TESTIMONY OF

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PRESENTED TO THE

NEW YORK STATE SENATE FINANCE COMMITTEE

AND

NEW YORK STATE ASSEMBLY COMMITTEE ON WAYS AND MEANS

REGARDING THE

NEW YORK STATE EXECUTIVE BUDGET PROPOSALS FOR

PUBLIC PROTECTION

STATE FISCAL YEAR 2021–2022

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Recommendation

Reject the Executive Budget Briefing Book statement that the state will begin to pay not-for-profit providers operating Raise the Age programs based on utilization

Good afternoon. My name is William Gettman, and I am the CEO of Northern Rivers Family of Services located in the Capital Region.

About Northern Rivers Family of Services

Northern Rivers Family of Services was established in 2012 through affiliation with longstanding family services agencies **Northeast Parent & Child Society** and **Parsons Child & Family Center.** In 2019, we affiliated with **Unlimited Potential**, whose operations began in Saratoga Springs. Together, the 1,400-strong workforce of Northern Rivers and member agencies serve more than 18,000 children and families in 41 upstate counties each year, with $88 million invested through more than 60 social services and child welfare programs. Northern Rivers builds a strong, successful, and healthy future for our children, families, and communities through quality services, collaboration, and innovative leadership. Our program areas include:

- Residential and community-based child welfare programing including foster care, preventive services, postadoption services, and evidence-based home visiting programs;
- Educational services for 400 students including early learning, pre-K, and Early Head Start, as well as accredited 853 schools (elementary, middle, and high school);

- Community-based child welfare and crisis services programs for children and adults including mobile crisis, school-based services, and licensed clinic programs; and
- Community-based waiver programs for children and adults including Health Home services.

I would like to thank Chairwoman Liz Krueger and Chairwoman Helene E. Weinstein, Human Services Committee Chairs, and members of the Assembly Ways and Means and Senate Finance Committees for this opportunity to testify on the Governor's Executive Budget for State Fiscal Year 2021–2022.

Background

Beginning in 2018, 13 child welfare and juvenile justice agencies (upstate and on Long Island—outside of NYC) worked with NYS to become approved residential providers for youth placed through Raise the Age.

Northern Rivers Family of Services agreed and volunteered to implement the new residential services, including robust aftercare services. Along with the other agencies, we partnered with the Office of Children and Family Services (OCFS) and the Division of Criminal Justice Services (DCJS), together with the Executive Chamber and the Division of the Budget, to build the program, hire and train staff, and prepare the appropriate physical plan. State agencies and local providers all agreed to the development of the implementation plan, program model, and fiscal processes.

The startup of the RTA programs was driven by state estimates of need and the related staffing and program elements. We engaged in a regular learning collaborative with OCFS throughout the past few years to work through programmatic questions and to learn from one another as they—and we—prepared for and then began accepting youth into the programs. The initial 13 nonprofit agencies are proud of their efforts in for co-creating this new program model with the state and of their efforts to partner together to provide the best possible environment and supports for youth placed through Raise the Age.

Acknowledging the financial risk providers incurred in creating and opening up program capacity for Raise the Age (due to the uncertainty of how much capacity would be required), OCFS, DCJS, DOB, and the Executive Chamber agreed in its Request for Program Applications to provide 100 percent funding based on capacity approved by the state to providers for a 3-year period. This 3-year window was scheduled to end in October 2021. After this time, a revised model was to be developed based on actual placements and trends.

Given that providers were only afforded this “hold harmless” for their residential costs—but not for costs associated with health care and education (i.e., 853 school or Special Act School District tuition), this was a critical component of providers’ ability to open capacity for the state’s Raise the Age placement needs.

The following quote is from the OCFS-issued Request for Application (RFA) on the Raise the Age program:

> *Agencies approved to operate a new RTA program, whether on the agency campus or on state-owned property, will be paid 100% of the MSAR for all approved beds for a period of three years. This period is from October 1, 2018 through September 30, 2021. As noted above, this “hold harmless” period applies only to the MSAR for vacant RTA beds and not to the educational or Medicaid/health care costs.* (Source: OCFS Raise the Age Request for Program Applications for Raise the Age Residential Programs and Aftercare Services [Statewide, Excluding New York City] Issued Jan. 29, 2018, p. 36.)

This same assurance that providers would be "held harmless" was also included in the approval letters OCFS issued.

FY 2021–22 State Budget Proposal Reneges on Commitment

We are extremely concerned with a statement included in this year's NYS Executive Budget Briefing Book indicating that NYS would not adhere to its original agreed-upon terms with The Raise the Age providers, effective April 1, 2021. The change is explained in the briefing book as follows:

> *Continue Implementation of Raise the Age. The age of criminal responsibility was increased from 16 to 17 on October 1, 2018 and from 17 to 18 on October 1, 2019. The Budget support for implementation, including comprehensive diversion, probation, and programming services for 16- and 17-year old youth in the juvenile justice system. This includes support for Voluntary Agency Not-for-Profit providers in the operation of residential programs, but reimbursement payments will be limited to actual placements. Previously, providers had received reimbursement for the cost of maintaining a bed, regardless of its usage, to ensure sufficient capacity as the juvenile justice system adjusts to the new RTA law. This change reflects that the number of youth adjudicated to a placement remains below initial projections."* (Source: NYS Executive Budget Briefing Book, accessed at https://www.budget.ny.gov/pubs/archive/fy22/ex/book/briefingbook.pdf, p. 99.)

We understand that if implemented, this change would become effective on April 1, 2021, in the state's new fiscal year—reflecting the Governor's decision to cut short the agreement with providers 6 months before the "hold harmless" is due to end.

While we understand and acknowledge both the state's challenging fiscal climate this year as well as the lower-than-expected placement rate into these programs, the providers have been partners with the state on this program, assumed risk, and made financial commitments, yet they were not given any notice of this change before publishing it in the Executive Budget Briefing Book.

Providers are therefore now in a situation where they have less than a 60-day notice to possibly close down beds and greatly reduce RTA capacity because continuing the beds at the current rate based on useage is not financially viable.

Conclusion

Adherence to the originally proposed time frame would allow time for the providers to work with the state to plan for the required capacity in the future. We recognize the capacity needs to change, but we cannot complete the process in the proposed timeframe. If a modified timeframe cannot be agreed on, not-for-profit agency providers will have little choice but to immediately close RTA programs, layoff staff, and incur added fiscal losses. If the state must proceed, we ask that it go forward based on the original agreed-upon terms with providers as outlined in the Request for Application and approval letters.

Recommendation

We support the proposed $250 million in the Executive Budget to continue implementing Raise the Age this year. **We ask that the Legislature reject the change the Executive Budget Briefing Book proposes on dramatic changes to the financing of Raise the Age programs by including language in one house budget proposals to support the program stability and to fully execute the original terms of the state's agreement with providers to pay 100 percent of the maximum state aid rate for all approved beds for a 3-year period, through September 30, 2021.**

Thank you for the opportunity to testify.