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DEPUTY SPEAKER GODFREY:

The bill, as amended, is passed.

Representative Aresimowicz.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I move that we immediately transmit to the Senate any items waiting further action.

DEPUTY SPEAKER GODFREY:

Without objection, so ordered.

Representative Aresimowicz, I understand we have another Consent Calendar.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

We are. We are about to list off the bills that will be included in our second Consent Calendar for the evening, sir.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

I move -- I'd to add the following to the Consent Calendar. Calendar 426, Calendar 308, Calendar 438, Calendar 488 --

SB281
SB 19
SB182
SB 330

DEPUTY SPEAKER GODFREY:

Whoa, whoa, whoa.

REP. ARESIMOWICZ (30th):

I apologize, Mr. Speaker. The first number was 427.

DEPUTY SPEAKER GODFREY:

So 427, thank you, sir. Proceed.

REP. ARESIMOWICZ (30th):

Calendar 476, as amended by Senate "A"; Calendar 445, Calendar 514, Calendar 505, as amended by Senate "A"; Calendar 455, Calendar 456, as amended by Senate "A"; Calendar 322, Calendar 536, as amended by Senate "A" and Senate "B"; Calendar 430, Calendar 520, as amended by Senate "A" and Senate "B"; Calendar 538, as amended by Senate "A"; Calendar 424, as amended by Senate "A"; Calendar 439, as amended by Senate "A"; Calendar 482, as amended by Senate "A"; Calendar 325, as amended by Senate "A."

Calendar 526, as amended by Senate "A"; Calendar 509, as amended by Senate "A"; Calendar 532, Calendar 502, as amended by Senate "A"; Calendar 421, as amended by Senate "A"; Calendar 431, as amended by Senate "A"; and Calendar 539, as amended by Senate "A."

SB 194
SB 402
SB 324
SB 45
SB 221
SB 257
SB 201
SB 389
SB 418
SB 438
SB 427
SB 260
SB 208
SB 424
SB 241
SB 14
SB 106
SB 322
SB 410
SB 217
SB 477
SB 429

DEPUTY SPEAKER GODFREY:

Is there objection to any of these items being placed on the Consent Calendar? If not, Representative Aresimowicz, would you like to move passage of the Consent Calendar?

REP. ARESIMOWICZ (30th):

Mr. Speaker, I want to remove Calendar 539.

SB429

DEPUTY SPEAKER GODFREY:

Please remove Calendar 539, Mr. Clerk.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I move passage of the bills on the second Consent Calendar of the day.

DEPUTY SPEAKER GODFREY:

The question is on passage of the items on Consent Calendar Number 2.

Staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll. The House of Representatives is voting by roll on the second Consent Calendar of the day, House Consent 2. Please report to the Chamber immediately.

DEPUTY SPEAKER GODFREY:

Good evening, Mr. Speaker. I'm sorry for the confusion. We're about to set up our third consent calendar for the evening, Mr. Speaker.

SPEAKER SHARKEY:

Please proceed, sir.

REP. ARESIMOWICZ (30th):

Mr. Speaker, I would ask that -- I would like to move the following items to the Consent Calendar, all of which are in concurrence with the Senate.

Senate Bill 293, House Calendar Number 539 as amended by Senate "A"; Calendar Number 321; Calendar 486 as amended by Senate "A"; Calendar 542 as amended by Senate "A"; Calendar 540 as amended by Senate "A"; Calendar 507 as amended by Senate "A"; Calendar 411 as amended by Senate "A"; Calendar 472 as amended by Senate "A"; Calendar 314; Calendar 132 as amended by Senate "A"; Calendar 116 as amended by Senate "A"; Calendar 541 as amended by Senate "A" and Senate "B".

SPEAKER SHARKEY:

Representative Aresimowicz, I believe that a couple of the bills that you called were actually Senate calendar numbers, not House calendar numbers. So I believe the Clerk knows what you're intending, he

may -- with your indulgence, I was going to ask him to, perhaps, offer the correction.

REP. ARESIMOWICZ (30th):

Mr. Speaker, maybe for clarification, I'll go through the bill numbers very quickly.

It being Senate Bill 29 --

REP. CAFERO (142nd):

Mr. Speaker -- excuse me, Mr. Speaker. Is this the appropriate time for one to object to all the items on the Consent Calendar?

SPEAKER SHARKEY:

It would be.

REP. CAFERO (142nd):

I will object to all the items on the Consent Calendar. I would respectfully request that we talk.

SPEAKER SHARKEY:

Thank you, sir.

With that objection, we will suspend action on the Consent Calendar so that the Minority and Majority Leader may talk.

[Pause.]

REP. ARESIMOWICZ (30th):

Thank you very much, Mr. Speaker.

Mr. Speaker, I -- just to clarify, I'm going to run through the bill number and the calendar number.

It would be Senate Bill 293, which is Calendar 545; Senate Bill 429, which is Calendar 539; Senate Bill 115, which is Calendar 321; Senate Bill 203, which is Calendar 486; Senate Bill 71, which is Calendar 542; Senate Bill 447, which is Calendar 540; Senate Bill 61, which is Calendar 507; Senate Bill 75, which is Calendar 411; Senate Bill 321, which is Calendar 472; Senate Bill 66, which is Calendar 314; Senate Bill 178, which is Calendar 495; Senate Bill 430, which is Calendar Number 489; and Senate Bill 425, which is Calendar 51 -- 541.

And I move adoption of the Consent Calendar.

SPEAKER SHARKEY:

Mr. Clerk, does that match your listing of the calendar numbers?

THE CLERK:

430, Mr. Majority Leader, Senate Bill 430 is calendar what?

REP. ARESIMOWICZ (30th):

489.

THE CLERK:

Yes. It does, Mr. Speaker.

SPEAKER SHARKEY:

And, Mr. Majority Leader, could you also indicate -- I'm sorry to have to delay this for a second, but according to my notes, all of those -- well, most of those are adopted -- or amended by Senate "A"? If you could just --

REP. ARESIMOWICZ (30th):

Correct, Mr. Speaker.

SPEAKER SHARKEY:

specify --

REP. ARESIMOWICZ (30th):

Except the first and the last, sir. The last one being Senate "A" and "B," sir.

SPEAKER SHARKEY:

Thank you. As long as we're clear about the amendments that have been adopted in the Senate.

REP. ARESIMOWICZ (30th):

Correct, Mr. Speaker. And I move passage of the bills on today's Consent Calendar Number 3.

SPEAKER SHARKEY:

The question before the Chamber is adoption of the Consent Calendar Number 3?

Staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House is voting on Consent Calendar Number 3. The House is voting by roll. Will members please return to the chamber immediately.

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted?

Take your time, Representative Boukus.

Would members please check the board to make sure your vote is properly cast. If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

THE CLERK:

Consent number -- Consent Calendar Number 3

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

SPEAKER SHARKEY:

The Consent Calendar is passed.

Will the Clerk please call Calendar 506?

THE CLERK:

Calendar 506, on page 25, favorable report of the joint standing committee on Appropriations. Senate Bill 55, AN ACT CONCERNING COMPLAINTS THAT ALLEGED MISCONDUCT BY LAW ENFORCEMENT AGENCY PERSONNEL.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the acceptance of the joint committee's favorable report and passage of the bill.

SPEAKER SHARKEY:

Question's on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker.

The Clerk has an amendment, LCO Number 4583. I'd ask that it be called, and I be allowed to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 4583, which has been previously designated Senate Amendment "A."

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Calendar, madam.

THE CHAIR:

See no objections, so ordered, Madam. Mr. Clerk. Do you have any others on your -- thank you.

THE CLERK:

On page 36, Calendar 188. It's the Substitute for Senate Bill 429, AN ACT CONCERNING ASSAULT THAT RESULTS IN THE LOSS OF CONSCIOUSNESS. Favorable Report of the Committee on Public Safety, and there are amendments.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Good evening, Madam President. I move acceptance of the Joint Committee's Favorable Report, madam, and passage of the bill.

THE CHAIR:

Motion on acceptance and passage. Will you remark, sir? Madam.

SENATOR HARTLEY:

Yes, thank you, Madam President. The Clerk is in possession of LCO 5274. I ask that the Clerk please call, and that I might be granted leave to summarize, Madam.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 5274, Senate "A," offered by Senators Hartley, Guglielmo, et al.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Madam President, I move adoption.

THE CHAIR:

Motion is on adoption. Will you remark?

SENATOR HARTLEY:

Yes, thank you, madam. The underlying amendment that we have before us is the result of a instance that has been recently reported in the press around the country and to our dismay also has occurred in a number of instances here in the State of Connecticut.

And I refer to something that in colloquial terms is known as the knockout game, which results in individuals who, for no reason with no provocation involved, are -- are seriously injured by blow to the head with the intent to knock them out and do serious harm.

What we, in LCO 5274, madam, it simply adds a sixth category to assault in the second degree for an instance where there is the intent to cause serious physical injury to another person by rendering that person unconscious without provocation and causing that injury -- such injury to that person.

This amendment and proposal is the work of many individuals and there have been significant iterations of it, specifically removing initially a mandatory two year minimum and also a requirement of going to the Superior Court. I move adoption, madam.

THE CHAIR:

Motion's on adoption. Will you remark on Senate "A"? Will you remark on Senate "A"? If not -- oops, sorry, Senator Witkos. I'm so not used to looking to my right. Go ahead, sir.

SENATOR WILLIAMS:

Substituting today, Madam President thank you. I rise today in support of the amendment as well. It was very interesting and very quiet during the public hearing where we heard testimony about this. And this is after recent results that we only saw nationally on TV, but also here in our home state of Connecticut, that an unsuspecting individual could be walking down the street, and it's a game to come up and try to knock somebody out in the head.

We're limiting the knockout provision in this bill to striking them in the head, attempting to knock them unconscious, meanwhile inflicting serious physical injury. And that serious physical injury is defined within our state statute. So it's not somebody giving somebody a black eye. It goes well beyond that. This is with intention.

This is without provocation, and I -- the folks that are the victims of this crime, if they survive, Madam President, have a tough time, I can imagine, walking alone down a street at night, whether it's in their own residential neighborhood or a place they're unfamiliar with. Because just like in the cases that we saw already in our state, it's unsuspecting.

It's so horrific that if you saw it on the camera that you'd want to see it again. I liken it to my years in law enforcement. Boy, I couldn't wait to get them, put them in handcuffs and put them away. Somebody thinks it's a game to cause serious physical injury to somebody by striking them in the head and trying to attempt to knock them unconscious.

I want to thank Senator Hartley and Senator Guglielmo and Representative Verrengia for bringing this forward through the Public Safety Committee. This provides us with one other additional tool to charge an individual with rather than just a simple assault, which is what would be the case in point now. Under our current statutes, you might be able to charge them with a breach of peace, and assault secondly, potentially. But this is a little bit more of a weightier crime, it describes the crime better.

Unfortunately we become victims of sensationalism, is

the word I'm looking for, and copycat crimes where people think it's pretty cool, let's see if we can mimic that crime, and we don't want that in our state. We have to nip it in the bud, if you will. And by identifying how bad it is, providing a penalty, we have removed, I think, one of the more -- most onerous parts of it that folks had a problem with, which is the mandatory jail time.

We'll leave it up to the judge and the prosecutors to determine that with the defense counsel. With all those taken into account, Madam President, I stand in strong support of Senate Amendment "A." Thank you.

THE CHAIR:

Thank you. Senator Holder-Winfield.

SENATOR HOLDER-WINFIELD:

Yes, thank you, Madam President. I rise also to thank those who have moved us away from the original bill to what is before us in this amendment. The original bill was something that, while I understood why people thought we needed to go there, I was thinking myself and some of my colleagues in the black and Puerto Rican colleagues had a lot of issues with.

Some people around the Circle may know that Senator Witkos talked about sensationalism. They know that sometimes we respond to those things which are sensational trying to do the right thing, but we, unfortunately, catch some of the people in our society in ways that we did not intend to. And we actually sometimes look like we target certain segments of the society. So the knockout game has existed in some iterations different than what we're talking about right now.

We know that on college campuses there's been a knockout game that has existed for a long time with a different population than we're talking about. But we also know that when the sensational happens we respond. We can think back, going back over two decades to what happened when we thought about wilding, and how we responded without necessarily thinking so deeply.

So I think this amendment gets at what was attempted and sends a signal to people that we don't tolerate the knockout game while being careful not to have those mandatory minimums that were talked about, and being careful not to automatically refer juveniles to the adult court. And I think it's a much better amendment than the underlying bill. So I rise in support. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Senator Meyer.

SENATOR MEYER:

Thank you, Madam President. I -- I just -- I differ with my colleagues on this. From the standpoint of penal law this is bad policy. Okay? The assault law that we're amending here, the first sentence says, "With intent to cause serious injury, you assault somebody, you're guilty."

Now if we start -- if we start adding for every different kind of injury, the next thing we'll be adding is if a state senator gets assaulted or a state senator gets a concussion from an assault. It is just -- it is a bill that's going around with respect to sports coaches, if they get assaulted.

Every person will want to have their own special penalty. Because it'll make them feel good. And as a matter of penal law policy, this bill just doesn't make any sense. We -- we have covered the person who's hit and suffers that concussion right on in the current law. We don't need this. We don't need special cases for every person who's done.

What you do is you create more laws, more paper, more bureaucracy. It's just -- it's just the wrong direction, and I hope some of you will recognize that this is the wrong -- is the wrong direction in terms of good penal law policy. Thank you, madam.

THE CHAIR:

Will you remark? Will you remark? Senator Kane.

SENATOR KANE:

Thank you, Madam President. I apologize for going ahead of the Ranking Member. But, you know, Senator Meyer brings up some good points. And I'm curious, if I may, through you to Senator Hartley, a few questions so I can understand the --

THE CHAIR:

Please proceed, sir.

SENATOR KANE:

The genesis of this bill. Obviously we've all seen television reports and online videos and articles about this knockout game, and none of us feel that it's appropriate or something that we should condone or take lightly. Certainly it's a dangerous situation, and I believe that whomever perpetrates this type of crime, this violence, should be prosecuted to the full extent of the law.

But having said that, and listening to Senator Meyer in regard to how penalties work with different crimes, maybe you could just explain to me how we are able to differentiate this particular act versus any other. First, if I can just start with that, through you, Madam President.

THE CHAIR:

Senator Hartley, would you please respond?

SENATOR HARTLEY:

Through you, Madam President to Senator Kane. So this is a new phenomenon that has kind of swept the country, and of course it is here at our doorstep. I think Senator Witkos alluded to some of the testimony that we had in committee.

And it is almost the stepped up version of hazing or hazing on steroids, where we have seen a proliferation of this among young people who deem this a game. So in that respect, if you look at the present statute

where we have five designations under assault 2, they are talking about different iterations. Some with use of a deadly weapon. And so it is appropriate that we add the sixth one, because this is a very distinct assault without provocation. And with totally unknown to unsuspecting individuals.

The instances that were reported to us, and then also relative to Connecticut that were reported in our local press, show that it's a variation of when and how this is perpetrated.

In one instance we had a father testify about his son, who happened to be a freshman on a college campus walking across that campus in the middle of the day, broad daylight, totally unsuspecting, accosted as part of this game which was then recorded and put up on YouTube as the proof of what they had done.

Another instance, which happened right in the City of Waterbury, and in fact on my street, was a 63-year-old individual who was, on a warm winter day, taking a walk and was taken by total surprise. Punched in the head, and because he was a -- a large fellow, did not fall down when he received the first blow. And so they hit him a second time. And he did go down at that point.

But what we have found was that police departments were reluctant to identify this crime. And so with this designation this will help those police -- law enforcement units in also categorizing and proceeding with the criminal procedure on this. Thank you, Madam President, through you.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. Again, as I stated, I am aware of phenomenon, if you will, and I am aware of that incident that you spoke about as I subscribe to the Waterbury Republican American. But I guess I'm trying to understand as to Senator Meyer's point, is how we are differentiating this act versus another.

So for example, right now, today, May 6, 2014, this bill has not been passed. If someone walks up to another individual and knocks them out with one punch, what would they be charged with? Through you, Madam President.

THE CHAIR:

Senator Hartley.

THE CHAIR:

Through you, Madam President to Senator Kane, once again, I am not a law enforcement person, but I would have to surmise that perhaps it would be assault in the second degree. Of Senator Kane, through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And do you have any idea of what the penalty for assault in the second degree is? Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes. Through you, Madam President to Senator Kane, it is punishable for up to five years imprisonment and a fine up to $5,000 or both.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Okay, thank you, Madam President. So just for the sake of argument -- we all know how the legislative

process works. But just for the sake of argument, the bill passes this Chamber today and, let's say, it goes into law tomorrow. That same person, or a different person, same person, never mind, but that same act is perpetrated on an individual after this law is passed, what will they be charged with? Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Through you, Madam President to Senator Kane. Once again, I cannot say specifically. It depends upon the prosecution and the defense, but it would most likely be assault in the second degree. Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

And under this law, if that person was charged with assault in the second degree, what would the penalty be for that crime? Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, Madam President, through you to Senator Kane. The parameters would be as I previously indicated. Through you, Madam President to Senator Kane.

THE CHAIR:

Senator Kane.

THE CHAIR:

Thank you, Madam President. So then I guess I don't

understand the necessity of the law. If yesterday someone perpetrates this crime they're going to get charged with assault in the second degree, possibly five year penalty and $5,000 fine. Tomorrow when the law is passed they're going to get charged with assault in the second degree, five year penalty with a $5,000 -- I'm sorry, potential five year potential sentence with a $5,000 fine. Is that true, through you, Madam President?

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, Madam President, through you to Senator Kane. I suppose that argument could have been made in any one of the instances of the previous one through five definitions under assault 2. And at that point the Legislature felt that it was important enough to delineate those, and I believe that the Public Safety Committee felt equally strong that it was important to delineate this, as I'm hoping that this Chamber also would agree. Through you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. And one last question, if I might. The incident that you spoke about that happened in Waterbury, where the person, as you said, was a larger individual and was struck a second time, so he was not knocked out with that first punch. Is -- would -- would that be a lesser crime after this bill is passed? Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, Madam President, through you, once again I am not

a law enforcement agency nor a judge, but I would say to you that no, it would not. However, we're very concerned about being prescriptive in this, and that is why we're saying would be rendered unconscious. Through you, Madam President to Senator Kane.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. So if you're rendered unconscious, it doesn't matter if you're hit once or 21 times. Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, through you, Madam President to Senator Kane, it is -- you must be rendered unconscious without provocation by striking the other person. Thank you, Madam President.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. I thank Senator Hartley for answering my questions. I tend to agree with Senator Meyer on this one. I don't know if -- with his reasoning as well as a couple of others, because I don't know what exactly we are doing with this legislation. We know that it is wrong to commit this act. It is assault.

Whether you hit a person once or 21 times, it's still an assault. Whether you knock that person out or it took you two punches or three punches, it's still brutal, it's still an attack. If it's not provocated then that's -- it's just as bad. I mean -- or even if it weren't, if someone made a joke or if someone

looked at someone the wrong way or stepped on their foot or what have you, it's still bad.

I mean a crime is a crime is a crime. And knocking someone out and, you know, causing them to be unconscious is a terrible thing.

And I think that I tend to agree with Senator Meyer, that we shouldn't be delineating this for that purpose, but being forceful with every single attempt at this crime. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark? Senator Guglielmo. Good evening, sir.

SENATOR GUGLIELMO:

Good evening, Madam President, thank you. I rise in support of this amendment. I can understand the legal complications, but I think what we were trying to do here was just get a handle on how many incidents such as this there are. And the only way you could do it, to have some type of record keeping was to try to delineate it from other types of assault.

And I think, from what I've seen anyway, and watched the videos on television, it is a rising type of violent crime. It is particularly offensive because it's a game. And I think it's spreading. And as the Chairman of the Public Safety Committee mentioned, it's spreading even to college campuses.

So I think there -- it's kind of like -- I don't know if it was a court case or whether it was in the Legislature, but they said when you identify pornography, you know it when you see it. Well, I think that this type of crime, the police officer and the prosecutor would know it when they saw it, and I think it would be a good step forward so we can at least come up with an accounting on this type of violent crime. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Senator McKinney, good

evening, sir.

SENATOR MCKINNEY:

Thank you, Madam President. I wasn't really planning on speaking, but Senator Guglielmo raised something very important, and I rise in opposition to the amendment. And I want to piggyback on what Senator Meyer and Senator Guglielmo said.

If you look at our current assault laws with respect to assault in the second degree, which is what this crime would be, currently under Connecticut law, if you have the intent to cause physical injury and you cause such injury, you can be charged with and convicted of assault in the second degree. So a prosecutor in charging someone has to prove two things: intent to cause physical injury and that you caused physical injury.

No prosecutor is going to charge, under this new subsection alone, if at all. Because now they not only have to prove intent to cause physical injury and that you caused physical injury, they also have to prove that there was no provocation, that there was unconsciousness, and that there was a blow to the head.

So the purpose, which may be to find out if this knockout game is prevalent, is defeated by the fact that a prosecutor is not going to charge under this. Because you have three more things that you have to prove beyond a reasonable doubt. Now if there's nobody around when this happens, how do you prove unconsciousness? If there's nobody around when this happens, how do you prove provocation beyond a reasonable doubt?

Let's be clear, when I first heard this law came up, I said wait a minute. I thought if you walked up to somebody, and you knocked them out in the face causing serious injury, that would be a crime. And I checked, and yes, it is. So we are putting into our statute something that is already a second degree felony.

We're just saying it's really a second degree felony. But this time the prosecution is going to have three

more hurdles to cross over. I remember my first session here, Senator -- former Senator Brian McDermott put in a bill that would have different penalties if you assaulted someone who is 65.

And I remember asking him in the same city on the same day, if two women were assaulted by two separate men on the same day and at the same time but one was celebrating her 65th birthday, and one was a day shy of her 65th birthday, are you telling me that those two men causing the same injury to two women can have vastly different crimes, and he said yes. At least there was some logic to the idea that assaulting a senior.

Here there's no logic. The current law is, if you walk up to somebody and you punch them in the face and you knock them out and you cause serious physical injury with the intent to do so, you've committed a second degree felony. It sounds exactly what Senator Hartley is trying to put into our law, but it's already our law.

And so what I think Senator Meyer was saying, and I won't say it as eloquently as he did, but we've -- if you've been in this Circle long enough, you've been through the battles where we as a Legislature have passed bills overriding a Supreme Court case that says, hold on, court, separate, equal branch of government, when we say something, you must read the plain language of it, and understand what that plain language is.

And so I think a court may look at this, and say wait a minute, they must mean something different because it looks to us like walking up to somebody, punching them in the head causing physical injury is already a crime.

Now I understand that there was -- you know, there is this thing called the knockout game. It does appear to have not been prominent in the news recently. But do we think the people who are playing this game are going to look at this law, and say, oh well, we can't play this game anymore. Or are they going to say, well, instead of hitting the person in the head, maybe we ought to hit them in other body parts.

Maybe we, instead of knocking them down, we throw them down and we jump on them and we -- we assault them in other ways. My guess is there will be that other game.

So I guess I would love to hear someone tell me why a prosecutor would charge under Subsection 6 and not Subsection 1 when they would have to stand before a jury and prove beyond a reasonable doubt in an incident that may not have been witnessed by anybody, that the person was knocked unconscious, that there was no provocation, and that it was a blow to the head.

Because if the person was knocked unconscious, he may not be the most reliable witness as to what actually was happening, and if the defendant took the stand and he was charged with just 6, he could say, no, I didn't knock him out by hitting him in the head, I knocked him out by hitting him in the stomach or something like that. Now they may charge him with something else.

But you get the point. This is silly. It's well meaning. I understand the knockout game has become controversial, but I guess my last point, and I would welcome, I know Senator Hartley is doing this with all good intentions, I would welcome more discussion on it.

If there's a police department in the State of Connecticut that wasn't taking seriously the idea that someone was walking up to somebody without provocation as part of a game, knocking them unconscious, brutally beating them in the face causing them serious physical injury, and a police department wasn't taking that seriously because it was a part of a game, our problem isn't our criminal statutes, our problem is that police department. And that is a much bigger problem than what this piece of paper presents.

So I'm going to not support the amendment or the underlying bill if the amendment is passed. Thank you, Madam President.

THE CHAIR:

Thank you? Will you remark? Senator Kissel.

SENATOR KISSEL:

Thank you, very much, Madam President. Just a couple of quick questions to the proponent of the amendment.

THE CHAIR:

Please proceed.

SENATOR KISSEL:

I have the utmost respect for the Chair, Ranking Member, and members of the Public Safety Committee, although I would say that typically I see criminal penalties in enhanced penalty bills come through the Judiciary Committee. I originally supported this proposal.

There was an incident that occurred, I believe, in the City of New Haven. I did see the videos that occurred in New York. I can't imagine how an individual would feel if somebody snuck up behind them and punched them in the face so hard to try to knock them out. But the original bill that I went very public and supported had an enhanced penalty.

And in response to Senator McKinney, and sort of doing a lead-in to the question, we've had those debates, and we can debate the philosophy of, is it appropriate to have enhanced penalties depending upon certain characterizations -- characteristics of the victim. And, you know, over the last 22 years I've been engaged in those debates.

If someone assaulted someone who was a senior, should they face a stiffer penalty? If it was racially motivated, should they face a stiffer penalty? If they were suffering from mental disabilities should they suffer a stiffer penalty?

The original bill -- now my question, through you, Madam President, to the proponent of the amendment. My understanding was the original bill that came out of Public Safety that we voted upon in the Judiciary

Committee when it was referred to us had an enhanced penalty so that if you did get charged with the elements of Section 6 and those were proven, that you could be exposed to more time in prison as opposed to if you had not been charged under that section.

And this is a new iteration. And I don't see, and maybe I'm just missing it, I don't see the enhanced penalty. So is there an enhanced penalty if one is found to have committed the elements of this new crime? Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, thank you, Madam President. And through you to Senator Kissel, you are correct. There were a number of iterations of this proposal, sir.

And the mandatory minimum is not in this particular LCO, nor is the mandated to the Superior Court. However, in this instance, anyone who is over age 18 then would not have the option to go to -- for AR. So the penalty is different than, I think, the bill as you recall, perhaps, in Judiciary, sir.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, very much. So the difference between being charged under Section 1 versus being charged under Section 6 is that if you're charged under Section 6, and applications for AR come before any findings of guilt, but if you're charged under Section 6, you would not be eligible to accelerated rehabilitation, and that's basically the crux of this. That's the enhanced -- rather than an enhanced penalty, it's your unavailability of an alternative program. Through you, Madam President.

THE CHAIR:

Senator Hartley.

SENATOR HARTLEY:

Yes, thank you, Madam President, through you to Senator Kissel, that's correct. If you are over -- aged 18 or over, sir.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, very much. Well, it's not a lot. But it's something. And you know, one of the things that occurred earlier this session was that there was a heated debate regarding a particular judge because of her determination on an AR application regarding an animal cruelty case is my recollection.

And I felt that being upset with a judge for availing herself of what was available in our statutes wasn't fair. And that if we didn't want judges to have that available to them we could change the laws. You have done that here.

That could be the best that could be cobbled together to gain enough support to get this to go forward.

I personally think that the knockout game and what this actually does to a person is so egregious, I would have been okay with the enhanced penalty. I feel bad for those folks that maybe were -- that are so philosophically opposed to mandatory minimums that they would be -- they would shy away from that, and it wouldn't be in the nature of a mandatory minimum.

I mean, we could say, all right, assault, intent to hurt someone, and then you hurt someone, this is a certain level felony. If you meet the more difficult criteria as put forward in Section 6, the knockout game, I would have ratcheted it up to the next level of felony. I mean, you'd still have a range, okay? The State's Attorney could still seek the range. But to me that would make more sense.

And you know what? I'm thinking, I have an 18-year-old, he's a senior in high school. I just can't imagine, he's such a good kid, that he might be out there in a skateboard park or something like that, and then somebody just out of the blue that they don't even know decides to do this. And what about the learn term ramifications? The health consequences? I mean, I don't think, you know, on the one hand we spend a huge amount of time in this Circle about concussions, right?

We don't want -- we're very concerned about organized sports and what this does to a person's brain, the concussion. And we've heard, we've had, you know, debates here in the Circle about one bad hit to the head can change a person's entire life. And we've had debates over the years regarding requiring kids to have helmets if they're on bicycles, because that one hit to the head can change their entire life.

So I applaud the Public Safety Committee for wanting to tackle this issue, I just wish it went further, and I just wish the people in this Legislature could have embraced an even tougher penalty. Because to me, this is abhorrent behavior. This is just beyond the pale. Imagine anybody that we love, having this happen to them. How about our spouse? Our adult children? Our neighbors? This is a crazy thing. And we need to say no loud and clear.

I was looking for something to hang my hat on. I guess the unavailability of accelerated rehabilitation is the best that we could put together this evening. It's enough for me to support this amendment, which becomes the bill. Because I appreciate that sometimes in this building, especially in the waning days of a legislative session, you need to cobble together the best support that you can in the House and the Senate to get laws passed.

I'm a pragmatist that way. Half a loaf is better than nothing. And indeed, we are -- you know what would motivate a State's Attorney to charge under this? Because they would know that that person could not utilize the accelerated rehabilitation application process. That would be off the table.

If you felt confident as a State's Attorney you could charge and convict under Section 6, then you know this person is going to get a record, and at least that's something, but I wish it was more. So I applaud the folks that put this together.

I understand the difficulties of trying to get a coalition together to support this proposal, but I've seen enough videos and I've seen enough of this to think that it is something that we need to say no, not in Connecticut, no way, no how, and if you are charged under Section 6, you're not going to walk out of that courthouse with a clean record. You're going to have a record, so don't do the crime if you don't want to do the time. Thank you Madam President.

THE CHAIR:

Will you remark. Will you remark on Senate "A"? Senator Hartley.

SENATOR HARTLEY:

Yes, thank you, Madam President. I, first of all, would ask for a roll call vote when the vote be taken, Madam.

THE CHAIR:

A roll call vote will be taken.

SENATOR HARTLEY:

And I would like to also to comment, if I might. With regard to proving no provocation, proving unconsciousness and the -- a blow to the head, very often these are recorded on YouTube, and that then serves the prosecution in determining those three factors. So it is possible to do.

I should also share with the Chamber that this is a proposal that is being similarly considered in many states throughout the country, and we, in working with all the parties involved did work with the State's Attorney's Office who weighed in and shared with us in the iteration and the language that is being proposed.

Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark? If not, Mr. Clerk, I call for a roll call vote, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Roll call on Senate Amendment Schedule "A" has been ordered in the Senate.

THE CHAIR:

Senator Boucher, will you vote, please? Thank you. Have all members voted? Have all membered voted? The machine will be closed. Mr. Clerk, please call the tally.

THE CLERK:

On Senate Amendment Schedule "A."

Total number voting	36
Those voting Yea	28
Those voting Nay	8
Absent not voting	0

THE CHAIR:

Will you remark? Will you remark? If not, I would ask the Clerk to please call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Roll call has been ordered in the Senate.

Immediate roll call is ordered in the Senate.
Immediate roll call ordered in the Senate.

THE CHAIR:

If all members have voted? All membered voted? The

machine will be closed. Mr. Clerk will you please call the tally?

THE CLERK:

Senate Bill Number 429 as amended.

Total voting	36
Those voting Yea	28
Those voting Nay	8
Absent not voting	0

THE CHAIR:

The bill passes. Mr. Clerk, do you have anything else on your Agenda?

THE CLERK:

On page 4, Calendar 300, Substitute for Senate Bill Number 417, AN ACT CONCERNING THE PROVISION OF PSYCHIATRIC AND SUBSTANCE USE TREATMENT SERVICES, Favorable Report of the Committee on Public Health. There are amendments.

THE CHAIR:

Senator Gerratana, good evening, madam.

SENATOR GERRATANA:

Good evening, madam. Good evening to you, Madam President. Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

The motion is on acceptance and passage. Will you remark?

SENATOR GERRATANA:

Yes, Madam President. The Clerk has an amendment, LCO 5254, if he would call and I be allowed to summarize.

THE CHAIR:

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this was going to work, this might not have happened.

SENATOR HARTLEY: Thank you. Thank you very much, Dick.

DICK SMITH: Thank you.

SENATOR HARTLEY: And we will now move on to Tim Sugrue.

Thank you, Tim.

TIMOTHY SUGRUE: Good morning, Senator Hartley, Representative Dargan, Committee Members.

I'm from the Office of the Chief State's Attorney. I'm here for the Chief State's Attorney, Kevin Kane, to just make known our --

SENATOR HARTLEY: Is your mic on, Tim? Talk into the mic. That's great.

TIMOTHY SUGRUE: Is that good, Senator?

SENATOR HARTLEY: Yes.

TIMOTHY SUGRUE: Just to repeat, I'm here for Chief State's Attorney, Kevin Kane, to discuss S.B. 429 which addresses the "knockout" crime in terms of the assault statute, and I would just like to make known some of the concerns that the Division of Criminal Justice has with that, and there's really three primary concerns, and it's contained in our written testimony which I hope you have or certainly will get.

SENATOR HARTLEY: That's great.

TIMOTHY SUGRUE: The first is that unconsciousness is already considered by Connecticut Law to be a serious physical injury. So anyone who commits a "knockout" crime and causes unconsciousness has already violated General Statutes 53a-60(a)(1) which is intent to cause a serious physical injury.

If S.B. 429 were to become law, the "knockout" criminal who uses one punch would also violate the new subdivision (6). Therefore that person would be amenable to prosecution under two different subsections of the Assault 2 statute, one of which carries no mandatory minimum -- that's the existing (a)(1); one of which, the new proposed (a)(6) would carry a two-year mandatory minimum. That difference in treatment could result in charging distinctions by prosecutors and charging distinctions where judges offer plea bargains. To move cases, it may be that they'll ignore the (a)(6) violation because it carries a two-year mandatory minimum, and go with the (a)(1) violation, so that's something for the Committee to consider.

Because the new (a)(6) is a one-punch element, anybody who wants to avoid the potential for a two-year mandatory minimum, can simply adopt the one-two punch or a multiple-punch approach, and therefore cause unconsciousness, and you would avoid (a)(6) liability, and you would also avoid the two-year mandatory minimum. It's another thing to think about.

And it also creates additional anomaly where people who are acting with exactly the same criminal intent, and cause exactly the same result, that being unconsciousness, could be treated disparately. And, in fact, you could have somebody who causes unconsciousness by more than one punch, which presumably would cause more pain and suffering for the victim, that person would not be subject to the two-year mandatory minimum, where the quick and efficient, if you will, "knockout" artist certainly would be in a situation where that person may, in fact, be causing less pain and suffering in the victims. Another thing for the Committee to think about. And we offered two potential options for you to consider to address it, and I think the essential purpose that you want to get out, and it certainly is laudable, is to --

SENATOR HARTLEY: Did you have more to say, sir?

TIMOTHY SUGRUE: Oh, yes, sorry.

SENATOR HARTLEY: Go ahead.

TIMOTHY SUGRUE: Just very quickly, is to get at the people who intend to cause unconsciousness in other people, and you could do that certainly by grafting the sentencing provision in subsection(b) in 53a-60(b) to connect unconscious -- causing unconsciousness with an (a)(1) violation, and subject that person to a mandatory minimum sentence, and that way you'd accomplish your goal presumably.

SENATOR HARTLEY: Yes, and so, Tim, did you give us in -- you gave us written testimony?

TIMOTHY SUGRUE: Yes, ma'am, I did.

SENATOR HARTLEY: And in the written testimony, did you give us specific language?

TIMOTHY SUGRUE: I think in the last paragraph I have some very specific language with respect to the existing subsection (b) which simply says it is a Class D felony and you could add the language at the end which would say: Is a Class D felony and any person found guilty under subdivision (1) of subsection (a) of this section, who caused another person to lose consciousness shall be sentenced to the -- and it goes on to impose the two-year mandatory minimum. That way it fits under (a)(1), which it already fits today, because unconsciousness is a serious physical injury, and if you cause unconsciousness as a result of violating (a)(1), which any "knockout" criminal would do, that person would then be subject to the two-year mandatory minimum, and you've removed the anomaly of having the person potentially subjected to two -- two different statutory alternatives under the same statute.

SENATOR HARTLEY: Thank you, sir.

Yes, Representative Verrengia.

REP. VERRENGIA: Thank you for being here today, and certainly appreciate your input, and I think

really that's the value of having a public hearing, is to -- is to listen to everyone's testimony. And this bill will certainly be vetted as it goes through the different committees, so thank you --

TIMOTHY SUGRUE: You're very welcome. Thank you for (inaudible.)

REP. VERRENGIA: -- and we'll certainly be giving the consideration.

TIMOTHY SUGRUE: Thank you, Sir.

REP. DARGAN: Other comments from Members of the Committee?

SENATOR HARTLEY: Yes. So Tim, thank you very much for being with us. And -- so I take it from your testimony that you feel that we need to address this in some fashion?

TIMOTHY SUGRUE: Yes, Senator, I think that the purpose of the bill is excellent. This is a -- is a new scourge on the streets, and again I think the important thing is to provide protection by hopefully deterring those who want to do this by punishing the result, which is causing a lack of consciousness in another person, as opposed to exactly how you accomplish it.

SENATOR HARTLEY: And I thank you for that input. That's the purpose of having this public discourse. In my District, and in fact on my street, we had one of these incidences, and it

seemed as if there was this confusion about how to identify this. And so I have seen too many instances where perhaps we don't have the exact language, and -- and statute is silent, and therefore it puts law enforcement and the entire system in this black hole, if you will, and that is the purpose of having this discussion, and also our great concern for this incredible proliferation that is on a national basis, but also that, you know, we've now seen in an escalating fashion here in the State of Connecticut, which I personally find completely repulsive that members of our community cannot go out and walk on the street and have the fear for some totally unprovoked attack. This is unheard of in this country, so I thank you for your input on this, and we look forward to getting to the right place.

TIMOTHY SUGRUE: Thank you, Senator.

SENATOR HARTLEY: Are there further comments?

Yes, Representative.

REP. DARGAN: Tim, thank you very much for being here. On a lighter note, sometimes people -- the general public, think that the Legislature is unconscious at times. But stating that, I see that our friends in the Public Defenders have a different tact than what the State's Attorney's Office has, and this concept was brought forward by Representative Verrengia who is also in the law enforcement field, representing the City of West Hartford, and just what my Co-Chair says, the epidemic that's

going around the country right now. And I think it's important that we get that message out to our young high school students or college students that this is not a joke, and there's been people hurt from this, and near death, too. So I think that that's the message that we, as this Committee, is trying to get forward, that this is not a cool thing to do.

So we look forward to working with you. We know that maybe some of the criminal offenses that we put in here are very -- pretty strict, and I understand the Public Defender's point of view, too; but hopefully working together we could come to some resolution on this, and thank you for testifying today.

TIMOTHY SUGRUE: Thank you, Representative Dargan.

SENATOR HARTLEY: Thanks, Tim.

If there are no further questions, thank you very much for your input.

TIMOTHY SUGRUE: Thanks for the opportunity.

SENATOR HARTLEY: Yes, and we'd like to invite Representative Flexer. Good morning, Representative.

REP. FLEXER: Good morning. Good morning, Representative Dargan, Senator Hartley, Representative Giegler, and Senator Guglielmo, and Members of the Public Safety and Security Committee.

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But thank you so much for being here, and always being, you know, at our fingertips to clarify, answer questions, and provide insight.

Are there questions from the committee members? If not, thank you so much, and --

MARYANN HEBERT: Thank you so much.

SENATOR HARTLEY: -- maybe we'll get it right this time.

MARYANN HEBERT: We appreciate it. Thank you.

SENATOR HARTLEY: Okay. Take care. Thank you. We would like to now move on to Christine Rapillo. Is she still here? No? Oh, yes, okay. I thought I saw you.

CHRISTINE RAPILLO: Good afternoon. Senator Hartley, Representative Dargan, Members of the Committee, my name is Christine Rapillo, and I'm the Director of Deliquency Defense and Child Protection for the Office of the Chief Public Defender.

The Public Defender's Office has concerns about Raised Bill 429, AN ACT CONCERNING PUBLIC SAFETY. This proposal seeks to specifically criminalize activity that has been colloquially described as a "knockout game," and make this a Class D felony automatically transferable to the adult court for youth under the age of 16, and to set a two-year mandatory minimum prison term.

The activity proposed to be criminalized in this bill is already a crime under Connecticut Law. Assault in the Second Degree under Connecticut General Statute 53(a)-60 already provides for a felony to be charged if the prosecutor believes they have probable cause to prove that an accused person intended serious physical injury to another. This proposal is unnecessary. Public safety is already adequately protected by current criminal law.

Proposing to make this a Class D felony automatically transferred to the adult docket is harsh and runs counter to every reform that has been accomplished in juvenile justice in Connecticut over the last several years.

The proposal would make this crime automatically transferable to the adult court under CGS 46(b)-127(a). The behavior again seeking to be criminalized is already transferable to the adult court under the discretionary portion of our transfer law, which is 46(b)-127(b).

The discretionary portion of the transfer law allows the prosecutor to make the determination whether or not the circumstances of the crime warrant a motion to transfer, and allows a judge to weigh the conduct of the accused individual and the general circumstances of the case before determining whether the case gets moved to adult court.

This is consistent with both United States Supreme Court case law, in Miller versus

Alabama, which requires that sentencing courts for the most serious offenses, for things like murder, and cases that would require a sentence of life without the possibility of parole, that even those cases require some consideration of youth before sentence is meted out.

It is not a situation where a young person who commits a very serious crime cannot be held accountable. There's accountability that can be meted out in juvenile court, up to and including incarceration in the training school, and if the behavior rises to the level, under current law the cases could be transferred to the adult court. But a blanket rule that all cases need to be transferred really runs counter to our knowledge that young people don't make good decisions. Judges who are familiar with the community, who may be familiar with the young person, and who know what programs might be available should be able to make the decision whether it warrants transfer to the adult court.

We know that in juvenile court we have programs that are available to rehabilitate kids who a judge decides are able to be rehabilitated, and we know that are recidivism rates in juvenile court are better than those in adult court.

Good public policy would allow discretion when determining whether these types of cases need to be transferred and I'd urge the committee not to adopt this proposal.

SENATOR HARTLEY: Well thank you for being with us, Christine. I am going to defer to my colleague, Representative Verrengia.

REP. VERRENGIA: Thank you. Good afternoon --

CHRISTINE RAPILLO: Good afternoon.

REP. VERRENGIA: -- and thank you for your testimony. I first want to start, and maybe I misunderstood, but as part of your testimony you were referring to this proposed legislation and you referenced under the age of 16. Is that your understanding of the bill?

CHRISTINE RAPILLO: My understanding is -- actually it was for people who are over the age of 16. I apologize; I mis-spoke. I think my written testimony is accurate.

REP. VERRENGIA: To me -- to me in listening to your testimony, that makes a big difference, because as one of the chief sponsors of this bill, I specifically didn't go under the age of 16 for many of the reasons you stated with respect to other laws and the great work and reforms that have been done in the area of juvenile crimes. So I just wanted to point that out to you that this legislation is for individuals who are over the age of 16.

The other -- the other question I had was, in your opinion, you made the assumption that -- and you can correct me if I'm wrong (I'm just paraphrasing), that we all ready have statutes and penalties relative to this type -- this

type of behavior -- criminal behavior, and I think where we have a disconnect is with respect to the judges having discretion. With -- with this proposal, it takes away that discretion and -- and would require that someone who is older than the age of 15 is tried as an adult.

CHRISTINE RAPILLO: No, I -- I understand that. This would be the only charge where -- where number one there was some -- with an age distinction that was set at 16, and there's a number of other Class D felonies that would remain under the Discretionary Transfer Law. My testimony today is that -- that that's sufficient and that it's appropriate, because the -- the law of the United States has been pushing to at least have youth considered. It -- it's still able to be transferred. A prosecutor would make the motion and the judge would need to make the determination. My argument to the committee is that a better way to handle any young person under the age of 18 would be to allow there to be discretion. Our law requires the judge to balance the seriousness of the crime, the impact on the victim, along with any disabilities the defendant may have, and certainly any past criminal record the defendant would have, so if they were a repeat offender, that would weigh negatively, or I guess positively in favor of transfer.

So my argument to the committee, is that's sufficient; the law that we have now is sufficient to cover situations that may exist.

REP. VERRENGIA: Okay, and I appreciate that argument, and I don't necessarily agree with it, but that's okay. I understand there's two sides to -- to every issue.

You know, my -- my approach with this bill, and with respect to having individuals over the age of 15, and the up to five years, two of which is not suspended, is because this is unlike any other crime in many ways, but particularly in that individuals who engage in this cowardly act of violence, and randomly choose to seriously assault innocent, law-abiding, unprovoked individuals need to be treated differently, in my opinion. And that -- that was the premise behind my decision to -- to put this forward.

And in another way that I -- I think it's different than -- than any other assaults, beside from the randomness in the victims, you know, it was unprovoked and they didn't see it coming, is that -- is that -- I hesitate to put myself in the -- in the victim's shoes, but I would hate to -- to be a victim -- or would dislike to be a victim of any crime, particularly of this sort of crime, and at the end of the day find out that it was all part of a game. To me that is another reason why it separates itself from the other assaults.

I'll -- I'll leave it open to other members of the committee, but I have some followup questions I'll ask you.

SENATOR HARTLEY: Thank you, Representative Verrengia.

Senator Witkos.

SENATOR WITKOS: Thank you, Madam Chair. Although the bill proposes to make it an automatic transfer to the adult court for a 16 year old who commits this act, doesn't the judge in the adult court have the prerogative to send it back to the juvenile court based on whatever factors he or she determines it should be heard in that court?

CHRISTINE RAPILLO: Only under very limited circumstances, and upon the motion of the prosecutor, and there's time limits on that. So the argument would be that under the Discretionary Transfer, the determination would happen before the case were moved, and that there would be more of an opportunity to have all the circumstances considered, both the circumstances of the crime, time for more intensive investigation of the crime, and also time for investigation into the circumstances of the young person accused.

SENATOR WITKOS: What -- what are the -- if you could, if you are aware of them, what are the considerations that the judge -- the limited ones that you said they'd have to consider if they wanted to send it back to the juvenile court?

CHRISTINE RAPILLO: Well first of all, it would -- it can only be on the motion of the State's

Attorney, so if the defense had come upon information that they thought was relevant, and the prosecutor weren't to agree that it was relevant, it would never make it in front of the judge. So as I said, the circumstances are quite limited because you have to first convince the prosecutor that it should be transferred back before you even get to the judge. Otherwise the judge is able to weigh some of the similar things that a juvenile court judge would weigh.

The other problem is the adult court judges are not as trained in what is available in juvenile court, so arguments to an -- to an adult court judge that a child would be better served with some sort of accountability in juvenile court don't -- they're not as able to weigh it because they don't have the training in how those programs operate, and in what's available.

SENATOR WITKOS: Do you think -- I'm trying to get my arms around that comment that, in my opinion, it almost seems like we're -- we're looking out more for the defendant than we are for the victim of -- of the crime. Here's an unsuspected person walking down the street, and they're basically attacked from behind because of a game, and we want to make sure that by -- by opposing the legislation, we're saying that there may be mitigating circumstances why the young person did the act that they did, because I think you're focused only a person of age 18. Is that correct?

CHRISTINE RAPILLO: That's my primary area of responsibility, yes.

SENATOR WITKOS: Would you -- are you offering that the bill be limited to raising the age to 18, and then -- I guess that it would be, because it's only juvenile court.

CHRISTINE RAPILLO: It's -- so for the people who are between 14 and 16 now, since 14 is the age at which somebody could be transferred out of juvenile court, they would also be subject to being transferred on this offense. This wouldn't eliminate the ability to transfer a 14 year old who committed -- I mean who was accused of committing this type of a crime, because they could still be transferred under the Discretionary Transfer Bill. So everybody who's between 14 and 18 who currently would show up in juvenile court, and they would all begin in juvenile court charged with this crime, would stand subject to potentially being transferred for this type of an -- of an offense today under current law.

So my argument to the Committee is that that's a more appropriate way to handle it. Even our State Supreme Court has found that there is some interest in being in -- in juvenile court, that juvenile court, and there are studies that show they tend to do a better job. I mean the goal is to make sure people -- that there's an accountability meted out, that there's some accountability to the victim, but also that these are young people who will eventually

likely get out, and that we don't want them to re-offend.

So what the discretionary transfer model does is allow for some consideration in the juvenile court by the people who are most equipped to understand how the programs work, and how kids process through the system to decide whether, you know, is this somebody that we should keep here and attempt to mete out accountability, and as I said, that could be up to four years of a training school, or is this somebody where we don't think we have anything here that's going to be able to rehabilitate this young person, and we need to move him over to the adult court. And my argument is that can happen in the juvenile court without making it mandatory that all 16 and 17 year olds be moved to adult court.

SENATOR WITKOS: So I just want to confirm that you're not -- that's the only section of the bill that you're opposed to, is -- is the automatic transfer of the juvenile. But what about the mandatory minimum sentences and the rising of the crime to a Class D felony for persons age 18 and above?

CHRISTINE RAPILLO: I think my argument is that it's not necessary because current -- the current law for Assault in the Second Degree covers this type of behavior, so if you hit somebody with the intent to knock them out, even if you don't knock them out, but if the prosecutor can show that probable cause that that was your intention, you could be charged with Assault in

the Second Degree for attempting to cause serious physical injury to somebody. I think that's what Mr. -- Attorney Sugrue from the Chief State's Attorney's Office was saying, was that the two sections are somewhat duplicative.

I think mandatory minimum sentencing is -- is problematic because, again, it doesn't allow anybody any discretion to -- to figure out what should happen, and that there's always circumstances, and sometimes the judge will say none of the circumstances, Mr. Defendant, sway me and I think I should give you the full five years. And sometimes there will be something, whether that could a developmental disability -- there could be a number of circumstances. And that it's more appropriate to give the court the discretion to determine what the sentences should be.

SENATOR WITKOS: Thank you. Thank you, Madam Chair.

SENATOR HARTLEY: Thank you, Senator Witkos.

So Christine, I hear you very clearly with regard to the discretion, the mandatory sentencing, the issue of juvenile court, and its propensity to be more on top of and conversant with programs and situations, but I keep going back to the -- the instance itself. Not only is it unprovoked, it is a game; it is a game that is now going viral. It appears to me that it's very peculiar to anything else that we've ever seen. So we have instances of assault, be they provoked, in some instances unprovoked, but I've never seen anything else

that was a game that then gets sheared in a viral way so as to encourage and promote more participants, and the truth is that's actually what we see happening. First we heard about this in other states; now we have it in our state; and now the numbers keep presenting themselves.

This is a phenomenon that we've hithertofore haven't had, and so to me it's in a whole different category when we start to talk about entertainment and amusement. This is not. Maybe you want to comment.

CHRISTINE RAPILLO: I -- I think that again the current laws that we have, though, in a situation where the prosecutor could show that somebody videotaped this and posted it online, that would be a circumstance that would lean towards transferring the case to adult court and treating it in a different way.

I have -- I supervise the 12 Juvenile Delinquency Offices and I do all the policy work in Juvenile Court for the office, so I meet with my counterpart for the Prosecutor's Office, Fran Carino. So there's meetings where things like this would be discussed. This hasn't come up -- not that it isn't a serious phenomenon, but it hasn't come up as a pervasive thing that's showing up in our juvenile courts. There have been some highly-publicized incidents; there's no doubt about that.

The juvenile courts for years have dealt with circumstances -- and the adult courts have dealt with circumstances where people would sucker punch somebody, where people would be in for all different sorts of reasons, whether -- unprovoked attacks. These are things that we've seen in court, you know, for years, and the courts have been able to deal with them. They've been able to separate when is it a situation where it needs to be transferred to the adult court, and when is it a situation that can be more appropriately dealt with in Juvenile Court.

So although this idea that we now have the technology to put out these horrible videos is something new, the behavior may not be as new, unfortunately, as you think, just this ability to put it out there. And I think the -- when somebody who chooses to commit a crime like this, and chooses to videotape it, and chooses to put it out there, our current law with the Discretionary Transfer Statute for juveniles allows that to be punished, and allows it to be punished and for that person to be held accountable in Adult Court. I think even for people who are not juveniles, our current law allows that all to be taken into account.

SENATOR HARTLEY: Yeah, I hear you, and we had the same kind of thing with current law, and hate crimes, and so forth, but they -- those instances rose to the level where we felt that, on a policy basis, we could not ignore them. And no, there has always been this history of unprovoked; however, we have never had this as

a form of entertainment and as a gamesmanship kind of a thing, and -- and then you respond and say that there has not been any evidence or significant evidence in the system. Well it's very, very new, and my experience is, in my -- where it has happened in my town is there's a reluctancy because this has not been defined, that the statutes are silent, and therefore it's hard to say yes this is.

We hear folks come before us all the time and say well because it's not in statute, we feel that we needed to -- something as simple as asking, or allowing our school districts to let the kids wear uniforms. They were -- they were reluctant to do it because they didn't have the language in statute. I mean, by virtue of us being silent on this, could in some way contribute to the underreporting and the categorization of this.

CHRISTINE RAPILLO: My reading of the Assault Second statute doesn't show any ambiguity that this would -- that that sort of behavior would be covered under the Assault Second statute, that punching somebody in the head could clearly have a prosecutor lead to have probable cause if there was an intention to cause serious physical injury. I mean I'm familiar with the incidences that have happened across the state. I've not heard people say that there's a reluctance to report it, but again I'm not in court every day. I mean it certainly could be a legitimate issue. I just believe that the law as you -- as it's currently drafted does clearly cover punishment for somebody that were

to make an unprovoked attack on somebody and punch them in the head. I think the Assault Second statute clearly covers that.

SENATOR HARTLEY: That's true and the history that we have in the state of Connecticut was also that we had ample legislation with regard to instances of hate crime.

Thank you so much for being with us. Further comments?

Representative Rovero.

REP. ROVERO: You know, I'm sorry, I have to comment. My mouth is really going this morning. But, you know, I have a problem with anybody beating on anybody, especially when you get to be my age. It probably takes one punch, and it's all it's going to take. But being an old goat like I am, I've seen many gentlemen go to jail, and I've seen them come back out. And I've seen people 17 years old put into jails, and when they come back out, you might -- as far as I'm concerned, you might as well give them a 30-year sentence because they're ten times worse when they come out, more so than if someone's 25. At 25, you're not going to influence someone as much as if they're 15, 16, or 17 years old.

And we're -- I think they've got to stop this. It's not a game. I think that we turn around and we say one size fits all -- I don't think it's a case where we can turn around and say one size fits all. I would rather have a judge

and a prosecutor have the ability to say, okay this one here it's his third time; this one here, we know he's never going to get rehabilitated; and do it that way rather than say automatically someone 16 years old is going to spend a certain amount of time in jail. Because if you tell them that, you might as well say put them in jail forever, because we all know that when he comes out, he's not going to be fit for society most of the times.

So I think we ought to consider the fact, leave the bill like it is, and maybe change the age to 17, 18 and above will be automatically, but when you start talking about 16 year olds, we all sit back and say this is what we did when we were 16. A lot of times it was stupid, but did we deserve to be in jail for five years? I don't know. I think it's a tough question, and I -- I like to air on the side of that's what we have prosecutors and good judges for, that will take care of a problem like this.

Thank you, Madam Chairman.

SENATOR HARTLEY: And thank you, Representative Rovero. I appreciate your -- your commentary. I would also draw another analogy about sending a message, because sometimes that's perhaps the only way that we could make a statement and save us from ourselves, and I recall the situation with a student education driver -- driver ed teaching. I have never witnessed a more compelling program with regard to getting juveniles' attention with regard to the enormous responsibility they have when they

assume a driver's license and are behind the wheel of an automobile, as witnessing a program where offenders, who are actually incarcerated, and I recall the -- the visit by one young, bright, promising student who was actually in the corrections system because he had driven an automobile and killed his brother. And he appeared before the student bodies of driver's ed classes, and never before did we have such attention to the driver's education process.

And those kids who went through that training, I felt clearly were -- had matured in those few hours of that particular class. And so when we are talking about a game that appears to be for fun, and really cool, and part of whatever gamesmanship is going on out there, sometimes it takes these kinds of flags to be flown up the flagpole so as to stop and curtail these kinds of things. But thank you all.

Are there further comments? Yes, Representative Mikutel.

REP. MIKUTEL: Yes, thank you, Madam Chair. I don't know if I recognize Representative Rovero any more. He seems to have moved into a more liberal stance here, and it's unbecoming of him. I' really --

SENATOR HARTLEY: We're going to have a subcommittee huddle.

REP. MIKUTEL: -- I'm somewhat alarmed by his change in his thinking here, but anyway I want to just say that I agree with you, Madam Chair, in your

-- in your position here, and I think we need to send a message. I think that this kind of gamesmanship will not be tolerated in our -- in our state, and so, but that's what I wanted to say. Thank you.

SENATOR HARTLEY: Thank you, Representative Mikutel. I appreciate it.

Christine, thank you for your time in -- in being here, and your work.

CHRISTINE RAPILLO: Thank you for the opportunity to testify.

SENATOR HARTLEY: Absolutely.

So we would like to move on to Denise Belmont, please. And Denise, did you want to come forward with Julia, and with Billy Jo? Yeah, go ahead. Yep, yes -- and you can take either chair on either side, either of them. And they can bring it over to the desk where you are. Just wheel it over. That's why we've got wheels on them. Yeah.

DENISE BELMONT: Good afternoon, Senator Hartley (inaudible.)

SENATOR HARTLEY: Is your mic on? Make sure that -- yeah, there you go.

DENISE BELMONT: Now it is. Thank you. My name is Denise Belmont and I am from Middlebury, Connecticut. As a concerned parent, I am here SB430

SENATOR HARTLEY: Good afternoon, Tom.

TOM NAGLE: A few short weeks ago, I never thought I'd be here, and I'm humbled to be here today. You all are doing very important work, and thank you all.

My name is Tom Nagle. I'm a lifelong resident of the state of Connecticut, and I'm here to speak in support of Proposed Bill 429, AN ACT CONCERNING PUBLIC SAFETY, specifically regarding the "knockout game" provision.

Many of us have become aware over the last six to eight months of somebody in the national headlines, man attacked in suspected knockout game; a teen punches woman in the face in knockout game; examples of troubling knockout game popping up all over. These are national headlines: *USA Today,* CBS, *New York, New York Daily News,* et cetera. "Philadelphia Knockout Victim: One Punch Puts Man in Nursing Home"; "San Diego Man Latest Victim of Knockout Game." The one I can speak a little bit more eloquently about is the one where it says: "Local Teen Seriously Injured in Knockout Game Assault." That was my 18-year-old son six months ago -- six weeks ago.

I've seen this -- this knockout game characterized as a -- as a crime phenomenon. That's how they're characterizing it nationally. These -- these knockout attacks are random. The goal of the perpetrators are to knock out the unsuspecting victim with one punch. They're to cause seriously -- serious

injuries to the individual. Often accomplices film these cowardly acts to put them on social media, and then what that also does is it encourages others of that type of action because they're getting their 15 minutes.

There's no regard to the rights of the victim, no regards to the rights of their fellow man and to all us individuals in society, and there's absolutely no remorse.

My son has two titanium plates in his jaw. He has eight screws in his jaw, and it was broken in multiple places. His mouth is wired shut and he had to eat through straws and that type of thing. Those are permanent. For what? Because he was walking to where he lives, simple as that, by himself, singled out because he was by himself and they thought they could get away with this knockout game.

Victims nationally have been from -- there was a great-grandmother, 78 years old, to a middle school youth, a young boy 12 years old that I found have -- have been victimized by this hideous game. Typically there's broken jaws, broken noses, facial fractures, concussions, skull fractures; these are common results. From what I could find there have been seven deaths nationally. And it can happen to anyone: your children, yourselves, your spouse, your parents, your grandparents, your friends, your neighbors, just any unsuspecting, innocent citizen.

These random acts are violent. They're there for the thrill, and yet it causes the victim lifelong pain. The acts are vile, and they're disgusting, and they're evil. As such, additional protections are needed, and I thank -- I thank you all for -- for considering this bill.

Who would have thought 20 or so years ago, 25 years ago, I grew up with a young man who was a special needs, one of my best friends growing up. He moved out to a -- to a surrounding town. He was walking and he was assaulted, robbed of $5, punched in the jaw, knocked out. They took his $5 out -- out of his wallet. After that that was one of the impetuses to have the additional protection of the Assault 2 statutes -- Assault 2 statutes about the folks with disabilities, physical disabilities, intellectual disabilities. Who would ever thought we needed such extra protections. We also needed that for the seniors, over 60 and above. That had to be added. Pregnant females. My God, who would have ever thought we'd have to have additional protections for those folks, but we do, and the Legislature has taken that appropriate action.

And I think the appropriate action here is to -- is now additionally, with this national crime phenomenon -- is to step up and get ahead of this to the extent that we can, and have these additional penalties and additional protections to the fine folks of -- of this great state that I've called home for my entire 50 years.

So I -- I appreciate the opportunity to speak to you and I hope -- I hope your support for this. The good citizens of our great state need this help.

SENATOR HARTLEY: Tom, thank you very much for being here and sharing your story with us, and we are moved by it, and you put a face on this. This happened in my neighborhood down the street, a block from my house. The person was 63 years old, you know, totally unprovoked, totally unaware that they might be doing something wrong, or that they might even be in harm's way. So tell me, your son was going to his home, you said?

TOM NAGLE: He's 18 years old, and he's a freshman in college, and he's walking to his dorm.

SENATOR HARTLEY: Can I ask you where was that? Was that?

TOM NAGLE: In the state of Massachusetts.

SENATOR HARTLEY: Massachusetts.

TOM NAGLE: He was the third of three freshman that were attacked on that one particular evening in this knockout game assault.

SENATOR HARTLEY: And did they identify the perpetrators? Did they -- was it other students?

TOM NAGLE: Yes, on both accounts. It was a 19-year-old other student, and he has been charged in the Commonwealth.

SENATOR HARTLEY: Well, this Committee -- this proposal was brought to us by Representative Verrengia who, himself, is a law enforcement officer, but it hit home with all of us, and there's obviously going to be further conversations as we move this forward.

But, Representative Verrengia.

REP. VERRENGIA: Tom, it's good to see you. I wish I didn't have to see you in this forum. I just want to speak to something you had mentioned as far as the carve-outs. You -- you've identified some carve-outs that past Legislatures have made into law, and I think that's where Madam Chair was going in her earlier conversations, that -- that this does deserve a carve-out, and does deserve to be treated differently because this game has no rules. I think I said this earlier. It can happen to anyone, at anytime, at any place, and the victims -- the suspects who commit this cowardly act, they have no regard for the people that they're hitting, and their sole intent is to knock them out and leave them lying on the ground helpless with serious injuries, and then to make a joke about it, put it on the internet, and put it on YouTube. This is something we haven't seen before, and something -- something that is deserving of what's being presented in this bill.

TOM NAGLE: Yes.

REP. VERRENGIA: It's going to send a clear message to these cowards that the State of Connecticut, the people of the state of Connecticut want no part in this game, and that's what this bill -- this was the intention of this bill.

TOM NAGLE: And I support that 100 percent.

REP. VERRENGIA: And again I can't imagine being a victim of -- of this sort of violence, and at the end of the day it's just because -- because of a game, but I want you to know, and unfortunately your son isn't here, we talk about how senseless this act is, and how -- I can't imagine being a victim and putting -- I wouldn't put myself in anyone's shoes, particularly your son's, but if there's -- of there's a shining light on this particular incident, it's the fact that we're here today even considering this bill, and I -- I want that message -- I want you to bring back that message to your son, that as bad as that assault was, that something good's going to come out of it.

I can't guarantee where this bill's going to go, or how far it's going to go. It's my hope that someday it will be acted into -- into law, but at the very least we're having this conversation today.

TOM NAGLE: Thank you.

SENATOR HARTLEY: Thank you, Representative Verrengia.

Representative Nicastro. I didn't get that bell down.

REP. NICASTRO: Thank you, Madam Chair.

Could you tell me, Officer, if -- if West Hartford has this -- do you know how many cases of this have you had, this type of assault? Do you keep a record of that, by chance?

TOM NAGLE: Well in -- in my personal family, it's one. In the town of West Hartford, I'm not aware of this specific thing, of somebody walking in our center or something, and just randomly getting punched. This seems to be a phenomenon that is sweeping over the last six or eight months, any internet research will show, and I -- I think what part of the intent of -- of this law is, in addition to protecting our citizens, is to get ahead of this a little bit before more senseless violence has to take place, and more innocent victims have to be sitting in chairs to speak on this. I think we're trying to get ahead of that. So I think that's the best way I can answer that.

REP. NICASTRO: Thank you. I think it's vitally important that, you know, sometimes I've heard it too many -- I've been in government 28 years, and I've heard it too many times: Well that costs money. Well people's livelihood costs money, too, and children and adults --

anybody could be, you know, be a victim of this.

TOM NAGLE: Yes.

REP. NICASTRO: And their livelihood could be lost because of brain damage or whatever the case may be. We have to get tough, and I'm serious. I say that sincerely. It's not just oh let's slap them on the hand, don't do it, you know, if you're a juvenile; oh let's slap them on the hand. This is something serious, and we got to take a much tougher approach to this, a much tougher approach. You want to play dirty; you want to get wise? Fine, wham. You see how quick -- if that made the newspapers, you'd see how fast it would tone down. It doesn't because they say well nothing's going to happen; you're going to get a slap on the wrist. Here we're saying making it a Class D felony, okay? It has to be put, you know, we can't -- we got to stop giving breaks. The trouble with our state is we keep giving too many breaks to too many people. Get tough. Tough times require tough action, and if we did that, you'd see the changes, and I say that sincerely. You're an officer of the law; you see it, okay? And I think that it's important that we all understand this, that we don't take this bill and push it to the wayside. It's important that we bring this bill forward and have it pass out of this committee and move it on, because if it saves one child, or if it saves one adult's life, or stops them from landing up an invalid the rest of their life,

it's worth every dollar in the world. Thank you.

Thank you, Madam Chair.

SENATOR HARTLEY: Thank you, Representative Nicastro.

Representative Kupchick, to be followed by Representative Mikutel.

REP. KUPCHICK: Thank you, Madam Chair, and thank you for being here today. Can you tell us -- and I'm very sorry what happened to your son. I mean it's just -- it's -- it's terrible. You should be safe on a college campus. We should all be safe.

Can you tell me what the -- the thug was charged with in Massachusetts? What he was ultimately charged with?

TOM NAGLE: He was recently indicted for assault and battery with serious physical injury, two counts, because an additional young man had facial fractures, and then another young man had more -- more -- not fracture injuries, so he was charged with a third count of assault, but that one was a misdemeanor. So two counts of assault and battery with serious physical injury, and one with assault.

REP. KUPCHICK: So they don't have a special additional charge they could add on for this sort of thing in Massachusetts?

TOM NAGLE: Not at this time.

REP. KUPCHICK: Okay. Thank you.

SENATOR HARTLEY: Representative Mikutel.

REP. MIKUTEL: Yes, thank you, Madam Chair. You know, it's a sad commentary in our society that, as you stated, that we have to have these special carve-out laws to protect pregnant women, disabled people, senior citizens, and there's probably a few more. I don't know. It's just a really sad commentary that we have to be -- that our society seems to now to be constantly addressing random acts of violence.

So maybe we have to -- and the other sad commentary that I want to make is -- a comment I want to make is that the majority of people in the state of Connecticut, when a poll was taken, they were asked if they thought the -- the criminal justice system protected them, and I was shocked (this is a few years ago) -- I was shocked that 75 percent of the people who responded to that survey in the state of Connecticut said that they did not feel that the -- that the criminal justice system served their best interests.

You know, so something's got to give here. Something's got to be done to -- to not only restore the people's faith in the criminal justice system and in law and order. So I have to -- I have to say that if this is what we -- a law like this is necessary to send a message, fine. I think maybe it -- we have to -- we have to do it. It's just a sad commentary that

where our society is at this point in time. The, you know, some people are going to argue well the Class D felony is too much of a -- of a penalty and I don't even know if aggravated assault carries that kind of penalty, but -- I lost my train of thought. It will come back to me here. But it seems that something has to be done to create some more respect for the law, and maybe this is what we have to do.

Again, and it's a sad commentary, but there's people out there that they have absolutely no respect for the law. They have no respect for their fellow human beings, their rights, and -- and you know, if that's -- if that's -- and I know that's their attitude. They could care less. Stopping these random acts of violence is going to be difficult to do.

I don't know if people pay attention to the penalty to a law, and they don't even know the knowledge of the law; they're not aware of the law. I don't how much -- if we pass this bill, is it -- is it going to prevent some thugs and punks on the street from bashing in somebody's head? I don't know. But I'm at the point right now that I am going to support something like this because I feel we have to -- we have to protect our -- the public, and we have to let them know, as Legislators, that we're trying to protect them so that they can walk down the street without getting rapped on the head, or your sister, or your daughter, or your mother, or your grandmother, or whoever it is; so I'm going to be supporting this bill.

SENATOR HARTLEY: Thank you, Representative Mikutel.

Yes, Representative Rovero.

REP. ROVERO: This is for Senator, I mean to Representative Mikutel. I support this bill, also. I just thought maybe the age could be a little bit higher, but I support this bill, and everything you said I agree with you 100 percent. I just want you to know I'm getting soft -- I'm not getting soft, though, excuse me.

Thank you, Madam Chairman.

SENATOR HARTLEY: Thank you, Representative Rovero for that clarification. We never doubted it.

Tom, I may have missed this. Did you say that the perpetrators, I mean they were found, they were tried, but were they students?

TOM NAGLE: They have not been tried. This is only a few short weeks ago.

SENATOR HARTLEY: Oh, okay.

TOM NAGLE: So it's just in the beginning phases of the criminal justice system in the Commonwealth.

But -- I'm sorry. What was the second half?

SENATOR HARTLEY: Were they students?

TOM NAGLE: Yes.

SENATOR HARTLEY: They were students.

TOM NAGLE: Yes. Madam Chair, if I may?

SENATOR HARTLEY: Please.

TOM NAGLE: Very well articulated by everyone. Thank you for the questions. Sad commentary has come up here, and has come up within my own house and among my own friends. It is -- I mean this -- these type of things, very sad commentary on our society, but you know what -- what gets me up every day doing this job, and why I started it now many years ago, because I want to help people, okay? That's why the Legislators are here, to help people. The courts -- this is what gives folks who live in -- for all our neighbors, everywhere, every corner of this great state, is the faith and confidence they have in people like us to set in motion the best they can to give the protections to -- to their citizens. This is what does it. This is a sad commentary, but it's not the overriding commentary. The overriding commentary is what the good folks do in their jobs, and in their lives, and their families, and their laws, in their police, and in their courts to protect the good people, so they can raise their children without fear of these events. So it is a sad commentary, but what you guys are doing, and what -- what people do in the state every day is the overwhelming wave of wonderful commentary.

And it's not a -- one thing if I may -- this is just not a city problem. It's not just a rural problem, a suburban problem, a black problem, a white problem, a Hispanic problem; it's a people problem, and it's going to be addressed by people. And just know, we're -- we're one big team, and the right thing will be done. I have faith.

SENATOR HARTLEY: Thank you very much, Officer Nagle.

Further questions? Thanks for being with us.

TOM NAGLE: Thank you.

SENATOR HARTLEY: Okay, I think CCM is hanging in there, right? Okay, Bob.

BOB LABANARA: Good afternoon, Madam Chair, Members of the Public Safety and Security Committee. My name is Bob Labanara. I'm the State Relations Manager for the Connecticut Conference of Municipalities, CCM, your statewide association of towns and cities, representing about 155 of the 169 communities.

SB 56

I thank you for the opportunity today to testify before you on, no doubt, a very difficult bill, House Bill 5533, which would, among other things, mandate Workers' Compensation benefits for State and Municipal employees diagnosed with PTSD. I know I've been here all day and we've listened to the testimony before you today, and I want to make clear right out the gate that what is at question is not particularly the -- the

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State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

S.B. NO. 429: AN ACT CONCERNING PUBLIC SAFETY

JOINT COMMITTEE ON PUBLIC SAFETY AND SECURITY
March 11, 2014

The Division of Criminal Justice respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for S.B. No. 429, An Act Concerning Public Safety.

The Division commends the Committee for raising this legislation to examine questions surrounding what have been dubbed "knockout" crimes. The public concern that has arisen following media coverage of these incidents is understandable, as is the Committee's desire to examine these matters.

The Division, however, must respectfully oppose S.B. No. 429 as it is now written because it is duplicative, creates anomalies and would serve only to encourage would be "knockout" criminals to punch, kick or strike their intended victims more than the statutorily prescribed one time to avoid the mandatory minimum sentence created by the proposal.

Unconsciousness already constitutes a *serious physical injury* for purposes of assault. State v. Sewell, 38 Conn. App. 20, 24 (and cases cited therein), *cert. denied*, 234 Conn. 918 (1995). Consequently, any person who acts with the intention of causing another person to lose consciousness by necessity also acts with the intention of causing a serious physical injury and, therefore, is amenable to prosecution under existing section 53a-60 (a)(1) regardless of the manner in which he causes the unconsciousness of another person. If S.B. 429 is enacted as proposed, the person who acts with the intention of causing another person to lose consciousness, and manages to cause this result with a single blow, will be amenable to prosecution under both existing subdivision (1) *and* new subdivision (6). While double jeopardy protection would most likely prevent such a person from being punished under both subdivisions, the duplication created by S.B. 429 may lead to differences among prosecutors in charging decisions and trial courts in plea offers.

S.B. No. 429 also creates the anomaly that a person who acts with the intention of causing another person to lose consciousness can avoid prosecution under new subdivision (6), and the mandatory minimum prison sentence it carries, merely by causing unconsciousness with more than a single punch, kick or strike. While the presumable appeal of the "knockout" game is to try to cause a loss of consciousness with a single blow, when word gets out that doing so carries a two-year mandatory minimum sentence, would-be "knockout" criminals may switch to a one-two punch combination to avoid the harsher sentence.

S.B. 429 creates the additional anomaly that the "knockout" criminal, who intentionally causes a loss of consciousness quickly and efficiently with one blow, is subjected to a two-year mandatory minimum sentence, but a person who intentionally causes exactly same end result, but does so less efficiently over a longer period of time, with more blows, and presumably more pain and suffering for the victim, is subject to no mandatory minimum sentence.

To underscore the seriousness of intentionally causing another person to suffer a serious physical injury, the Committee may wish to amend section 53a-60 (b) to provide that violations of subdivision (1) of subsection (a) are class C felonies. Or, to underscore the seriousness of "knockout" crimes specifically, the Committee may wish to consider amending section 53a-60 (b) to provide that: "Assault in the second degree is a class D felony[.] and any person found guilty under subdivision (1) of subsection (a) of this section who caused another person to lose consciousness shall be sentenced to a term of imprisonment of which two years of the sentence imposed may not be suspended or reduced by the court."

CONNECTICUT JUVENILE JUSTICE ALLIANCE

TESTIMONY OF THE CONNECTICUT JUVENILE JUSTICE ALLIANCE
MARCH 11, 2014
FOR THE PUBLIC SAFETY COMMITTEE
OPPOSED TO RAISED S.B. NO. 429
AN ACT CONCERNING PUBLIC SAFETY

Senator Coleman, Representative Fox and members of the Public Safety Committee: My name is Abby Anderson; I am the executive director of the Connecticut Juvenile Justice Alliance. The Alliance is a statewide advocacy organization dedicated to stopping the criminalization of Connecticut's children. We support evidence-based prevention to keep children from entering the system as well as services to help kids who do enter the system to be successful.

The Alliance vehemently opposes S.B. 429 An Act Concerning Public Safety. This bill would establish a "knockout game" assault as a class D felony and would transfer children of at least sixteen years of age charged with such assault to the regular criminal docket of the Superior Court

This bill is problematic for two main reasons. First, it solves a problem that doesn't exist – there is already a way to hold those accused of assault accountable under the law. Second, it would make this D felony an automatic transfer offense for youth 16 of age and older, undermining the recent Raise the Age efforts and significantly lowering the kind of crime for which youth are automatically transferred. (Now, only those youth charged with A and B felonies are automatically transferred to the adult system). Additionally, we know that there are racial and ethnic disparities in our justice system – adult and juvenile A change to the law, like the one proposed, could unintentionally exacerbate this issue.

First, there is no information to suggest the "knockout game" phenomenon actually exists As the New York Times reported in December, ".. police officials in several cities where such attacks have been reported said that the "game" amounted to little more than an urban myth, and that the attacks in question might be nothing more than the sort of random assaults that have always occurred."[1] Certainly an assault is a crime and those who commit assaults should be held accountable. Our current legal system is set up to do just this. There is no need to create a new class of offense for something scholars are not sure exists

Second, to determine that a class D felony should result in automatic transfer to the adult system for those 16 and older would be against best practices and against the policy direction Connecticut has taken in recent years In 2010, 16-year-olds were included in the juvenile justice system and in 2012 17-year-olds joined them Those youth 14 or older who are charged with the most serious offenses, Class A and B felonies, are

[1] Buckley, C (November 22, 2013) New York Times *Knockout Game a Spreading Menace or a Myth?* Accessed March 10, 2014 http://www.nytimes.com/2013/11/23/nyregion/knockout-game-a-spreading-menace-or-a-myth.html?_r=0

automatically transferred to the adult court. Those charged with lower felonies can now be transferred to the adult court at the discretion of a juvenile court judge

To summarize, this is a bill solving a problem that doesn't exist Those who commit an assault can already be charged with that crime and, if a juvenile commits a serious assault, there is a process in place to transfer that youth to the adult system if appropriate.

Thank you for your time.

Alliance member organizations: AFCAMP, Center for Children's Advocacy, Center for Effective Practice, CHDI, Connecticut Legal Services, Connecticut Voices for Children, Connecticut Youth Services Association, Community Partners in Action, FAVOR, FSW, NAMI Connecticut, Keep the Promise Coalition, Office of the Chief Public Defender, Office of the Child Advocate, RYASAP, The Tow Foundation, The Village for Families and Children

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Division of Public Defender Services
State of Connecticut

ATTORNEY CHRISTINE PERRA RAPILLO
DIRECTOR OF DELINQUENCY DEFENSE & CHILD PROTECTION

COMMITTEE ON PUBLIC SAFETY AND SECURITY
MARCH 11, 2014

TESTIMONY OF CHRISTINE RAPILLO
DIRECTOR OF DELINQUENCY DEFENSE AND CHILD PROTECTION
DIVISION OF PUBLIC DEFENDER SERVICES

Raised Bill 429, AN ACT CONCERNING PUBLIC SAFETY

The Office of Chief Public Defender is opposed to passage of *Raised Bill 429, An Act Concerning Public Safety.* This proposal seeks to specifically criminalize activity colloquially described as the "Knockout Game", make this Class D felony automatically transferrable to the adult court for youth under the age of 16 and set a two year mandatory minimum prison term.

The activity proposed to be criminalized in this bill is already a crime. Assault in the Second Degree, Conn. Gen. Stat. 53a-60, already provides for a felony to be charged if the prosecutor believes that they have probable cause to believe that the accused intended serious physical injury. This proposal is unnecessary. Public safety is already adequately protected by current criminal laws. Assault in the Second Degree already carries a penalty of 5 years imprisonment. Proposing to make this Class D felony automatically transferred to the adult docket in unreasonably harsh and runs counter to every reform that has been accomplished in juvenile justice in Connecticut

This proposal would also make Assault in the Second Degree a crime that is automatically transferred to adult court under Conn. Gen. Stat. 46b-127(a). Assault in the Second Degree is a Class D felony. Current law provides for the mandatory transfer of only Class A and Class B felonies. Legislating mandatory transfer of a single class D felony, with no consideration of the youth or circumstances of the accused juvenile, runs counter to state and national correction trends and the law of the United States Supreme Court. The United States Supreme Court in Miller v Alabama , 567 U.S. ___, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012) ruled that sentencing courts must consider the

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age and maturity of young people who are under the age of 18 when the crime is committed. This legislature has consistently recognized that youth of an accused must be considered in determining how a juvenile is held accountable. In the past several years, legislation has been passed raising the age of juvenile jurisdiction to 18 and ensuring that hearings are held before a youth is transferred under the discretionary transfer statute.

Assault in the Second Degree is already a crime for which a child can be transferred to the adult docket under the discretionary transfer statute, 46b-127(b). Since this proposed offense would be based on the intent of the accused, it is much more appropriate to leave the decision to transfer to the prosecutor and the judge. The prosecutor can decide if the facts of each individual case warrant a motion to transfer. Conn. Gen. Stat. 46b-127(b) already requires that a judge consider the seriousness of the facts of a case, any prior record of the accused juvenile and any programs that are available to assist with rehabilitation in juvenile court. Judges also consider the accused's education and development ability, which is paramount in assessing intent.

A blanket rule that all such cases be transferred runs contrary to current knowledge that young people are more likely to rehabilitate and not reoffend when they are placed into developmentally appropriate rehabilitate services through the juvenile court system. The judge, who is familiar with the community and the programs available in juvenile court, is in the best position to determine if the case should be transferred. The recidivism rates in juvenile matters have been steadily dropping, while no such data exists for adult matters. Good public policy would allow discretion when determining whether to transfer these types of cases. It allows for juvenile court judges to decide when the circumstances of the case and the services available in juvenile court are more appropriate to ensure that the accused is held accountable and does not recidivate. The Office of the Chief Public Defender urges this committee to reject this proposal.

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