§ 458-o. Differential response programs for children under twelve. 1. Each local social services district, upon the approval of the office of children and family services, shall establish a program that implements differential responses to provide services to children under twelve years of age, who do not fall under the definition of juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the family court act and whose behavior, but for their age, would bring them within the jurisdiction of the family court pursuant to article three of the family court act. Such programs shall establish and utilize appropriate assessments and services for youth, in order to help reduce future interaction with the juvenile justice and/or child welfare systems. Such assessments shall be used to determine what, if any, services are needed, and such services shall utilize the least restrictive intervention protocols available. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply only to those cases involving children under twelve years of age, who do not fall under the definition of juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the family court act and whose behavior, but for their age, would bring them within the jurisdiction of the family court pursuant to article three of the family court act.

2. To establish a differential response program, each local social services district, as part of their district-wide child welfare services plan, as defined in section four hundred nine-d of this article, shall include a plan to serve the youth described in subdivision one of this section while utilizing certain criteria to be promulgated in regulation by the office of children and family services including but not limited to the following:

(a) the types of assessment to determine whether services are necessary, services and interventions to be provided to children and families included in the differential response program for such children and a description of how the services will be offered. Such services shall include, but not be limited to, those services set forth in section four hundred nine-a of this article and section four hundred fifty-eight-m of this article;

(b) a description of the process to be followed for planning and

monitoring the services provided under the differential responses;

(c) a description of how the differential response program will enhance the ability of the district to reduce future interactions with the juvenile justice and child welfare systems, ensure the safety and well-being of such children, and ways to ensure such program addresses adverse impacts on minority communities;

(d) a description of the training that will be provided to district and any non-district staff to be used in the differential response program including, but not limited to, a description of the training set forth in section eight hundred forty of the executive law for police officers whose main responsibilities are juveniles and the laws pertaining thereto; and

(e) a description of any additional funding that may be utilized to enhance the differential response program.

3. (a) All records created as part of the differential response program for children described in subdivision one of this section shall include, but not be limited to, the initial and any subsequent reasons why a differential response is recommended for a child, documentation of all services offered and accepted by such child and their family, the plan for supportive services for the child and their family, and all evaluations and assessments of the child's progress.

(b) Records created under the differential response program for the children described in subdivision one of this section shall be maintained for five years after a child is referred to a local social services district for intervention as described in this section or until the child reaches the age of twelve, whichever is sooner.

(c) All reports assigned to, and records created under, the differential response program, including but not limited to reports made or written as well as any other information obtained or photographs taken concerning such reports or records shall be confidential, shall be made available only to an entity listed below which has been involved in the particular youth's service delivery, and shall not be redisclosed, except as authorized pursuant to subparagraph (vi) of this paragraph, utilizing non-identifying aggregated information. Such entities shall include:

(i) staff of the office of children and family services and persons

designated by the office of children and family services;

(ii) the social services district responsible for the differential response program for children described in subdivision one of this section;

(iii) a community-based agency that has a contract with the social services district to carry out activities for the district under the differential response program;

(iv) a provider of services under the differential response program;

(v) the child, or to their parent or legal guardian, and the attorney for the child; and

(vi) the office of children and family services and social services districts for the sole purpose of preparing the report required pursuant to subdivision five of this section.

4. Expenditures by a social services district pursuant to this section shall be reimbursable from the annual appropriations available for social services district expenditures for child welfare services which shall include, but not be limited to, preventive services provided pursuant to section four hundred nine-a of this article, funding for family support services programs as set forth in section four hundred fifty-eight-n of this article and supervision and treatment services for juveniles program as set forth in section five hundred twenty-nine-b of the executive law. Nothing shall preclude a social services district from seeking private funds for support of their differential response programs.

5. The office of children and family services shall report on the differential response programs established pursuant to this section, including the local social services district's efforts to reduce future interactions with the juvenile justice and child welfare systems, how the local social services districts are ensuring the safety and well-being of such children, and how the program is addressing adverse impacts on minority communities, on an annual basis beginning one year from the start of every local social services district's differential response program.