



## Memorandum in Support

### COMMITTEE ON CHILDREN AND THE LAW

May 5, 2023

S.2120

A.1320

By: Senator Bailey

By: M. of A. Joyner

Effective Date: January 1, 2024

**AN ACT** to amend the Family Court Act and the judiciary law, in relation to the discovery provisions applicable to juvenile delinquency proceedings in Family Court; and to repeal certain provisions of the Family Court Act relating thereto.

**LAW AND SECTIONS REFERRED TO:** Repeal Article Three of the Family Court Act Sections 331.1 – 331.7 and add thirteen new sections incorporating Article 245 of the Criminal Procedure Law (“CPL”) (adopted in 2019).

### **THE COMMITTEE ON CHILDREN AND THE LAW SUPPORT THIS LEGISLATION**

In 2019, New York State enacted Article 245 of the CPL, criminal discovery reforms requiring the provision of more extensive discovery at an earlier stage in criminal proceedings. *See* L.2019, c. 59, Part LLL. These reforms replaced Article 240 of the CPL. The Family Court Act governs proceedings of minors prosecuted as juvenile delinquents in Family Court, including 16- and 17-year olds whose cases are removed to Family Court by the Youth Part. *See* L. 2017, c. 59, part www. Article Three of the Family Court Act, which governs the discovery obligations for juvenile proceedings, currently continues to incorporate Article 240 of the CPL, even though this section is now rescinded. Although it is well established that the Criminal Procedure Law is applicable to juvenile delinquency cases,<sup>1</sup> the legislature has yet to incorporate the reformed discovery obligations under CPL Article 245 to these cases.<sup>2</sup> This new legislation would reform Article Three of the Family Court Act by including the CPL 245 provisions to provide youth prosecuted in Family Court with the same discovery rights as those afforded to individuals in criminal proceedings. This bill notably also adapts the time frames for production of discovery to address the shorter time frames of juvenile proceedings as compared to criminal proceedings.

The failure to incorporate the new provisions has had severe ramifications for the youth prosecuted in Family Court, depriving these youth and their counsel of needed discovery in a

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<sup>1</sup> <sup>1</sup> *See* FCA § 330.1 *et seq.* (Discovery); FCA § 343.1 *et seq.* (Rules of evidence); *Constitutional Protections Afforded Juveniles*, U.S. DEP’T OF JUST. ARCHIVES (Mar. 21, 2023, 10:44 AM),

<https://www.justice.gov/archives/jm/criminal-resource-manual-121-constitutional-protections-afforded-juveniles>.

<sup>2</sup> <sup>2</sup> Indeed, FCA 303.1(1) specifically provides that “[t]he provisions of the criminal procedure law shall NOT apply unless the applicability of such provisions are specifically prescribed by this act.”

timely fashion. Without timely access to full discovery, youth and their counsel may lack information regarding the existence or absence of key evidence, including impeachment evidence, evidence reflecting on the credibility of the police officer, or exculpatory evidence. This deprivation can lead to less informed, and therefore less just, dispositions of cases.

Indeed, the courts have recognized this harm amounts to a denial of the constitutional rights of youth. In *Matter of Jayson C.*, the First Department held “the denial of records available under CPL 245.10(1)(k)(iv), which broadly requires disclosure of all impeachment evidence deprived appellant of equal protection of the laws.” *Matter of Jayson C.*, 200 A.D.3d 447, 3 (1st Dept. 2021)(citations omitted). The Court found limiting access to impeachment materials in juvenile delinquency proceedings are not warranted, as the need for the evidence is “equally crucial in both delinquency and criminal proceedings.” *Id.* at 4.

Based on the foregoing, the Committee on Children and the Law finds the bill essential to adequately protect children’s constitutional rights in juvenile delinquency proceedings in Family Court and **SUPPORTS** this important bill.