



## Raising the Lower Age of Juvenile Delinquency Differential Response Practice Guide

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).

DR-RTLA requires LDSSs to use developmentally focused, equity-centered community alternatives and early interventions that address concerning or harmful behavior through age- and stage-appropriate means. Juvenile justice approaches can exacerbate and increase trauma and negative behaviors in children.<sup>1</sup> Instead, emphasis should be placed on family engagement and in providing interventions and opportunities to the child using positive youth development and restorative and trauma-informed practices to address behavior.

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.

A LDSS may also be contacted by persons harmed by a DR-RTLA-eligible child. In these circumstances, information about the DR-RTLA-eligible child cannot be disclosed. However, the LDSS can inform the person harmed they can access victim services with a law enforcement incident report. The New York State Office of Victim Services also hosts [OVS Resource Connect](#) to support those harmed. The LDSS may also be aware of other supports the person harmed may benefit from and should provide that information as well.

The LDSS DR-RTLA must include the following responses and supports to eligible children and their families:

- Intake and initial screening for child eligibility
- Assessment of the eligible child and their family
- Service plan development with the eligible child and family
- Facilitated referrals to the appropriate interventions
- Follow-up on all evaluations and assessments of the child's progress in accepted interventions

Please see the DR-RTLA Practice Time Frames Chart below for easy reference of the required actions.

### Intake

DR-RTLA programs shall receive referrals, at a minimum, during LDSS regular business hours. Each LDSS DR-RTLA point of contact shall be made public on the OCFS [RTLA webpage](#). LDSS can use the [OCFS-2210](#),

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<sup>1</sup> Precious Skinner-Osei, Laura Mangan, Mara Liggett, Michelle Kerrigan, and Jill S. Levenson, "Justice-Involved Youth and Trauma-Informed Interventions," *Justice Policy Journal*, Volume 16, Number 2 (Fall, 2019).

*Raising the Lower Age of Juvenile Delinquency Differential Response Referral Form*, with local stakeholders, including law enforcement, as a tool to assist with obtaining consistent referral information.

The DR-RTLA will gather intake information that includes, but is not limited to,

- the reason for the referral to the DR-RTLA, including the specific behavior(s) of the child;
- the age of the child;
- contact information for the referral source;
- child and caregiver contact information;
- any current safety concerns and/or safety plans in place;
- contact information of known service providers and familial supports.

For those children who are referred to a DR-RTLA and reside in another county and/or New York City (NYC), the DR-RTLA program that received the referral will advise the referral source of the DR-RTLA contact where the child resides and request that they refer the child to that DR-RTLA.

Based on the intake information, the DR-RTLA will make a determination of the child's eligibility.

For those children who are not eligible for the DR-RTLA, the program will provide the referral source with community-based interventions that may address the needs of the child and family, based on the available information.

For eligible children residing in the district, the DR-RTLA program will complete the following activities:

- Contact the family of an eligible child within one business day of receiving a referral. This contact will include an explanation of the DR-RTLA and confirm all methods to contact the family, including their preferred method (e.g., text, email, phone call).
- Schedule an appointment, within seven business days, with the child, family, and any familial supports identified by the family at a time and place convenient for the family. Any barriers to attending the appointment (e.g., transportation) should be addressed with the family at the time of the initial contact.
- Ask the family if they are currently working with child protective services, child welfare preventive services, or foster care services and obtain permission to speak to the LDSS case manager/caseworker for any applicable information. Authorized LDSS personnel who have access to CONNECTIONS can obtain open child welfare services information with a clear professional purpose and need to support the safety and well-being of the eligible child and their family. Best practice dictates this be a family-led process to support communication and coordinated planning.

When an eligible child or their family has current involvement with child protective services, child welfare preventive, or foster care services, the DR-RTLA program will contact the LDSS case manager/caseworker to

- inform them of the referral to the DR-RTLA and the current intake information,
- inform them of the decision of the family to proceed or not proceed with the DR-RTLA assessment,
- inform them of the DR-RTLA processes, and
- obtain information about their assessment of the child's and their family's progress in current interventions and supports.

**NOTE: The DR-RTLA is voluntary to the child and family.** However, if there are safety plans in place or known safety concerns (e.g., immediate danger of serious harm or serious threat to the physical, mental or emotional well-being of the child or others related to the child's behaviors), the DR-RTLA program must immediately act in accordance with existing policy, regulations, and law.

If no known safety concerns exist and the family declines the DR-RTLA, the program should provide the family with the DR-RTLA contact information orally and in writing. The DR-RTLA will also provide information about community-based supports that can address any known needs of the child and family, and ask the family if they would like the DR-RTLA program to contact them in approximately 30 days for a check-in.

If the family agrees to the 30-day check-in, the current referral will be closed; however, the DR-RTLA program will reach out to the family 30 days after their initial contact to determine if the family has reconsidered engagement with the DR-RTLA. If so, the DR-RTLA will open a new family referral, and the required DR-RTLA procedures will be followed. If the family declines the DR-RTLA, the program will provide the family again with the DR-RTLA contact information.

### Assessment

The DR-RTLA assessment must include an assessment of

- the current safety of the child and safety concerns related to the child's behaviors that led to the DR-RTLA referral, which could include but is not limited to the safety of other children in the family;
- the eligible child's and family's strengths, concrete needs, and challenges or concerns;
- any individualized vulnerabilities;
- cultural considerations; and
- indicators of child sex trafficking ([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](#)).

The assessment, completed in partnership with the child and family, should inform whether any relevant family members need intervention or supports.

### Support Plan Development

The support plan development for the DR-RTLA shall be family- and child-led. The DR-RTLA will initiate the support plan development within 15 days of the referral to the DR-RTLA program.

Based on the assessment, the DR-RTLA program will make recommendations for the most appropriate services, supports, and opportunities to meet the needs of the child and family and continue to build strengths and the overall well-being of the familial unit. The intensity of services and supports needs to align with the assessment, as children who receive interventions at an intensity exceeding their need are at risk of poorer outcomes. All interventions should be culturally responsive and account for any individualized vulnerabilities of the child and/or family.

If there are current providers working with the family, the DR-RTLA program will include them, with permission from the family, in the support plan development to ensure continuity of care, alignment of goals, and avoidance of duplicative intervention.

The recommended intervention options should be explained to the child and family in plain language. Accessibility to such options must also be considered. Keep in mind that materials may need to be made available in the language known to the family.

The support plan will consist of those interventions that the child and family agree to, as all recommended interventions are voluntary. If the family declines the recommended interventions and there are no known safety concerns, the DR-RTLA program will provide the family with contact information for the DR-RTLA and the

recommended interventions, orally and in writing. However, if there are safety plans in place or identified safety concerns, the LDSS DR-RTLA must act immediately in accordance with existing policy, regulations, and law.

### Successful Intervention Engagement

Upon collective plan agreement, the DR-RTLA program will contact the agreed upon providers. This is a critical time of transition for the child and family who need support to ensure successful engagement. Family team meetings or other family-led collaborative forums may provide the best opportunity for the child and family to meet new providers, to promote continuity of care, and for team members to align strategies and resources to best support the child and family.

If peer supports for the child and family are available, they can also assist the family and remain a consistent support for them during service intervention.

### Assessment of the Child's Progress

The LDSS DR-RTLA is required to obtain all evaluations and assessments of the child's progress in interventions from the providers, as permitted by the family via a release of information form while the DR-RTLA is active. The DR-RTLA program will also contact the family, child, and providers on or about 30 days from the development of the support plan and within seven days prior to the anticipated DR-RTLA case completion, to assess the child's progress and collectively determine if there is a need for any further supports to the child and family.

### DR-RTLA Case Completion

The DR-RTLA case completion shall occur 90 days from the initial DR-RTLA referral or when the child turns 12 years of age, whichever is sooner.

**Please note that the DR-RTLA case completion has no impact on the child and family's continued participation in community-based interventions, including but not limited to child welfare preventive services to eligible families. Continuation in those interventions should be based solely on the needs and goals of the child and family.**

### Case Documentation

The LDSS DR-RTLA shall maintain an individualized case file at the local level for every case. This case information shall not be entered into any New York State electronic system, including but not limited to the CONNECTIONS system.

The DR-RTLA case file must contain, but is not limited to, the following:

- Intake information as outlined above
- Assessment documentation
- Services offered to the child and family
- Services declined and/or accepted by the child and family
- The support plan agreed upon with the child and family
- Documentation of the successful connections to appropriate interventions and any referrals to supports that were unsuccessful and the barriers preventing a successful outcome
- Documentation of any team meetings with the family, child, and providers
- Documentation of all evaluations and assessments by providers of the child's progress in interventions, as permitted by the family, while the DR-RTLA is active
- Documentation of any family decision to not provide consent to contact providers

- Documentation of contact with the family, child, and providers on or about 30 days after the support plan development and within 7 days prior to the anticipated DR-RTLA case completion to assess the child’s progress and collectively determine if there is a need for any further supports to the child and family
- Documentation of the completion of the DR-RTLA case

**DR-RTLA Practice Time Frames Chart**

<b>DR-RTLA Program Action</b>	<b>Time Frame</b>
Receive referrals for the DR-RTLA program	During LDSS regular business hours
Child eligibility determination	Determined based on referral information
Contact the family of an eligible child	Within 1 business day of receiving a referral
Schedule an appointment with the child, family and any familial supports	Within 7 business days of receiving a referral
Support plan development with eligible child and family	Initiated within 15 days of the referral to the DR-RTLA
If a family declines DR-RTLA program and agrees to 30-day check-in, contact the family	30 days after the initial contact with the family
Contact with the family, eligible child and agreed-upon providers	30 days from the development of the support plan
Contact with the family, eligible child and agreed-upon providers	Within 7 days prior to the anticipated DR-RTLA case completion
DR-RTLA case completion	90 days from the initial DR-RTLA referral or when the child turns 12, whichever is sooner

Questions regarding this practice guide and the DR-RTLA can be sent to [RTLA@ocfs.ny.gov](mailto:RTLA@ocfs.ny.gov).