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Raise the Age Reform Will Cause Additional Delays In Resolving Child Welfare Cases in Family Court

Brooklyn Defender Services ("BDS") provides innovative, client-centered criminal defense, family defense, immigration, civil legal services, social work support and advocacy to 45,000 low income residents in Kings County, each year. The BDS Family Defense Practice currently represents over 2,000 parents and caregivers of over 4,700 children in Brooklyn Family Court. Now in our eighth year, we have served almost 6,500 parents and touched the lives of nearly 15,000 children. Our more than 30 attorneys appear in Family Court every day and are intimately familiar with Family Court operations.

Our experience demonstrates that families are caught in legal limbo and children languish in foster care because there are not enough Family Court judges to hear the cases in a timely and meaningful manner. BDS is deeply concerned that the proposed Raise the Age reform would worsen existing backlogs in New York's Family Courts by adding thousands of new cases without additional resources to meet this demand. For this reason, the Legislature should wait before passing any comprehensive juvenile justice reform during this budget process to allow stakeholders, such as family defense practitioners, to weigh in on the impact the law will have on Family Court.

The Reality in Family Courts Today:

- ***Family Courts are swamped by a backlog of cases***
 - Emergency hearings can take several weeks to resolve.
 - Fact finding hearings can stretch for months and years.
 - Trials are often adjourned for one or two hours at a time, with months in between appearances. If the trial is not completed by day's end, the case may be adjourned again for six months, often in the middle of a witness's testimony.
 - Courts are unable to hear motions in a timely manner or at all, delaying critical decisions about parent-child visitations and causing children to remain in foster care longer than necessary.
 - In addition to existing backlogs, there has been a recent increase in case volume of child welfare cases. In Brooklyn, for example, child welfare filings in 2014 increased by 12% from 1,781 to 1,988.
 - These delays harm children, families and communities.
- ***Existing Family Court judge capacity not enough to accommodate Raise the Age cases***
 - Last year, the legislature authorized 20 new Family Court judges throughout the state in 2015 and an additional five in 2016. It could take years for the new judges and any necessary support personnel to deal with the existing backlog of child welfare cases.
 - Over 24,000 16- and 17-year-olds were arrested in 2013. Family Courts do not currently have the capacity to take on the more than 20,000 cases that would be diverted to Family Courts under the Raise the Age proposals.
 - Moving more than 20,000 delinquency cases would take up the additional legislatively-designated resources authorized to address the backlog of child welfare matters.

BDS recommends further hearings and conversations involving all concerned parties, including Family Court staff, judges, attorneys for child protective agencies, defenders and stakeholders in the foster care system to address Family Court capacity and how best to implement Raise the Age legislation so that it does not harm the families already suffering from the delays in the child welfare system.