



Raising the Lower Age of Juvenile Delinquency Differential Response Annual Plan Desk Aid

Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, as of December 29, 2022, raises the lower age (RTLA) of juvenile delinquency (JD) under the Family Court Act (FCA) from 7 to 12 years of age, with an exception for alleged homicide offenses.

The requirements of the legislation and the emergency/proposed regulations (18 NYCRR Part 437) that went into effect on August 18, 2022, require

- an RTLA differential response (DR-RTLA) for eligible children and their families,
- the development of a DR-RTLA plan by each local department of social services (LDSS), and
- the New York State Office of Children and Family Services (OCFS) to review and approve the LDSS's DR-RTLA plan prior to initial implementation and annually thereafter as part of OCFS's review and approval of the LDSS's child welfare services plan (county plan).

The eligible children for the DR-RTLA are children under 12 years of age who will no longer be included in the definition of a JD under the FCA, **and** whose behavior would otherwise bring them under the jurisdiction of the family court pursuant to Article 3 of the FCA, but for their age.

For the first year of implementation, each LDSS will complete [OCFS-2211](#), *Raising the Lower Age of Juvenile Delinquency Differential Response for Children Under 12 Years of Age 2022 Annual Plan*, and submit the form to OCFS by November 14, 2022, at RTLA@ocfs.ny.gov. OCFS will review the DR-RTLA plans prior to implementation and upload approved plans to the corresponding LDSS's county plan for 2022. LDSSs will be notified in writing of the outcome of the OCFS review.

For subsequent years, the LDSS shall record the LDSS DR-RTLA plan within a new section of the county plan.

The required elements of the LDSS DR-RTLA plan are outlined below.

- A. Describe how the DR-RTLA program will enhance the ability of the LDSS to reduce the likelihood of the eligible child's interactions with the juvenile justice and child welfare systems in the future and ensure the safety and well-being of the eligible children. Such description must also include how any family needs and concerns will be supported.
- B. Describe how such DR-RTLA program addresses adverse impacts on marginalized communities.

The following equity approaches should be considered as the LDSS plans strategies to address adverse impacts on marginalized communities:

- Race Equity and Gender Identity – advancing an approach where all children and families, regardless of race and Sexual Orientation, Gender Identity and Expression (SOGIE), have the same opportunities through culturally relevant supports and resources to reach their potential
- Social and Economic Well-Being – promoting and supporting a trauma-informed system where concrete needs are met, and opportunities are provided equitably
- Family and Youth Partnership – authentically and effectively sustaining the participation of families and youth at all system levels

These strategies may include and are not limited to

- performing outreach to marginalized communities to ensure they are aware of resources available and hear their needs;
- engaging with law enforcement, particularly in marginalized communities, to ensure law enforcement's understanding of the new approach with eligible children;
- building capacity for culturally responsive services, supports, or opportunities in partnership with communities; and
- responding to feedback from children and families on the DR-RTLA program and their needs.

- C. Describe the assessments that shall be utilized to determine whether services are necessary and if necessary, the least restrictive interventions that meet the needs of the eligible child and their family.

Such assessment tools shall include, but not be limited to, the assessment of safety, the eligible child's and family's strengths, concrete needs, and challenges. Such assessments should consider any individualized vulnerabilities and be responsive to the child's and family's culture.

LDSSs may identify the strength-based assessment to be utilized for the DR-RTLA program. The assessment must include screening, and where indicated, assessment of sexual exploitation (using [OCFS-3920](#), *Child Sex Trafficking Indicators Tool*, and [OCFS-3921](#), *Rapid Indicator Tool to Identify Children Who May Be Sex Trafficking Victims or Are at Risk of Being a Sex Trafficking Victim*).

- D. Describe the services and supports to be provided to the eligible child and their family, which should include, but not be limited to, preventive services, if eligible, in accordance with Social Services Law (SSL) 409-a and [18 NYCRR Part 423](#), and family support services programs as defined in SSL 458-m, as required or available, and how the services will be offered. Services offered through the DR-RTLA program are voluntary and must be described as such in the plan.

LDSSs should consider the continuum of services, supports, and opportunities that are available within the district for eligible children and their families. These may include, and are not limited to,

- positive youth development opportunities to assist children in spending their leisure time engaged in a variety of positive experiences for growth and skill development,
- restorative practices and programs that assist children in taking accountability for their actions and addressing harm to others,
- mediation services through dispute resolution centers,
- clinical interventions to support the mental health and substance use needs of eligible children and their families,
- wraparound supports and interventions for eligible children with complex needs,
- peer supports for families,
- respite services, and
- supports via children advocacy centers.

- E. Describe the process for planning and monitoring the services provided under the DR-RTLA program.

The planning activities by the LDSS for the development and ongoing assessment of the DR-RTLA for eligible children may include, and are not limited to, data assessments, community needs assessments focused on the needs of the eligible children and their families, focus groups with families, and collaborative meetings with law enforcement and other local stakeholders.

Critical partners to the planning process include families and children, law enforcement, schools, children advocacy centers, respite service providers, youth bureaus, community- and faith-based organizations, anti-trafficking providers, and dispute resolution center partners. Probation departments will also be of assistance in the initial planning for the LDSS DR-RTLA as they have information regarding the needs of children under 12 years old who previously completed a JD intake within the district and their families.

The monitoring activities of the DR-RTLA for eligible children by the LDSS must include strategies to monitor the required service elements (i.e., intake, assessment, service planning, referral, and monitoring of the child's progress) of the DR-RTLA program. **Obtaining consistent child and family feedback must be one of the monitoring strategies.**

F. Describe the training to be required for staff engaged in implementation of the DR-RTLA program. This includes training for district and relevant non-district staff who will be working with eligible children and their families.

The training to be provided to district staff regarding the LDSS DR-RTLA to children will include, at a minimum,

- an overview of the LDSS DR-RTLA structure and DR-RTLA plan;
- information regarding the required elements of the DR-RTLA, including responsibilities for obtaining intake information, screening for eligibility determination, assessment of the eligible child and their family, collaborative service planning with the eligible child and their family, supportive referral process to interventions as needed, and monitoring of the eligible child's progress in interventions;
- the voluntary nature of the differential response and the interventions offered to the eligible child and their family;
- information regarding the DR-RTLA program case documentation, confidentiality, and completion requirements;
- information regarding the current continuum of services, supports, and opportunities available within the district;
- record retention schedules for the DR-RTLA; and
- local district protocols related to when a DR-RTLA eligible child may be considered for Person in Need of Supervision (PINS) diversion services.

The training to be provided to non-district staff regarding the LDSS DR-RTLA will include, at a minimum,

- an overview of the LDSS DR-RTLA structure and referral processes;
- contact information for the LDSS DR-RTLA program and hours of operation (must at a minimum align with normal business hours of the LDSS);
- the DR-RTLA eligibility criteria and the LDSS processes that will be followed if the referred child is not eligible for the DR-RTLA program;
- the requirements of the DR-RTLA program, including but not limited to monitoring of the child's progress in interventions and follow-up time frames for such follow-up, and DR-RTLA case completion;
- the voluntary nature of the DR-RTLA program and the interventions offered to the eligible child and their family;
- information regarding the current continuum of services, supports, and opportunities available within the district; and
- record retention schedules for the DR-RTLA.

OCFS is developing template PowerPoint presentations regarding the DR-RTLA for children that LDSSs can choose to customize for their local training needs. These will be released to the LDSSs under a separate communication.

G. Describe any funding that shall be made available to enhance the DR-RTLA. This funding may include, but not be limited to, grant funding secured by the LDSS.

Data Collection

The LDSS DR-RTLA must account for all referrals to the DR-RTLA program in a tracking mechanism maintained locally. Starting in 2023, each LDSS will need to report annually to the OCFS, at a minimum, the following additional information, which includes a status update on elements of the DR-RTLA plan:

- Number of referrals to DR-RTLA by law enforcement
- Number of referrals to DR-RTLA by parents
- Number of referrals to DR-RTLA by schools
- Number of referrals to DR-RTLA by other sources
- Number of total DR-RTLA eligible cases
 - Age at referral of eligible children
- Number of total DR-RTLA-eligible cases for which participation was declined by family
- The LDSS's efforts to reduce the likelihood of children having contact with the juvenile justice and child welfare systems in the future
- How the LDSS is ensuring the safety and well-being of eligible children
- How the LDSS's DR-RTLA is addressing adverse impacts on marginalized communities

Questions regarding this desk aid and the DR-RTLA plan can be sent to RTLA@ocfs.ny.gov.