

## Regulatory Flexibility Analysis (RFA) for small businesses and local governments:

### 1.) Effect of rule:

Each county must have adequate specialized secure detention facilities available to meet the needs of their populations. Counties (including New York City) that choose to operate a specialized secure detention facility, either alone or in conjunction with other counties, are affected by the proposed rule. The most significant impact will be on a county agency that is appointed to jointly administer detention with the applicable sheriff. The exact number to be affected in this way is unknown, as it is not known how many counties will opt to operate a specialized secure detention facility. Counties may choose to participate in a regional approach with other counties instead of operating their own specialized secure detention facilities. As for small businesses affected, the extent to which counties will choose to contract nonprofit authorized child caring agencies to operate a facility is unknown.

### 2.) Compliance requirements:

The county sheriffs and New York City currently house 16 and 17-year-olds accused of and serving definite sentences for felonies in local jails in areas separate from adult inmates. To comply with the proposed rule, the counties will need to determine alternate locations to house such youth in specialized secure detention. Unlike the other counties, New York City will also be required to transfer all current 16 and 17-year-olds held at Rikers Island to one or more specialized juvenile detention facilities for that purpose by October 1, 2018.

For New York City and counties electing to operate a specialized secure juvenile detention facility for older youth, the proposed regulations will impose various compliance requirements on each program area of facility operations, to include the establishment and implementation of facility policies and procedures, the facility

director's review and determination of decisions regarding a youth's management, the formation of a formal grievance process, and the reporting of significant facility incidents to the Commission.

3.) Professional services:

It is likely that significant services for the construction or substantial remodeling required for the creation of specialized secure detention facilities will be necessary to meet the obligations of the RTA and this proposed rule. Additionally, there will be several professional facility staff positions required at each facility, such as teachers, medical staff, and counseling staff. Some of these staff may already exist in the facilities where such adolescents are currently being served and will transfer to the new facility, but some portion of the new facilities will likely generate new positions or contractual services.

4.) Compliance costs:

Initial capital costs are not able to be determined as the construction or renovation costs will vary depending on which counties opt to operate a facility and what will be required for startup. However, the RTA provides state aid to qualifying localities for up to one hundred percent of the costs incurred for implementation. For counties that would not qualify, existing levels of state aid for construction of new or substantially remodeled detention facilities are carried over for specialized secure detention facilities. In addition, the RTA provides for reimbursement of one hundred percent of the increased cost of sheriff transport associated with the RTA.

5.) Economic and technological feasibility:

The RTA requires the operation of specialized secure detention facilities. Currently, certain counties and New York City operate secure detention facilities pursuant to County Law section 218-a. This proposed

rule, together with OCFS regulations, permits collocation of specialized secure detention facilities with secure detention facilities so that operators of such facilities can take advantage of unused space. Technological resources exist to create buildings with the necessary security features. Moreover, as noted above, state aid is potentially available to defray costs. Therefore, the requirements of this proposal are economically and technically feasible.

6.) Minimizing adverse impact:

This proposal, together with OCFS regulations, minimizes adverse impact by permitting specialized secure detention facilities to be collocated with secure detention facilities, thus allowing for use of existing unused space. In addition, financial assistance available for costs will minimize adverse impact. Lastly, where compliance with a specific regulation cannot be achieved due to a temporary condition or situation, or is to be achieved in a manner other than that which is specified in the regulation, the proposed rule does allow for a facility's application, and the Commission's approval of, a variance.

7.) Small business and local government participation:

In conjunction with OCFS, the Commission is the agency charged with certifying and regulating the specialized secure detention facilities; thus, the regulations and rules must come from the Commission as required by section 45(6) of the Correction Law. Prior to publication of this proposal, meetings were held with certain detention providers regarding forthcoming requirements. The proposal will be available to affected parties for comment.