

## Regulatory Flexibility Analysis for Small Business and Local Governments

### 1) **Effect on Small Businesses and Local Governments:**

The proposed regulations will affect all local social services districts (districts) in New York State. No small businesses will be impacted by this regulation.

### 2) **Compliance Requirements:**

Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, provides that the Office of Children and Family Services (the Office) shall promulgate regulations regarding the differential response for children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act. Specifically, the proposed regulations would require all districts to establish a differential response program for the eligible children. As part of their district-wide child welfare services plan, the districts must include a plan to implement the program.

### 3) **Professional Services:**

These regulations would adopt provisions for the district differential response to include a strength-based assessment to determine whether services are necessary, the plan for supports offered to and accepted by the child and family, and the monitoring of the child's progress in such interventions. It will also provide provisions for training of district and non-district staff regarding the differential response. OCFS is working with local districts on tools to assist them in meeting the requirements of the regulations, including a referral tracking mechanism and training materials.

### 4) **Compliance Costs:** While there may be marginal administrative costs related to the implementation of the differential response and the completion of a new section of the child welfare services plan, the local social services districts are already responsible for assisting families in engaging in services and supports and the completion of the child welfare services plan. It is important to note:

- The total number statewide of intakes for this age group in 2021 was 266
- Some local districts will realize cost savings where children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, are no longer eligible to be placed in a juvenile

detention facility, a foster care placement or a New York State Office of Children and Family Services facility due to delinquency charges, and these are more costly than the alternative differential response.

**5) Economic and Technological Feasibility:** No economic or technological barriers have been identified that would prohibit implementation of these regulations as written.

**6) Minimizing Adverse Impact:** These regulations would adopt state mandated provisions. The requirements under these proposed regulations were necessitated by the Raise the Lower Age of Juvenile Delinquency legislation (Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022) and were therefore unavoidable. The Office of Children and Family Services (the Office) will support local social services districts in the drafting and any necessary revisions of their differential response plans.

**7) Small Business and Local Government Participation:** The Office has engaged in a process of receiving feedback from local districts regarding the implementation of the Raise the Lower Age of Juvenile Delinquency legislation. This has occurred through the following:

- Forming a small working group of interested local districts to provide direct feedback to the Office on the implementation of the legislation and regulations
- The Office attending regional meetings of districts to review the legislative requirements and obtain their direct feedback
- The Office presenting at the New York Public Welfare Association conference in July 2022 to provide an overview of the legislation and obtain feedback from local districts directly
- The Office will continue to seek opportunities to provide additional learning opportunities for local districts through the issuance of policy and further training.