

April 21, 2022

Hon. Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Hon. Andrea Stewart-Cousins
Majority Leader, New York State Senate
188 State Street LOB - Room 907
Albany, NY 12247

Hon. Carl Heastie
Speaker, New York State Assembly
New York State Capitol Room 349
Albany, NY 12247

Re: The Legal Aid Society Legislative Priorities for Child Welfare and Juvenile Legal System Reform

Dear Governor Hochul, Majority Leader Stewart-Cousins, and Speaker Heastie:

As New York City's primary provider of attorneys for children in the child welfare and juvenile legal systems, we write to share our priorities for the remainder of the 2022 legislative session.

We appreciate that the changes made to New York's historic Raise the Age statute in the FY 2022-23 budget were common sense measures intended to iron out a jurisdictional wrinkle and to provide for voluntary community-based services for system-involved youth. Facing down the reactionary response to increased crime rates with a rational response that maintains a reform that has been shown to be effective for both our youth and our communities was the right thing to do.

While some additional funding for child care and education were appropriated, the FY 2022-23 budget is in many ways a budget of missed opportunities at a time when many of New York's most oppressed children and families are still suffering from the impact of the COVID-19 pandemic. Missing from this budget is a restoration of the state contribution for preventive services to the statutory 65 percent, for example, or the dedication of an independent funding stream for New York's Subsidized Kinship Guardianship Program, which enables many young people to leave foster care to reside permanently with kin.

As we head into the last weeks of the legislative session, we urge your offices to throw your fierce support behind the proposals we lay out below, proposals that would reduce the racist legacy

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of the child welfare system and juvenile legal systems and make them more just. Albany must lead by enacting legislation that supports and invests in children and families. On the juvenile legal system front, this includes prohibiting the interrogation of youth until they have counsel, sealing and expunging juvenile delinquency records, ending draconian suspension practices that feed the school to prison pipeline, curbing discriminatory hyper-surveillance, and providing fair discovery in delinquency proceedings. And we must defend the reforms brought by New York's historic Raise the Age legislation. On the child welfare front, these reforms must include adequately funding preventive services to support families, reforming the State Central Register to reduce abuse, providing adequate resources for youth aging out of foster care, and prohibiting discrimination against unmarried parents. The legislation we are championing below is a reinvestment in children and families who suffer from the legacy of systems that cause tremendous harm in our most vulnerable communities.

We urge the Legislature to pass and the Governor to sign the following critical bills:

Increase Protections for Youth Interrogated by Police – S2800B (Bailey) / A5891B (Joyner)

Young people are far more vulnerable than adults to police coercion and more apt to falsely confess. Adolescent brain development research demonstrates why Miranda warnings are insufficient to protect young people's 5th Amendment right against self-incrimination. This bill would require that young people under the age of 18 consult with an attorney before being subjected to custodial interrogation, ensuring that any waiver of rights under Miranda is genuinely knowing, voluntary, and intelligent. Violation of this requirement would result in suppression of the child's statement at trial.

Family Court Delinquency Discovery Reform – S4554 (Bailey) / A4952 (Joyner)

Consistent with Constitutional Due Process and Equal Protection principles, New York statutes governing juvenile delinquency proceedings must, to the extent that they affect substantial rights, provide at least as much protection as Criminal Procedure Law provisions governing criminal proceedings. Those principles mandate the proposed legislation, which would provide discovery rights in juvenile delinquency proceedings that mirror discovery rights in criminal proceedings that were put in place with the enactment of CPL Article 245.

Exclusionary School Discipline – S7198 (Jackson) / A5197 (Nolan)

School districts throughout New York state over-utilize exclusionary discipline practices, including suspensions and classroom removals. These punitive practices have a disproportionate impact on students of color and students with disabilities. They deprive students of critical instructional time and increase the likelihood that students will be held back a grade or drop out. This legislation would require school districts to develop discipline codes that mandate the use of age-appropriate, graduated and proportionate disciplinary interventions, including restorative practices. It would limit the use of suspensions for students in kindergarten to 3rd grade, shorten the maximum length of

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suspensions from one year to 20 school days, and require school districts to provide suspended students with alternate instruction so that they don't fall behind academically.

Juvenile Records Confidentiality and Expungement –

Children should not suffer collateral consequences of legal system involvement that follow them into adulthood, interfering with their ability to secure education, housing and gainful employment, among other things. While current law provides some protections relating to arrest and family court records, those protections do not go far enough; moreover, New York law currently provides greater opportunities for sealing and expungement of records to adults than it does to children. We look forward to working with our leaders in Albany to ensure passage of appropriate protections for children.

End Rogue DNA Databanks – S1347 (Hoylman) / A6124 (Zinerman)

When New York's legislature authorized the State DNA index to store profiles from people convicted of crimes, New Yorkers were assured that their genetic privacy would remain protected against law enforcement overreach. Local governments – most notably New York City – are ignoring that balance by running their own, rogue DNA indexes, without any regulation, accountability, or oversight. New York City's shadow databank contains profiles from children as young as 11, people never charged or prosecuted, and innocent people from communities of color who were specifically targeted based on their race. The Legislature never intended for cities to run amok with DNA collection and storage. This bill clarifies the law to protect the State DNA index and end the other databases that perpetuate genetic stop-and-frisk and erode sacred privacy rights.

Confidential Reporting -- S7326 (Jackson) / A7879 (Hevesi)

This bill would require a caller making a report of suspected child abuse or maltreatment to the state central register (SCR) to leave their name and contact information, reducing the potential for abuse of the SCR to harass innocent individuals.

Parental Equity Act – S6389 (Brisport) / A7347 (Hevesi)

This bill would amend the domestic relations law and social services law to address the inequitable treatment of unmarried fathers. It would benefit the children of unmarried fathers by providing these fathers with the same opportunities available to mothers and married fathers to obtain the services and support needed to establish meaningful and supportive relationships with their children. It would also ensure that these parental bonds are maintained absent a showing, by clear and convincing evidence, of permanent neglect, abandonment or other irremediable parental unfitness.

Increase Preventive Services Housing Subsidy – S5419-A (Brisport) / A1777-B (Hevesi)

This subsidy, set in statute at \$300 per month, must be increased to be a viable support to ensure housing stability for youth leaving foster care, families reuniting with children in foster care, and to prevent children from entering foster care.

Adoption Subsidy – S4055 (Persaud) / A2477 (Hevesi)

This bill would amend the Social Services Law to (1) require adoptive parents to certify that they are fulfilling their obligation to provide support to their adoptive children and (2) provide social services officials with a means to transfer the adoption subsidy to the individual who is providing for a child if that child's adoptive parent is failing to do so. The bill would ensure that adopted children benefit from the subsidy that their adoptive parents receive for their care, and reduce the risk of young people experiencing homelessness after the disruption of an adoption.

If you have questions about any of these proposals, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink that reads "Dawne A. Mitchell". The signature is written in a cursive style with a large, looped initial 'D'.

Dawne A. Mitchell