

## Public Safety Committee Presentation

### RAISE THE AGE LEGISLATION What You Need To Know

Presented by Probation Director Patricia Buechel  
Department of Probation and Community Justice  
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### RAISE THE AGE LEGISLATION What You Need To Know

- Legislation Enacted on April 10, 2017
- **KEY COMPONENTS:**
  - Prohibits 16 and 17 year olds from being held in adult jail and prisons
  - Makes substantive changes to procedures used to process 16 and 17 year olds in the criminal and family courts
  - Allows for additional services for youth and alters the type of detention and/or placement they receive

## Phased In Implementation

- Raises the Age of Criminal Responsibility from current age 16 to age 18 over a two year period:
- October 1, 2018: Law takes effect for 16 year olds
- October 1, 2019: Law takes effect for 17 year olds

## Youth Part of Superior County Criminal Court

- Legislation has created this special part
- Judge will have special training in adolescent development
- Cases to be heard in Youth Part:
  - 16/17 year olds charged with felonies whose cases are not transferred to family court
  - 16/17 year olds charged with VTL Misdemeanors
  - 13, 14, and 15 year old Juvenile Offenders whose cases are not transferred to Family Court

## Offender Categories

### Adolescent Offender (AO)

- new designation created in the legislation
- 16/17 year old charged with a felony or VTL Misdemeanors
- Case is referred to the newly created Youth Part of the Superior County Court (criminal court)
- Violent Felony charges will remain in the Youth Part. Non-Violent Felony charges will automatically be removed to Family Court unless youth waives removal or DA moves to prevent removal due to "extraordinary circumstances."

## Offender Categories (continued)

### Juvenile Offender (JO)

- This designation currently exists and refers to 13-15 year olds charged with serious offenses, i.e. Murder, Manslaughter, Rape, Robbery 1<sup>st</sup>
- Case will be heard in the Youth Part

## Offender Categories (continued)

### Juvenile Delinquent (JD)

- Classification is extended to include 16/17 year olds
- All 16/17 year olds charged with Misdemeanors (except VTLs) will be issued JD Appearance Tickets and directed to report to Probation for adjustment services
- Probation staff determine non-eligible/non-suitable cases for adjustment and refer those cases to the County Attorney's office for petition to the Family Court

## Removal from Youth Part to Family Court: Non-Violent AOs

- VTL Misdemeanors cannot be removed to Family Court
- Automatic removal to Family Court within 30 days of arraignment unless the defendant waives removal or the DA moves to prevent removal
- If the DA moves to prevent removal, must prove "extraordinary circumstances" (not defined in the legislation) that warrant keeping the case in Youth Part

## Removal from Youth Part to Family Court: Violent AOs (continued)

- Removal of AOs for violent felony offenses is based on a 3 part test. Cases will **not** be removed if:
  - The defendant displayed a firearm, shotgun, rifle or deadly weapon; or
  - The offense involved certain criminal sexual conduct; or
  - The offense resulted in significant physical injury to a non participant in the crime
- If one of these three circumstances is not found, the case will be removed w/in 30 days, unless DA moves to prevent removal under "extraordinary circumstances"

## Family Court Jurisdiction

- Juvenile Delinquent (JD) cases (age 7-15) will continue to be heard in Family Court
- Jurisdiction expands to include 16 and 17 year olds when:
  - They are accused of a Misdemeanor; or
  - An AO case is transferred from the Youth Part to the Family Court and then classified as a JD
- 16/17 year olds in Family Court will be treated the same as 15 year olds currently: same dispositional options and use of alternatives to limit detention

## Voluntary Services

- Legislation specifies that Probation must offer voluntary services to Adolescent and Juvenile Offenders in the Youth Part
- Voluntary Services would remain in effect during the pendency of the case through the Youth Part
- OPCA is currently drafting rules and regulations on what voluntary services will entail: time frames, assessments, case plans, referrals and quantity and quality of contacts with the youth

## New Specialized Secure Juvenile Detention Facilities (SSD)

- Created by RTA Legislation that is reserved exclusively for AOs
- Jointly certified and regulated by OCFS and Commission of Corrections
- Locally administered; Counties **may** opt to have the local DSS or Probation Dept operate a program in conjunction with the local Sheriff

## New Specialized Secure Juvenile Detention Facilities (continued)

- Not every county must operate a facility but all must have one available for use
- Facilities cannot be co-located with local jails but can be co-located with current operating secure detention facilities as long as AOs are separated in housing, no shared common space

## New Specialized Secure Detention Facilities (continued)

- Pre Trial Use -AOs may be confined in a specialized secure detention facility while their criminal case is pending
- Post Conviction Sentencing -AOs can be confined to a specialized secure detention facility **if sentenced to 1 year or less**

## Adolescent Offender Facilities

- **If an AO is sentenced to 1 year or more**, the AO will be placed in a special AO facility operated by DOCCS and managed by OCFS
- AOs shall serve the first two years of their sentence in the facility, there after they may be transferred to a regular DOCCS facility
- AO facilities feature enhanced security, specially trained staff and a two year treatment model developed in collaboration between DOCCS and OCFS

## Adolescent Offender Facilities (continued)

- Two year treatment model includes therapeutic programs to develop cognitive skills, education programs, vocational training and/or employment, substance abuse treatment, discharge planning
- Parole Officers will supervise AOs released from DOCCS and JOs released from OCFS and DOCCS



## Adolescent Offender Facilities (continued)

- **Hudson Correctional Facility** currently holds 16/17 years olds who have been moved to this facility per legislation signed by Governor Cuomo in 2015-this facility will transition to an AO facility, will operate as the Reception Center for all AOs and will be the only facility that will house female AOs
- It was anticipated that up to 2 additional AO facilities would be necessary:
  - **Adirondack Correctional Facility** in Essex County (operational 10/1/18)
  - the former **Groveland Annex in Livingston County** (operational 10/1/19)

## State Funding and Local Costs

- Test 1-Adherence to the Tax Cap=100% funding
- Test 2-Meet Financial Restructuring Board (FRB)statutory criteria OR receive a fiscal distress designation from the Office of the State Comptroller (OSC)=100% funding
- Test 3-If the locality does not adhere to the tax cap or meet the FRB or OSC fiscal stress factors, the Division of Budget will determine whether fiscal hardship is demonstrated

## State Funding and Local Costs (continued)

- \$100 Million is set aside to fund RTA in 2018-2019 budget, \$40 Million of which is to fund Probation staff and services
- State intends to maintain current reimbursement process and is dedicated to ensuring ease of execution
- Reimbursement will require cost tracking at the local level but the State is committed to reimbursement that is timely, streamlined, user friendly, simple to navigate and easy to implement

## Tompkins County Arrests Among 16-17 Year Olds

Age at Crime	Top Arrest Category	2014	2015	2016	3 Year Average
16	Misdemeanor	42	21	33	32
	Non Violent Felony	3	3	5	4
	Violent Felony	5	7	1	4
	Total	50	31	39	40
17	Misdemeanor	47	43	26	39
	Non Violent Felony	11	5	7	8
	Violent Felony	10	1	4	5
	Total	68	49	37	52

Source: DCJS Computerized Criminal History (as of 2/17/2017)

## Total Tompkins County Arrests Among 16-17 Year Olds

16-17 Combined	Top Arrest Charge	2014	2015	2016	3 Year Average
	Misdemeanor	89	64	59	71
	Non Violent Felony	14	8	12	12
	Violent Felony	15	8	5	9
	Total	118	80	76	92

Source: DCJS Computerized Criminal History (as of 2/17/2017)

## Projected Impact on Probation

- Increase in JD appearance tickets (Misdemeanors)
- Increase in Supervision Numbers: AO Pretrial Supervision, JD PreDispositional Supervision, Adjudicated FC Supervision cases
- Voluntary Services to AOs in Youth Part-expectation that PO will be present for all court sessions; estimating that 75% of youth will accept services (assessment, case planning, referrals, contact requirements)

### Projected Impact on Probation (continued)

- Expect Increase in use of EM as alternative to detention
- Increase in Contact Requirements, Assessment/Case Planning and EBP services for ALL JD Intake cases
- Increase in PreDispositional Investigations for Family Court

### Projected Impact on Probation at Full RTA

➤ 3 Additional FTE Probation Officers-salary/fringe	\$265,899
➤ EPB resources and training for staff	\$11,100
➤ Transportation for youth (buss passes)	\$4,000
➤ Contracts with BOCES for TASC Prep, Career Training/Exploration	\$12,700
➤ Expanded EM to divert from detention	\$6,000
➤ Other EBP services	\$?

## Possible Impact on Other Departments

- Increase staffing at County Attorney's office
- Increase staffing at MH to provide EBP services to youth
- Sheriff costs/staff time for transporting youth to/from detention
- DSS-respite, foster care, detention, placement, expanded EBP service delivery
- Youth Services for education, housing, life skills
- Workforce for employment, career readiness

## Detention

Projected Impact

The Big Question Mark



## Projected Average Daily Population at Full RTA Implementation

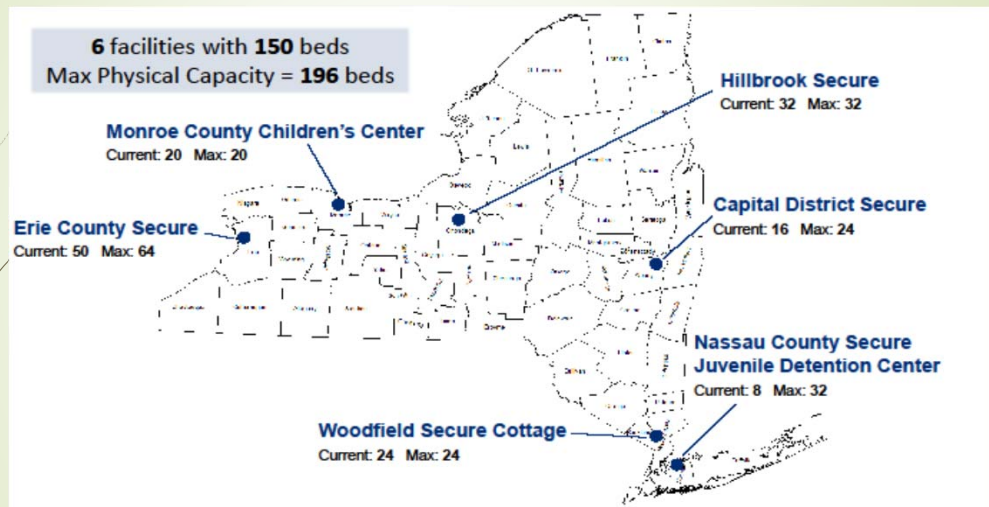
Region	Projected ADP by Facility Type		
	SSD	SD	NSD
New York City (NYC)*	160 – 195	130 – 160	145 – 175
Rest of State (ROS)	180 – 225	125 – 150	50 – 60
Capital Region	15 – 20	15 – 20	10 – 15
Central New York	20 – 25	15 – 20	0 – 5
Finger Lakes	25 – 30	20 – 25	0 – 5
Long Island	25 – 30	5 – 10	5 – 10
Mid-Hudson	30 – 35	30 – 35	10 – 15
Mohawk Valley	10 – 15	0 – 5	5 – 10
North Country	5 – 10	0 – 5	0 – 5
Southern Tier	10 – 15	5 – 10	10 – 15
Western New York	35 – 45	25 – 35	0 – 5

\* Does not include youth removed from Rikers

Projected system expansion exceeds current system capacity for secure beds

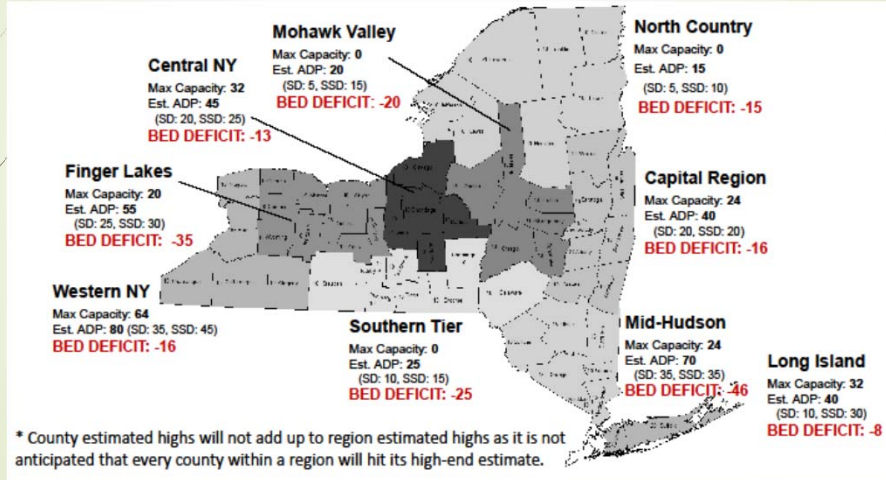
Source: OCFS, RTA Detention Planning Forum 10/23/2017

## Secure Detention Capacity



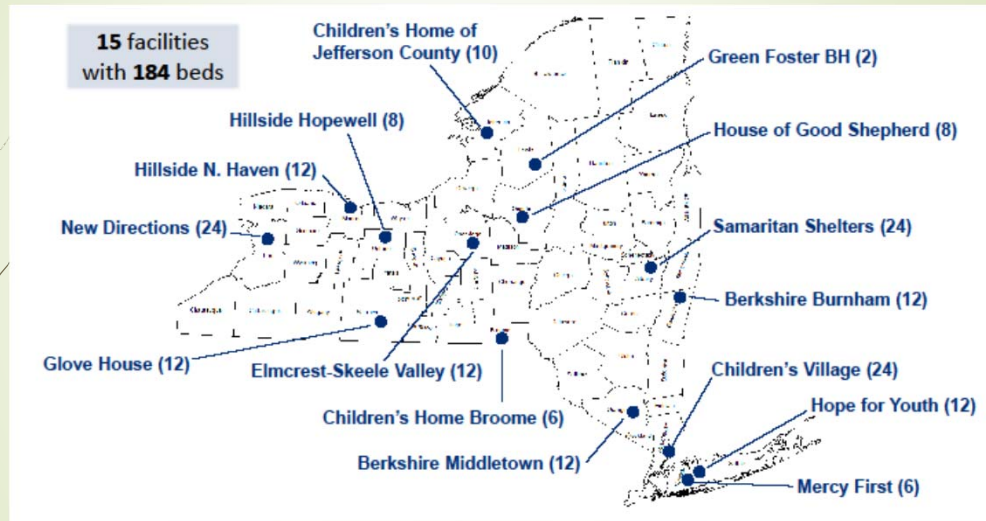
Source: OCFS, RTA Detention Planning Forum 10/23/2017

## Estimated Secure Detention and Specialized Secure Detention Average Daily Population at Full RTA Implementation by Region



Source: OCFS, RTA Detention Planning Forum 10/23/2017

## Non-Secure Detention Capacity



Source: OCFS, RTA Detention Planning Forum 10/23/2017

## Detention at Full RTA Implementation

- Non Secure Detention bed surplus is expected (72 Beds)
- Expectation is that some JDs could be diverted from Secure to Non-Secure to free up Secure space to accommodate RTA
- Due to the shortfall of secure beds, Tompkins County will be competing with other counties in the region for bed space
- Tompkins County currently does not contract with detention facilities
- There are NO Specialized Secure Detention Facilities in the Southern Tier Region

## RTA Questions and Concerns

- Availability of Funding from year to year given the tax cap requirement or meeting the fiscal distress requirement. Will counties be picking up the cost for RTA? Will this be another unfunded mandate by the State?
- Unknown probation rules and regulations (currently being promulgated) that will dictate the intensity, quantity and quality (EBP) of services to be provided at the Intake and Voluntary Services stages of RTA. Change in the Intake rule will also apply to all JD youth, expanding probation's workload.



## RTA Questions and Concerns (continued)

- Estimating additional Probation staff to implement RTA
- Office of Court Administration has not provided details on procedures in Youth Part (how often in-session, transfer process to Family Court, etc.)
- Determining the kind of EBP required to meet the needs of our 16/17 year old youth

## RTA Questions and Concerns (continued)

- Where will Tompkins County send Adolescent Offenders who require a Specialized Secure Detention Facility? How do we plan for this eventuality?
  - Regional Approach? Who Initiates this discussion?
  - Who is going to be willing to build a new facility and operate it?
  - Who is going to be willing to pay for the construction of a new facility up front and wait for state reimbursement?

## RTA Questions and Concerns (continued)

- At best, building a regional facility from start to finish would extend beyond the implementation of full RTA.
- Do we need to think about alternatives to detention? Respite? Foster Care for older youth? Youth housing?

The End of the Presentation but  
not the End of RTA Discussion!

Questions ?