefront in supporting the concept of raising the age of criminal responsibility in NYS. We have testified before the Governor's Commission, we have provided written testimony on at least three occasions and have been proactive in our support of this concept.

We have been clear that we could only take on this new state mandate with 100% funding for personnel and services. Based on conversations with the Governor's office and the briefing book each of you have received, the state also agrees to this 100% funding. We thank the Governor for acknowledging that Probation will be a key player in making this proposal work and we thank him for his 100% financial commitment.

We believe there are many positive aspects of this proposal that we have lobbied for and are hopeful they will pass with this legislation. A few specific ones are:

- The option for Probation to assist in obtaining an order of protection from the court through the diversion process thus saving the need to file JD petitions solely for that purpose.
- Increasing the time for diversion services from 120 to 180 days will allow us the needed time to successfully adjust a case.

While we are supportive of this proposal and know that raising the age of criminal responsibility is the right thing to do, there are a few programmatic issues that we believe need to be amended.

The concept of Family Support Centers is very good. However, we recommend that they be available to all counties.

4. VTL Issues: A person 16 or 17 is criminally responsible for acts constituting an offense set forth in the VTL and shall be considered a person over 18 for prosecution of such acts. This is very confusing. If we believe a 16 and 17 year old should be treated as a juvenile then it should also apply to the VTL.

We believe arrests under the VTL should be included in the pending raise the age list of eligible crimes. A youth could be arrested for DWI and be in a stolen car. In this case part of his/her case would be treated as a juvenile delinquent while the DWI would be treated as an adult offense. The basis of much of the change in the age for criminal responsibility has to do with the development of the brain and its effects on the reasoning of youth. We submit that driving under the influence, or other VTL arrests fall into this category. We recommend that all VTL arrests be considered under this new proposal.

We hope these issues can be addressed to make this proposal successful.

In a recent article in the New York Law Journal, Henry Scudder wrote "Local probation departments, aptly described as the "workhorse" of the juvenile justice system, will surely bear the brunt of responsibility for the influx of young offenders. Probation departments cannot be expected to screen the cases at intake, determine if they should be diverted or sent to Family Court, prepare investigation reports, monitor compliance with court ordered services, and provide supervision, without a significant infusion of dollars. The state must reimburse counties for their additional probation and detention expenses, and not simply shift the new costs to county taxpayers." We could not have said it any better ourselves.

Probation is the expert in juvenile justice issues. We handle more cases than any other agency. We can make this new proposal work if we are given the proper resources.

We thank you for the opportunity to provide you testimony on this very important matter.

Respectfully submitted,

**New York State Council of Probation Administrators
Lorraine Wilmot, President**