

New York State Office of Court Administration (OCA)
Solicitation of Interest #014
Attorney for the Child Juvenile Delinquency Representation Services

Chapter 59 of the Laws of 2017 raised the age of criminal responsibility in New York State from 16 to 18. The law will be phased in over the next two years: effective October 1, 2018, for 16-year-old youth and effective October 1, 2019, for 17-year-old youth.

One consequence of the new legislation is a distribution of a portion of the financial responsibility for indigent representation from localities to the State. Pursuant to Article 18-b of the County Law the cost of indigent legal representation in the adult criminal justice system is borne by the locality. In the Family Court, the cost of legal representation is borne by the New York State Unified Court System (UCS). The UCS meets this obligation through the Attorney for the Child (AFC) program, which consists of two parts: panels of attorneys designated by the respective Departments of the Appellate Division and institutions that provide AFC services under contract.

This Solicitation of Interest (SOI) is seeking expressions of interest from institutions to provide representation of youth whose cases will under Chapter 59 be adjudicated in the Family Court. OCA is issuing this SOI to gather information about the options available for addressing the expansion of juvenile defense services resulting from the implementation of the Raise the Age legislation. The SOI enables information-gathering while promoting openness, fairness, and transparency to ensure a level playing field among potential bidders. The SOI will also assist OCA in determining the best approach to procure the AFC services in a particular county (e.g., RFP, single-source exemption).

In brief, Chapter 59 provides that the cases involving 16 and 17-year old youth will be handled as follows:

Misdemeanors With a few exceptions – notably VTL and petty offenses – a 16 or 17-year old youth charged with a misdemeanor will be charged as a juvenile delinquent (JD) and the case will be initiated in Family Court. It is expected that over 70% of all arrests involving youth in this category will be charged as JDs and the youth will be represented by an “attorney for the child” or private counsel of their choosing. The cost of a panel or institutional AFC is borne by the State.

Felonies For youth charged with a felony, the Legislature established a new category of offender called the “Adolescent Offender” (AO), defined under the Penal Law as a person charged with a felony offense committed when the person was 16 or 17-years old. AO cases are to be heard in a newly created “Youth Part” of the superior court. However, the law provides a procedure for removal of many AO cases to the Family Court. The definition of a “Juvenile Offender” (JO) has not changed under the law, but their cases will also be heard in the Youth Part and will also be subject to removal to Family Court. Once the case is removed to the Family Court, the State is responsible for the cost of AFC representation.

The Office of Court Administration (OCA) is seeking letters of interest from institutional providers of legal services to provide AFC representation in one or more of the following categories:

Category 1: Representation of youth whose cases are removed from the Youth Part to the Family Court. State responsibility for the costs of representation begin once the case is removed to the Family Court.

Category 2A.: Representation of 16 and 17-year-old youth with misdemeanor cases initiated in Family Court.

Category 2B: Representation of 7 to 17-year-old youth with misdemeanor cases initiated in Family Court.

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Eligible Providers

Eligible potential providers are non-profit legal aid society organizations or units of local government (i.e. Public Defender Offices).

Letter of Interest

An organization that wishes to be considered as an AFC provider for any of the categories set forth above should submit a letter of interest that demonstrates the capacity to provide high quality services in compliance with the established caseload standards and at a reasonable cost.

Organizations may submit a single letter of interest to provide services in multiple counties and multiple categories, but for each county that the organization proposes to serve, the letter of interest must:

- Estimate the number of cases in each category in each county for which the organization is proposing to serve.
- State the proportion of the total caseload that the organization is proposing to serve;
- Develop an annual budget sufficient to serve the forecasted caseload;
- State an average cost per case;
- Discuss procedures for identifying conflicts;
- Describe staffing plans to ensure representation at after-hours arraignments;
- Describe the organization's plan to provide attorneys proficient in juvenile defense practice in the Family Court, including prior experience and qualifications of counsel and/or hiring and training plans;
- Describe any ancillary support such as social workers, investigators, or other services that would promote quality representation;
- Describe any expertise the organization has for providing representation to special populations (e.g., youth with developmental disabilities, LGBTQ youth, substance abusing youth, etc.)

If applying under Category 1:

- Indicate how the organization will ensure continuity of representation for Youth Part matters removed to the Family Court;
- Describe the organization's plan to provide attorneys proficient in both adult felony representation in the Youth Part and juvenile defense practice in the Family Court, including prior experience and qualifications of counsel and/or hiring and training plans; and
- Include with the submission a letter of support from the cognizant local government entity responsible for reimbursing adult criminal defense services stating the locality's intent to have the organization provide AO representation in the Youth Part or which states that the locality has a Raise the Age plan that includes the prospective provider organization as a provider of AFC services for matters/ removed from the Youth Part to the Family Court.

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Developing caseload estimates for each county proposed

Potential service providers must develop an estimate of the predicted caseload in each county for each category of cases for which the organization expresses interest. Caseload estimates must be based on predictions for the year 2020 (the first year the Raise the Age law will be fully implemented). Exhibit 1 is provided as an informational tool to assist potential service providers in developing these estimates.

The predictive analysis of total caseload by county must consider “system flow” forecasts of the number of cases expected to proceed through each component of the justice system (arrest projections, anticipated proportion of cases removed from the youth part to the family court, probation adjustment rates; etc.). Using the available information regarding anticipated probation adjustment rates, youth part removal rates, proportion of cases likely to be represented by other institutional providers, private 18-B panel attorneys and/or self-retained attorneys and any other pertinent information, the applicant must develop an estimate of the number of cases for which the organization will provide Attorney for the Child representation services.

Estimating a cost per case

Pursuant to Section 127.5 of the Rules of the Chief Administrator of the Courts, the number of children represented at any given time by an attorney appointed pursuant to section 249 of the Family Court Act shall not exceed 150¹.

Total Budget ÷ Total Caseload = Average Cost Per Case

Figure 1

Taking into consideration the estimated annual caseload, the caseload standard, the additional costs of support staff and/or other resources that promote quality representation and reasonable indirect costs, the interested potential providers should develop a budget for calendar year 2020. The total budget and the caseload estimate must be used to state an average cost per case as in figure 1.

Submitting a Letter of Interest

To indicate interest in and eligibility to provide these services, submit:

- A letter of interest as outlined herein (prominently indicate SOI #14 on the envelope/package);
- Completed Attachment 1; and
- Letter(s) of support.

To:
Amelia Hershberger
Management Analyst
Division of Professional and Court Services
2500 Pond View, Suite 104
Castleton-on-Hudson, New York 12033

To receive consideration, the letter of interest must include all the information requested in this solicitation and must be received by UCS no later than 2:00PM on Friday, April 20, 2018.

¹ The workload standards may be adjusted based on factors outlined in the rule:
<http://www.nycourts.gov/rules/chiefadmin/127.shtml#05>

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 (Attachment 1)

To indicate interest in providing services pursuant to this Solicitation of Interest, complete the three right-most columns on the form below in the row(s) associated with any counties in which the organization would provide service. Complete the form for each category in which the organization wishes to express interest. Leave county rows blank where the organization does not wish to indicate interest.

Category 1: Representation of youth whose cases are removed from the Youth Part to the Family Court.

County	Total Proposed Budget	Caseload Estimate	Cost per Case
Bronx			
Kings			
New York			
Queens			
Richmond			
Albany			
Allegany			
Broome			
Cattaraugus			
Cayuga			
Chautauqua			
Chemung			
Chenango			
Clinton			
Columbia			
Cortland			
Delaware			
Dutchess			
Erie			
Essex			
Franklin			
Fulton			
Genesee			
Greene			
Hamilton			
Herkimer			
Jefferson			

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County	Total Proposed Budget	Caseload Estimate	Cost per Case
Lewis			
Livingston			
Madison			
Monroe			
Montgomery			
Nassau			
Niagara			
Oneida			
Onondaga			
Ontario			
Orange			
Orleans			
Oswego			
Other			
Otsego			
Putnam			
Rensselaer			
Rockland			
Saratoga			
Schenectady			
Schoharie			
Schuyler			
Seneca			
St. Lawrence			
Steuben			
Suffolk			
Sullivan			
Tioga			
Tompkins			
Ulster			
Warren			
Washington			
Wayne			
Westchester			
Wyoming			
Yates			

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Category 2.A.: Representation of 16 and 17-year-old youth with misdemeanor cases initiated in Family Court.

County	Total Proposed Budget	Caseload Estimate	Cost per Case
Bronx			
Kings			
New York			
Queens			
Richmond			
Albany			
Allegany			
Broome			
Cattaraugus			
Cayuga			
Chautauqua			
Chemung			
Chenango			
Clinton			
Columbia			
Cortland			
Delaware			
Dutchess			
Erie			
Essex			
Franklin			
Fulton			
Genesee			
Greene			
Hamilton			
Herkimer			
Jefferson			
Lewis			
Livingston			
Madison			
Monroe			
Montgomery			
Nassau			

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County	Total Proposed Budget	Caseload Estimate	Cost per Case
Niagara			
Oneida			
Onondaga			
Ontario			
Orange			
Orleans			
Oswego			
Other			
Otsego			
Putnam			
Rensselaer			
Rockland			
Saratoga			
Schenectady			
Schoharie			
Schuyler			
Seneca			
St. Lawrence			
Steuben			
Suffolk			
Sullivan			
Tioga			
Tompkins			
Ulster			
Warren			
Washington			
Wayne			
Westchester			
Wyoming			
Yates			

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Category 2.B.: Representation of 7 to 17-year-old youth with misdemeanor cases initiated in Family Court.

County	Total Proposed Budget	Caseload Estimate	Cost per Case
Bronx			
Kings			
New York			
Queens			
Richmond			
Albany			
Allegany			
Broome			
Cattaraugus			
Cayuga			
Chautauqua			
Chemung			
Chenango			
Clinton			
Columbia			
Cortland			
Delaware			
Dutchess			
Erie			
Essex			
Franklin			
Fulton			
Genesee			
Greene			
Hamilton			
Herkimer			
Jefferson			
Lewis			
Livingston			
Madison			
Monroe			
Montgomery			
Nassau			

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County	Total Proposed Budget	Caseload Estimate	Cost per Case
Niagara			
Oneida			
Onondaga			
Ontario			
Orange			
Orleans			
Oswego			
Other			
Otsego			
Putnam			
Rensselaer			
Rockland			
Saratoga			
Schenectady			
Schoharie			
Schuyler			
Seneca			
St. Lawrence			
Steuben			
Suffolk			
Sullivan			
Tioga			
Tompkins			
Ulster			
Warren			
Washington			
Wayne			
Westchester			
Wyoming			
Yates			