

## **Regulatory Impact Statement**

### **1) Statutory Authority:**

Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, requires 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 as of December 29, 2022, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the SSL.

Section 34(3)(f) of the SSL requires the Commissioner of the Office to establish regulations for the administration of public assistance and care within New York State.

### **2) Legislative Objectives:**

To establish differential response programs for children under the age of 12 in order to reduce the likelihood of the eligible child's interactions with the juvenile justice and child welfare systems in the future.

### **3) Needs and Benefits:**

These regulations are required under by Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022. They require local social services districts (districts) to establish a differential response program for eligible children, provide standards around that differential response as well as regarding records, retention, and confidentiality.

The legislation and regulations are an opportunity to be responsive to children and their families using developmentally focused, equity-centered community alternatives and early interventions that address concerning or harmful behavior through age- and stage-appropriate means. Emphasis is placed on family engagement and providing necessary assistance and opportunities to the child using positive youth development, restorative, and trauma-informed practices to address the behavior rather than juvenile justice

approaches. Addressing behaviors early reduces the likelihood of continued community behavior concerns in the future, as well as more costly out of home placements.

Children of color are disproportionately overrepresented at every stage of the juvenile justice system. The legislation and regulations require an intentional focus on addressing adverse impacts on marginalized communities while continually assessing the communities' strengths and resources that can meet the needs of the eligible children and their families.

**4) 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) Local Government Mandates:**

In accordance with state law, these regulations would adopt mandates for the districts 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 as of December 29, 2022, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

**6) Paperwork:**

The proposed regulations would require districts to document certain information related to the differential response program for eligible children. At a minimum, information regarding the reason(s) the child was referred to the differential response program,

documentation of all services offered and accepted by the eligible child and their family, and all evaluations and assessments of that child's progress.

**7) Duplication:**

The proposed regulations would comply with, but are not duplicative of, other state requirements.

**8) Alternatives:**

No alternative approaches to implementing the regulation were considered as the requirements are mandated by state law.

**9) Federal Standards:**

The proposed regulations are not in conflict with current federal standards.

**10) Compliance Schedule:**

Compliance with the Emergency Adoption and Proposed Rule Making would be effective immediately.