



Family Court: The Right Place for Juveniles **Family Court Act: Required to Raise the Age**

The Family Court

The Family Court is the most appropriate place for the majority of juveniles (including those 16 and 17-years old) to have their cases heard.

- 86% of cases are for misdemeanors and non-violent crimes; these cases are best handled in the Family Court.
- The building itself does matter; it makes a difference to people whether their case is in a family court or a criminal court.
- Judges in NYC are appointed to be either Family Court Judges or Criminal Court Judges. Their prior experiences are often related. This applies in some places outside NYC (in some places the Judges wear multiple hats). This issue of background, training and interest applies to attorneys statewide. People can be trained, but it is a different mindset in family court and that is important.
- Family Courts are holistic in their treatment of youth and their families. They can involve parents in the procedures. They also have a history of working with families- and often that is what is needed in these cases. This has been proven to be effective at helping youth put their lives on the right track.
- Approximately 40% of the youth also have child welfare involvement (protective, preventive and/or foster care). Juvenile Delinquents currently benefit from the coordination that this allows with regard to placement, services, etc. for the youth and his/her family. Sixteen and seventeen year olds cannot benefit from this unless their cases are in the Family Court.

Applying the Family Court Act Matters

Key Components of the Family Court Act Required to be a Statute that “Raises the Age” of Criminal Responsibility

Youth ages 16 and 17 would need to be charged as either Juvenile Delinquents (pursuant to Article 3 of the Family Court Act) or Juvenile Offenders (pursuant to the Family Court Act, Criminal Procedure Law and Penal Code) based on the offense allegedly committed.

- Parental notification upon arrest and parental involvement throughout the proceedings (including a decision to waive Miranda rights).
- Pre-filing Adjustment
 - Prior to a court filing, youth would meet with Juvenile Probation.
 - Probation would use the “Risk Assessment” instrument to make a recommendation related to pre-trial detainment and/or alternative to detention services. This would prevent those charged with misdemeanors and some nonviolent felonies from being incarcerated, while providing needed services to the youth and potentially his/her family. The full range of alternative to detention services would be available (these have proven to be successful.)
 - Some crimes are not eligible for adjustment. Victims must consent for a case to be adjusted.
 - This would allow for many of the cases to be “adjusted”, as is the case for younger juveniles. This means that some youth could participate in probation services without the need for a case to be filed.
- Charges: The majority of juveniles, who are alleged to have committed misdemeanors and other nonviolent crimes (86%), would be charged as Juvenile Delinquents (JDs). Those who are alleged to have committed violent felonies would be charged as Juvenile Offenders (JOs)- as is now the case for 13-15 year olds. Thus, youth charged with more violent crimes would be prosecuted as adults with the JO statute that provides longer sentences, permanent adult records, etc. As is now the case, JO cases could be removed to the JD part, when appropriate.
- True speedy trial rules would need to apply: On average, Family Court JD cases complete disposition within 3 months of filing, as compared to well over a year in the adult criminal court system.
- Placement: **No 16 or 17-year old would go to an adult prison or jail**, regardless of the charge.
- Dispositions would be pursuant to the Family Court Act:
 - The Family Court Act allows for a disposition of services. We need the full range of alternative to placement programs to be available- as they are to JDs in Family Court. There needs to be an ability to tailor the disposition to the needs of the younger person and his/her family.
 - JOs should also be able to access services.
- Sentencing: pursuant to JD and JO laws (but can increase the age limit on JD to 23 years old)
- JD arrests (for 16/17 year olds too) and convictions to remain confidential—as they are now for all other JDs
- If these cases are heard in the adult court system, there should be separate Juvenile Delinquency (JD) and Juvenile Offender (JO) parts. This would provide more clarity with regard to which law is being applied and allow for removals to the “JD Part”.