



Legislation Text

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Res. No. 23

Resolution calling upon the New York State Legislature to pass and the Governor to sign a law amending article 45 of the Civil Practice Law and Rules to prohibit juvenile admissions and statements against penal interest made during court-ordered mental health screening and treatment from being admitted into evidence in subsequent criminal proceedings.

By Council Members Cabrera and Ayala

Whereas, According to the Citizens' Committee for Children of New York City, 268,743 children ages 5 through 17 have a diagnosable mental illness; and

Whereas, In a study conducted by the Administration for Children's Services in 2011, 44% of the nearly 5,400 youths housed in juvenile detention in New York City received in-care mental health services in 2010; and

Whereas, If left untreated or undiagnosed, juveniles with psychiatric conditions may pose a danger to themselves or others; and

Whereas, The New York State Unified Court System has recognized the importance of rehabilitation and treatment of juvenile criminal defendants through the creation of Mental Health Courts and Drug Treatment Courts that focus on therapy and counseling as opposed to incarceration; and

Whereas, In the process of such therapy, counseling, and other treatment, juveniles may make statements that are self-incriminating and against their penal interests; and

Whereas, There is currently no universally recognized privilege protecting statements made by juveniles to their court-appointed mental health providers; and

Whereas, Absent explicit protections in the Civil Practice Law and Rules, such statements may be used in subsequent criminal prosecutions; and

Whereas, The knowledge that statements made during court-ordered mental health screenings, assessments, or counseling can be used against juveniles in subsequent criminal prosecutions will likely undercut the goals of rehabilitation and treatment, having a chilling effect on the honest and forthright communication essential to effective mental health therapy; and

Whereas, In adopting Civil Practice Law and Rules § 4507, the New York State Legislature has already recognized the importance of honest and forthright communication to effective psychiatric therapy by determining that statements made to a psychologist are privileged communications akin to statements made to an attorney; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign a law amending article 45 of the Civil Practice Law and Rules to prohibit juvenile admissions and statements against penal interest made during court-ordered mental health screening and treatment from being admitted into evidence in subsequent criminal proceedings.

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