

PA 15-183

HB7050

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H-1216

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2015**

**VOL.58
PART 15
4903 - 5253**

Substitute House Bill No. 7050, AN ACT CONCERNING
THE JUVENILE JUSTICE SYSTEM.

REP. ORANGE (48th):

Representative Robyn Porter. You have the floor, madam.

REP. PORTER (94th):

Thank you, Madam Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

REP. ORANGE (48th):

The question is acceptance of the Joint Committee's Favorable Report and passage of the bill. Representative Porter.

REP. PORTER (94th):

Madam Speaker, the Clerk has an amendment, LCO 8195. I would ask for the Clerk to please call the amendment and that I be granted leave of the Chamber to summarize.

REP. ORANGE (48th):

Will the Clerk please call LCO 8195.

CLERK:

LCO -

REP. ORANGE (48th):

Which will be designated as House Amendment

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May 27, 2015

"A."

CLERK:

LCO No. 8195, designated House Amendment
Schedule "A" and offered by Representative Tong,
Senator Coleman, et al.

REP. ORANGE (48th):

The Representative seeks leave of the Chamber
to summarize without objection. Representative
Porter.

REP. PORTER (94th):

Thank you, Madam Speaker. The amended Section
1 restores B felony offenses as a trigger for
automatic transfer to adult court but excludes
certain B felony offenses, which will now require a
hearing and a finding by the juvenile court that
the transfer is appropriate.

We know that public safety and the best
interest of the child are most effectively served
in the Juvenile Justice System, where there are
services and treatment available. Like the
original bill, Section 1 of this amendment also
raises the age for automatic transfer to adult
court from 14 to 15 years old. This is in response
to research showing lower recidivism rates, a

broadening and understanding of youth behavior, and their amenability to rehabilitation.

Also the transfer law in Connecticut was written when the age of jurisdiction was 16. We raised that age so it follows that we would raise the age of transfer as well. The amendment strikes all of Section 2, which would have expanded requirement that parents and guardians be present for admissions, confessions, and statements by children under 16 to police and court officials. The following two provisions remain unchanged from the underlying bill.

Section 3 would establish the Juvenile Justice Policy Oversight Committee - I'm sorry, the Juvenile Justice Policy Advisory Committee as a permanent legislatively appointed body and would expand the Committee's area of review.

This is an important step to ensure the stakeholders in the Juvenile Justice System continue to have a venue to discuss reform and policy initiatives. It also mandates that important data points are collect, analyzed, and reported to the Legislature and the public. This creates a transparent system that is accountable to

both lawmakers and the public.

Section 4 codifies the Judicial Branch's internal policy that went into effect on April 1, 2015, that states the presumption exists that all mechanical restraints will be removed from a juvenile prior to and throughout the juvenile's appearance in juvenile court.

The use of mechanical restraints in court will only occur pursuant to a judge's order in accordance with this policy. In determining whether a juvenile possesses an immediate present physical danger to himself, herself, or others, consideration will be given to the least restrictive means available to assure courtroom safety. The Juvenile Justice System was created to divert young offenders.

Thoughts have increased capacity to change into a system that provides proper rehabilitative services to transform youth into productive members of society. This purpose is precluded when juveniles are transferred to adult criminal justice system, where risk of dangerous - of danger increases, chance of recidivating are greater and future success is significantly impaired.

Given the overwhelming evidence indicating that we can better serve and protect our youth and keep our community safe by keeping youthful offenders under juvenile court jurisdiction, now is the time to change state policies and reduce the prosecution of youth in adult court criminal system and eliminate the placement of youth in adult jails and prisons.

With that being said, I would ask that all my colleagues on both sides of the aisle would support this amendment and its underlying bill. In closing, it give gives me great pleasure to thank our Ranking Member of Judiciary, Representative Rebimbas and Judiciary Committee Representative Labriola for playing a bipartisan role in the drafting of this friendly amendment.

Also, I'd like to sincerely thank all who co-sponsored this amendment on both sides of the aisle in both and the House and the Senate. Madam Speaker, I move adoption.

REP. ORANGE (48th):

Question before the Chamber is on adoption. Representative Rosa Rebimbas. You have the floor, madam.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. Madam Speaker, I do rise in support of the amendment before us. Certainly I believe Representative Porter did a very thorough and wonderful job in highlighting exactly what the amendment does. And too want to take the opportunity to thank not only her leadership but certainly Representative Tong, Representative Labriola, Walker and Smith for their cooperation in working on this amendment in a bipartisan manner.

This amendment is a very important one. The proposed bill was also just as important. But what we were able to do, I believe, is strike a balance in holding juveniles who commit crimes accountable but also making sure the victims are properly redressed for obviously being a victim of that crime. And I believe we did strike that balance, certainly there was a lot of give and take.

And I want to again acknowledge the fact that Section 2 was struck regarding confessions and current law withstand, which the underlying bill was to make some changes to that. And that was part of our compromise. And what we also did is we

actually took the time, several of us, to highlight the different types of crimes that we still wanted to make sure that they are so heinous that in fact they would still be automatically transferred to criminal court. But nonetheless, all the other ones still provide a discretion to the judge to truly review all of the elements and the factors as to whether or not that juvenile would be best served in the juvenile court or in the adult court.

And, again, I want to thank everyone for the opportunity to have gone that on a bipartisan manner. Regarding mechanical restraints also known as shackles, I so want to also commend the Judicial Department for having led that initiative, having already put a policy and procedure that made it easier for make us to codify that in law. So, again, we are allowing for those individuals that require that type of restraints, they still will be restrained. But for the juveniles that do not require it but for after a hearing, they will appear in court without being restrained. And I certainly do believe that that is fair.

Also the Juvenile Justice Policy Oversight Committee, there are some specific goals that have

been set as to timelines when we expect information reporting. And, again, I do believe that that's important because if we establish Committees without guidelines or expectations, then we've done something for nothing. And by having that specifically as to when they need to report, we can utilize that information, hopefully, to continue improving the Juvenile Justice System.

So again, I do rise in support of the amendment that's before us, Madam Speaker. And I do ask that my colleagues support it.

REP. ORANGE (48th):

Thank you, madam. Will you care to remark further on House "A?" Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Madam Speaker. I rise in support of the amendment. I would like to acknowledge the significant efforts put forth on this bill by Representative Porter and thank her for her for willingness to incorporate some of the ideas offered by this side of the aisle.

I'd like to thank the leadership - thank Chairman Tong for his leadership on this bill as well as Ranking Member Rebimbas for her efforts in

putting together this compromise. I do think it strikes a good balance. It's a progressive policy regarding the shackles in these juvenile cases. And when a juvenile is accused of a series crime, they will automatically be transferred to adult court.

But there are some crimes where the prosecutor will seek the decision of a judge so that the judge can review it on a case-by-case basis to determine whether or not that it should be best handled in juvenile court or in an adult court. And I think that strikes a good balance on behalf of the citizens of Connecticut in terms of protecting victims and the public and ensuring safety as well as the proper treatment of these particular juveniles who have been accused of these crimes. And so for all of those reasons, I ask my colleagues to support this amendment. Thank you, Madam Speaker.

REP. ORANGE (48th):

Thank you, sir. Will you care to remark further on House "A?" Representative Nicastro.

REP. NICASTRO (79th):

Good afternoon, Madam Speaker.

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REP. ORANGE (48th):

Good afternoon, sir.

REP. NICASTRO (79th):

Madam Speaker, I stand in strong support of this bill. I had the opportunity to work with the juvenile court system for 35 years. And I got to tell you, I've seen many, many changes. I can remember when truants were considered delinquents. I can remember all sorts of things like that. And they came out with the Family With Service Needs Bill and they changed everything, made it more positive. You don't go labeling the child for a minor act as a delinquent.

This bill here is another positive step forward for our youth of our city. You know, you put a label on a youngster, he's going to start acting out that part - he or she is going to start acting out that part. This bill, I would like to congratulate the people on the Committee who came up with this amendment. And I strongly support this. And I urge my colleagues to support it. Thank you, Madam Chair.

REP. ORANGE (48th):

Thank you, sir. Will you care to remark

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further on House "A?" Representative Doug
McCrorry.

REP. MCCRORY (7th):

Thank you, Madam Speaker. Madam Speaker, I
would just like to say this is a great bill, it
shows great collaboration on both sides of the
aisle, it's a very progressive and moves our
communities forward. And I commend Representative
Porter on all her hard work and the efforts. And I
thank all my friends on the other side of the
aisle. Thank you very much.

REP. ORANGE (48th):

Thank you, sir. Will you care to remark
further on House Amendment "A?" House Amendment
"A?" If not, let me try your minds. All those in
favor of House Amendment "A" signify by saying aye.

REPRESENTATIVES:

Aye.

REP. ORANGE (48th):

All those opposed, nay. The ayes have it.
The amendment is adapted. [gavel]

Will you care to remark further on the bill as
amended? Will you care to remark further on the
bill as amended? Will you care to remark further

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on the bill as amended? Representative Porter.

REP. PORTER (94th):

No further comments.

REP. ORANGE (48th):

Okay. Then will staff and guests please come to the Well of the House. Members take your seats. The machine will be open.

CLERK:

[bell ringing] The House of Representatives is voting by roll. The House of Representatives is voting by roll. Will members please report to the Chamber immediately.

[pause]

REP. ORANGE (48th):

Have all members voted? Have all members voted? Representative Simmons, for what purpose do you rise, madam?

REP. SIMMONS (144th):

Thank you, Madam Speaker. I rise to record my vote in the affirmative.

REP. ORANGE (48th):

Will the Clerk please note that Representative

Simmons has voted in the affirmative.

If all members have voted, the machine will be locked.

And now the Clerk will take a tally please.

And will the Clerk please announce the tally.

CLERK:

House Bill 7050 as amended by House "A"

Total Number Voting 144

Necessary for Passage 73

Those voting Yea 143

Those voting Nay 1

Absent and not voting 7

REP. ORANGE (48th):

The bill, as amended, passes. Are there any announcements or introductions? Announcements or introductions? Representative McCarty. You have the floor, madam.

REP. MCCARTY (38th):

Thank you, Madam Speaker, for this point of privilege in introduction, if I may. I'm awfully pleased to introduce today a very dynamic, vibrant young woman. One of Waterford High School's finest students, Lizzie Elizabeth Dowds, who won an essay sponsored by the League of Women Voters in

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Seeing no objection, so ordered, sir.

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 18, Calendar 566, House Bill 6138. I'd like to place that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF:

On Calendar Page 23, Calendar 606, House Bill 5660. I'd like to place that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF:

On Calendar Page 30, Calendar 645, House Bill 6943. I'd like to place that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 24, Calendar 610, House Bill 7050. I'd like to place that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR DUFF:

Thank you, Madam President. On Calendar Page 18, Calendar 571, House Bill 5092. I'd like to place that item on the Consent Calendar.

THE CHAIR:

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SENATE

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THE CLERK:

House Bill 6915. Page 4, Calendar 383 -

THE CHAIR:

Hold on a minute. Mr. Clerk, you're gonna have to use your microphone so we can hear you, please. I apologize. Thank you.

THE CLERK:

Page 4, Calendar 382, House Bill 6915. Page 4, Calendar 383, House Bill 6723. Page 5, Calendar 390, House Bill 6317. Page 5, Calendar 437, House Bill 6771. Page 5, 438, House Bill 6772. On Page 6, Calendar 439, House Bill 6259. On Page 8, Calendar 480, House Bill 6910.

On Page 8 also, Calendar 481, House Bill 6978, and on Page 9, Calendar 500, House Bill 6579. On Page 10, Calendar 502, House Bill 6868. Page 11, Calendar 511, House Bill 6937. Also on Page 11, Calendar 513, House Bill 6986, and on Page 12, Calendar 515, House Bill 6902.

Also on Page 12, Calendar 521, House Bill 6971. On Page 12 again, Calendar 522, House Bill 6834. Page 12, Calendar 518, House Bill 6770. On Page 13, Calendar 524, House Bill 6997. Also on Page 13, Calendar 525, House Bill 6984, and on Page 14, Calendar 530, House Bill 6977.

Also on Page 14, Calendar 531, House Bill 6994. Page 15, Calendar 535, House Bill 6730. Page 17, Calendar 552, House Bill 6884. Page 17, Calendar 557, House Bill 6155. On Page 18, Calendar 564, House Bill 7000. Page 18 again, 566, House Bill 6138. Also on Page 18, Calendar 571, House Bill 5092, and on Page 19, Calendar 577, House Bill 6853.

On Page 20, Calendar 585, House Bill 6571. Page 20, Calendar 578, House Bill 6852. On Page 23, Calendar 606, House Bill 5660, and on Page 24, Calendar 609, House Bill 5257. Page 24, Calendar 611, House Bill 7060. Page 24, Calendar 610, House Bill 7050. On Page 25, Calendar 617, House Bill 6020.

And that is Page 19, Calendar 575, House Bill 6975.

THE CHAIR:

Are there any other corrections anybody has? If not, at this time, Mr. Clerk, will you please call for a roll call vote on the Consent Calendar. The machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Immediate roll call on today's Consent Calendar has been ordered in the Senate.

[pause]

THE CHAIR:

If all members have voted, all members have voted. The machine will be closed. Mr. Clerk, please call a tally. You wanna call on the Consent Calendar? Yes, it's closed. It's closed on the machine here.

THE CLERK:

On today's Consent Calendar

Total Number Voting	36
Necessary for Passage	19
Those voting Yea	36
Those voting Nay	0
Absent/not voting	0

THE CHAIR:

The Consent Calendar passes. [gavel] Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Before we adjourn, I'd like to yield for any points or announcements.

THE CHAIR:

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announcement is heard. Hopefully we don't have any problems like that.

But I'm, right now I'm convening the Judiciary Committee public hearing for today, Monday, March 30, and as many of you know, the first hour is usually reserved for state agency, head legislators, and chief elected municipal officials. Moving onto the second hour we go into public.

If there is - if there are some remaining public or state officials we alternate back and forth, and once we get into the public, we limit the public's comments to three minutes, and the reason we do is so everyone can get an opportunity to timely speak, and just keep in mind after you present your three minutes presentation, the members of the Committee will have the opportunity to ask you questions so you could further detail your thoughts on any particular bill.

And just one last point, at this point in time there are some legislators in the room and not the full committee, but there are a lot of many other committee meetings going on so legislators are at their committee meetings, some are work in their offices listening to it and others will read the testimony later, so rest assured the Judiciary Committee is listening to your testimony.

That being said, we're gonna start with the state agency heads and I'll first call up Kevin Kane, our Chief State's Attorney.

Good morning, Mr. Kane.

KEVIN KANE: Sorry, Senator Doyle.

SEN. DOYLE: No problem. Good morning.

KEVIN KANE: Good morning, Senator Doyle. Morning members of the Judiciary Committee. My name's Kevin Kane. I'm the Chief State's Attorney, and with me is Francis Carino, who is the

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Supervisory Assistant State's Attorney who is our juvenile justice supervisor for juvenile reform. We're here this morning to talk about three bills, Senate Bill 1117, AN ACT CONCERNING MISDEMEANORS; Raised Bill 7039, I want to talk briefly about that, but we are submitting written testimony on that; and 7050, the juvenile sentencing justice system bill that Fran Carino is going to talk principally about.

With regard to Senate Bill 17 - 1117 - we're, the division's opposed to this. This would change the permissible maximum sentence for 32 Class A misdemeanors from a sentence of not more than one year to a sentence, the maximum sentence would be 365 days. The reason-for doing this is in order to preclude the possibility of deportation if somebody is sentenced to a one-year sentence or 365-day sentence. That would subject them to the possibility of deportation. It doesn't mean certitude by any means. It means that the federal government Department of Immigrations would consider whether or not that person's suitable to be deported.

We have submitted written testimony concerning this bill setting forth our concerns. Right now, our penal code classes defines felonies as a, an offense for which the permissible maximum sentence is more than one year. It defines misdemeanors as an offense for which the permissible sentence is one year or less. And this would take 32 felonies, 32 Class A misdemeanors, and make the maximum penalty on all of those 364 days.

The, because of a desire to eliminate the possibility that somebody who receives a one-year sentence could be dis - deported. Now a lot of crimes, first of all, and I know this Committee is well aware, people who are arrested and charged with misdemeanors only very rarely get convicted. They're, there're diversionary programs that they're subject to many times after being arrested for that.

Let's say somebody had been convicted of a felony and their sentence was about to expire, they were, would be about, were about to be released. Corrections couldn't notify - and there was a civil detainer on those people. This bill would preclude Corrections from notifying somebody who was going to be released from prison after a felony conviction, from notifying Immigration that this person was about to be released.

That is, we'll submit written testimony on this. There are some pros and cons to this bill, I think, and I didn't, I'm not prepared to go into it in detail, but we're submitting written testimony about that. And now those two things are a concern. Removing the exceptions which this legislature carefully enacted last year, and precluding the notification of Immigration under certain circumstances that notification ought to be appropriate.

With regard to the juvenile sentencing bill, there are several concerns with have with regard to that. One of them has to do with the, and Attorney Carino can go into that in more detail than I can. Fran.

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FRANCIS CARINO: Thank you. A couple things this law attempts to do. One of'm has to do with the transfer of juveniles from the Juvenile Court to the adult court system for very serious crimes. Right now the minimum age is 14 for such transfer. One of the provisions in this bill would raise that from 14 to 15. I've been involved in the prosecution of kids for over three decades and as far as I can always remember, 14 has been the minimum age. Why there's a proposal to change it to 15 I'm not sure. I haven't seen any problems with the existing age of 14.

There's also an attempt to move Class B felonies from the automatic transfer procedures to the discretionary transfer procedures. Again, these are kids 14 and older

charged with serious felonies. They can be transferred to the adult court in two ways. One is by automatic transfer, which is limited to very serious crimes, A and B felonies and arson, murder, and things like that. And then there's the discretionary transfer, which right now is C, D, E, and unclassified felonies.

This proposal would move the Class B felonies from the automatic transfer procedure to the discretionary transfer procedure. We have a few problems with that. Number one is the law was changed in 2012, which requires the judge to make a finding in a discretionary transfer case that the transfer of a child from a Juvenile Court to the adult court is not only in the best interest of the public, but it's also in the best interest of the child.

And that's an "and," not an "or." So the current language really makes it difficult if not impossible for the judge to balance the best interests of the public versus the best interests of the child and make a decision whether or not they can be transferred.

The court has to find that it's in the best interest of the child, and because of all the loss of juvenile rights that occur when a serious offense is moved from the Juvenile Court to the adult court, it's almost never in the best interest of the child, so the changes that took place in 2012 have made discretionary transfers virtually impossible.

To move Class B felonies out of the automatic transfer procedure into the discretionary transfer procedure would render them basically not transferrable. And when you look at the list of Class B felonies, and I've provided written testimony and have them listed there, those are pretty serious charges.

And in those situations, our position is that those types of offenses, because of their seriousness and the threat to public safety

that they pose, they deserve the consequences that come with the transfer. Keep in mind that in the Juvenile Court, the maximum that could be imposed is a commitment to DCF for up to 18 months or, for serious juvenile offenses, up to four years. Then there's the possible extension of 18 months after that.

But those commitments to DCF will end at age 20 by statute. So if a 17-year-old gets convicted in Juvenile Court of a serious juvenile offense, the maximum commitment could be up to four years, but they would be released at age 20, which would be before the four years are up.

Also, when a child gets transferred to the adult court, they become subject to all the adult consequences for such convictions, including the possibility that the judge might order that child to register on the sex offender registry or on the newly-created crimes committed with a deadly weapons registry.

There are a number of B felonies that are appropriate for that type of registration in the interest of public safety, but if we can't transfer them to the adult court, juveniles who are prosecuted on B felonies are not required to make such a registration.

There's also another provision in the bill which would require a parent to be present when the police or Juvenile Court officials want to interview a 16- or 17-year-old. Right now that's the law for kids under 16, and it's been that way ever since; again, ever since I can remember.

When the Raise the Age laws were being discussed, this was one of those areas that received a lot of discussion. And what came out of those discussions was the current law that we have. Under 16 have to have a parent present, or anything that that kid says cannot be used against him or her in a trial.

But for 16- and 17-year-olds, recognizing that they're a little bit more mature than kids that are 15 and under, the law provides for a 16- or 17-year-old, after they've been properly advised of their rights including their right to have a parent present and to contact the parent, and after a police officer has made reasonable attempts to contact the parent, the 16- or 17-year-old can waive the right to have a parent present.

And this law would now require that kids that are 16 and 17 have to have a parent present before the police or Juvenile Court officials can speak to them.

The practicality of that is a problem. If you have a 17-year-old kid from New Haven who gets arrested at a concert here in Hartford, before the police officer here in Hartford can interview that 16- or 17-year-old from New Haven, they've gotta find the mother or father in New Haven and have them come all the way up to Hartford just to conduct an interview.

Sixteen- or 17-year-olds are more mobile. They can drive cars. They're likely gonna be probably further away from home when they get involved in these types of things, so that's a concern to require a parent to be present.

Now this law's been in effect since Raise the Age went into effect in 2010. I'm not aware of any situation where a 16- or 17-year-old has complained or filed an appeal saying that a statement they gave to a police officer without a parent present is somehow, it needs to be suppressed because they didn't understand their rights or they didn't understand the consequences of waiving those rights. So I'm not sure what the problem is that needs to be addressed by this bill.

If there is any waiver by a 16- or 17-year-old, the court has the opportunity to review that waiver, and they scrutinize that waiver

by applying what's known as the totality of the circumstances test. They look at how the kid was advised of their rights, what evidence is there that he or she understood those rights and understood the consequences of waiving those rights.

The test takes into consideration a child's age, the child's education, level of intelligence, and a whole bunch of factors spelled out in the statute, so again, I haven't seen any problem with the 16- or 17-year-olds currently the way the law is worded, so I'm not sure there's a reason that we need to change it.

There's also language in that statute or that proposal that would eliminate the language that's currently in the statute regarding where these restrictions apply. Right now they're limited to delinquency proceedings in the Juvenile Court. So if the child makes a statement to a police officer without a parent present, they can raise that issue in the Juvenile Court.

If the case gets transferred to the adult court, however, these rules and restrictions do not apply. And the Supreme Court in the Ledbetter Case several years ago found that the current scheme is adequate. That the adequate constitutional rights apply when that case is brought into the adult court the same as would apply if an adult was the defendant, and so the Supreme Court didn't have a problem with that in that particular case.

But by eliminating the language about delinquent - this applying to delinquency proceedings only opens the door to this type of restriction applying in any case. It could be a civil case. It could be a child protection case.

It could be a case in some other court where you have a person under 18 making a statement to a police officer, there's gonna be all

kinds of problems if the parent wasn't present, and I think that that would have a consequence that's way overbroad as far as the application of the statute.

There's also a, another provision in there having to do with the shackling of juveniles before court. The proposal is that a child would not be shackled when they appear in court unless there's a hearing and the judge is convinced that it's necessary to ensure the safety of the public that that child be restrained.

We have a problem with that because very often when a child appears in court it might be the first time that child might be unrestrained. Because the only kids that come into court restrained are those that were arrested for a crime and by order of a judge placed in a juvenile Detention Center, a secure facility.

They're being transported to court from that secure facility. Right now they come in restraints if the transporting team feels that that's appropriate. Or they're coming from a DCF facility with their parole officer, so the child has been convicted of a crime, committed to DCF, placed in a facility, and being transported by their parole officer.

Those are the only kids that I'm aware of that come into court in restraints. Kids from the street aren't coming in in restraints. So you just have a small group of kids who are already in custody coming in in restraints, and those kids could present a safety issue for not necessarily the public, because the public's not in the courtroom, but a safety issue for the people in the courtroom. The judge, the probation department, the clerks, the prosecutor, the probation officers, and the juvenile themselves.

Because again, you, if you have the child who even though they may not be showing any signs of aggression, comes into court and now

they're coming from custody and they're unrestrained in court, that might be the first opportunity where they have to blow up.

Or something may happen during the course of the hearing. The prosecutor asks that the child go to detention. The judge orders something that the child doesn't like, and the child decides to take an instant appeal in the courtroom by throwing a microphone at the judge or throwing a chair at somebody. These things have happened. I've seen it happen.

And I think, at this point in time, what we'd like to see is those people that are responsible for the care of that child, namely the transportation team, the parole officer, the detention staff, they know that child best. We think they should be the ones to decide. They're responsible for that child's safety. They're responsible for order in the courtroom. They're the ones that should decide that issue.

Well, yeah, Judicial has come out with a new shackling policy, which is essentially the same elements of what's in the proposed bill. That policy, in my understanding, is gonna go into effect on April 1, and frankly I would rather see any issues regarding restraints in the courtroom be resolved by policy rather than statute.

Because if something needs to be tweaked a little bit, the judges decide, well, maybe we need to change it a little bit, it's a lot easier to change a policy than to change a statute. So my recommendation would be, let's see how Judicial's policy works when it goes into effect on Wednesday and see if there's even a need for legislation at that point. I'd be happy to answer any questions.

SEN. DOYLE: Thank you, gentlemen. Any questions from the Committee? Representative Rebimbas.

certainly, if not all purposes, there is, that certainly would -

SEN. WINFIELD: But the context of the opposition is that regardless of whether there might be exceptions -

KEVIN KANE: Yes. The context of the opposition, it would preclude a judge from making a decision that would make this person eligible. I believe the person would be ineligible for deportation. Now I may be wrong about that.

I can't - I don't know enough about immigration law, but it appears that the person would be ineligible for deportation. That the feds, the feds would not consider a person as being eligible for deportation if the sentence was 364 days.

SEN. WINFIELD: Okay.

KEVIN KANE: I guess the trial court would have the freedom to allow them to consider it by imposing a sentence of one year.

SEN. WINFIELD: Okay. I, and I just wanted to be clear on what your opposition was.

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In terms of the shackling portion of the other bill, I believe you said that if the transf - transporting team feels it's appropriate then the individual, the young person would be shackled.

How is appropriate defined? Are there guidelines for that currently?

FRANCIS CARINO: I don't think there are any guidelines that I'm aware of. But they're the ones that know the kids.

SEN. WINFIELD: How long have they been in contact with these kids generally?

FRANCIS CARINO: If they're, it depends on at what point they've had these kids, because if the

child gets arrested today and is put in detention, he'd be there overnight and presented the next day.

SEN. WINFIELD: So how well would they know them overnight?

FRANCIS CARINO: Well, they've had an opportunity, the people that are, have the kids in their care and custody, the detention staff, they do assessments, they talk with the kids, they interview the kids, and they've had an opportunity, at least 24 hours, to observe them.

SEN. WINFIELD: Thank you.

SEN. DOYLE: Is that it, Senator? All set? Okay. Any further questions from the Committee? Representative.

REP. SIMMONS: Thank you very much, Mr. Chairman. Thank you for your testimony. I just have a question in response to your comment about shackling and the need to preserve the safety of the child and those in the courtroom and fully agree with that need.

But I just have one concern about the potential increased bias against the child in the proceedings due to the appearance of shackling, and I was wondering if you agree with that, if you see a bias in the proceedings, and if so, if there's any alternative to shackling that would preserve the public safety requirement that you're concerned about but also allow the child to have a fair proceeding without that image of shackling.

FRANCIS CARINO: I think the, the image of shackling can be prejudicial in a jury trial. Because the jury observes the defendant, and if the defendant appears in prison garb and handcuffs and leg irons and belly belt and everything else, I think the, the jury might be prejudiced by that, and say, "Well, if he

has to be locked up and chained up like that, he must've done something wrong. There must be a presumption of guilt there."

But we don't have that in Juvenile Court. Juvenile Courts are closed to the public. There's no jury trials. The judge makes the distinction, and I guess you could poll individual judges, but as a prosecutor, it wouldn't make any difference to me whether he appeared in shackles or not.

I'm going by the police report and the evidence that I have. Presumably a judge would also make their decisions based on the evidence that's presented to them, not the appearance that the child makes.

I think in a public trial, in a jury trial, that's right. There may be some prejudice by shackling. But in a Juvenile Court, I don't think so.

REP. SIMMONS: Thank you. Thank you, Mr. Chairman.

SEN. DOYLE: Sure. Thank you. Any further questions from the Committee? Seeing none, thank you, gentleman.

FRANCIS CARINO: Thank you.

SEN. DOYLE: Next speaker is Natasha Pierre, the State Victim Advocate. Good morning, Ms. Pierre.

NATASHA PIERRE: Good morning, Representative Doyle. [coughs] Sorry. And Representative Rebimbas and members of the Committee. I'm Natasha Pierre, the State Victim Advocate, and I'm here to speak on Senate Bill 1127 and House Bill 7050.

While the office of the victim advocate is extremely mindful of the movement to evaluate and modify the manner in which the criminal justice system responds to criminal juvenile offenders, this movement has not taken into

consideration the impact of these changes on victims.

The OVA understands that certain U.S. Supreme Court decisions have driven some of the proposed changes; however, there appears to be an endless stream of proposals that go beyond the scope of the court decisions.

Senate Bill 1127 would allow the Court to depart from any mandatory minimum sentence in the case of a juvenile being tried and sentenced as an adult. This proposal appears to be a response to a recent Connecticut Supreme Court decision, *State v. Taylor G.*

Taylor G. was tried as an adult and convicted of sexual assault, a sentence that he committed when he was 14 and 15 years old against his 6- to 7-year-old cousins. He was sentenced to a mandatory term of 10 years' imprisonment. The Supreme Court upheld the defendant's sentence and rejected the defendant's claim that the mandatory sentence amounted to cruel and unusual punishment.

Section 1 of House Bill 7050 attempts to further dilute the manner in which the criminal justice system responds to serious crimes committed by juvenile offenders by eliminating the automatic transfer of Class B felonies to adult court.

Again, the OVA recognizes that juvenile offenders are not adult offenders; however, there are some crimes that are so serious, including Class A and B felonies, that require the system to respond appropriately through the transfer from Juvenile Court to the adult criminal docket.

I must emphasize to you that from a crime victim's perspective, the impact of the crime is no less because the crime was committed by a juvenile. In the case I mentioned earlier, for that 6-year-old it doesn't matter that the

offender was 15 years old. She is forever harmed by that action.

The impact of crime may include emotional trauma, physical trauma and injury, and psychological trauma as well as financial burdens. Although crime victims are offered certain participatory rights through the criminal justice process, the process does not allow for crime victims to recover from the impact of crime.

With each proposal made to lighten the burden or consequences for juvenile offenders, crime victims are led back to court for sentence review hearings, sentence reduction consideration, appeals, parole hearings, violation of probation hearings and other matters. In some cases, crime victims have been waitin' for the criminal process to end for more than 20 years.

These changes have a direct impact on the victims of juvenile offenders and those needs and rights need as much consideration as the ones given to the offenders. There needs to be, as this is probably goin' forward, and we do understand there's a culture change. There's a change in society, but think about victims.

There needs to be more funding and resources dedicated to victim services throughout the state to handle the resulting trauma victims will experience over and over again as more opportunities are granted to review and amend sentences. I would be more than willing to work with you or any other advocates to develop a comprehensive plan that does not focus solely on offenders.

And I thank you. I urge you to reject those two sections I spoke about, and I thank you for your consideration.

SEN. DOYLE: Thank you, Ms. Pierre. Any questions?
Senator Winfield.

SEN. WINFIELD: Thank you, Mr. Chair. How are you?

NATASHA PIERRE: I'm fine. How are you?

SEN. WINFIELD: Question for you on mandatory minimums. If you didn't have the mandatory minimum, would you still be able to get the same type of sentence?

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NATASHA PIERRE: If you didn't have the mandatory minimums?

SEN. WINFIELD: Right, if it wasn't a mandatory? Would it still be permitted?

NATASHA PIERRE: It would still be permitted.

SEN. WINFIELD: And then could -

NATASHA PIERRE: We have, we have separate concerns about mandatory minimum, in our office; basically if you're doing, if you get, if you do 50 to 85 percent of your time, you're released under the supervision of DOC. We don't consider that a mandatory minimum.

When our client - when our victims talk about mandatory minimums, they think that person's stayin' in jail for that amount, of time, not that they're released, so we're not really opposed to, if you're gonna change the law, change the law.

But we've just seen a stream this year, and there's no consideration as to how these crimes are impactin' the victim or what the victim has to do each time you amend a sentence or change the law in any way.

So if it is [] it can still get a mandatory minimum without that provision [].

SEN. WINFIELD: I'm confused, though. I'm confused 'cause I thought your opposition -

NATASHA PIERRE: Our opposition is just to the steady changes and reductions in law but not looking at how it's impacting victims.

SEN. WINFIELD: So are you opposed to this bill or not?

NATASHA PIERRE: Yes, I'm opposed to those sections that I mentioned. Just because no consideration has been given to how this impact of changing the laws is gonna impact the victims.

SEN. WINFIELD: Okay. Thank you.

NATASHA PIERRE: And if it was some different language here, we probably wouldn't have been here, but we've been, just been seein' it steadily in the last three weeks, and thought I should come and say it again, to address victims' rights as well.

SEN. WINFIELD: Okay. Thank you. Thank you, Mr. Chair.

SEN. DOYLE: Thank you. Any further questions? Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Vice Chair. Good morning.

NATASHA PIERRE: Good morning.

REP. REBIMBAS: Just outta curiosity, and I don't wanna put you on the spot if you don't have this information right now, but what kinda language would you, would like to see, or what could we do with the legislation before us in order to satisfy your concern, and again, if you're not prepared for that right now, then hopefully we can continue the discussions with you.

NATASHA PIERRE: Okay. Two things that come to mind right away, but we definitely need more discussion, is some type of proper notification. We've tried to put it, it's been

in several bills. It doesn't seem like it's goin'.

But notification to victims so that victims get the same information that prisoners get when they get sentenced as far as what's the expectation of time, takin' in consideration that things will change with risk reduction credits or if the law changes again.

But at least they have a picture in the beginning of what they expect the time to be, understanding that time - that could change. Right now, all of that information is given verbally to a victim. So they're gonna forget half of it. So we'd like that.

The opposition to that has said basically it caused some more work on the - we don't know who would do it yet. Right now DOC does it for the offenders, and we could work within their system. We've discussed some of that with them.

But there's been concern about who would do it, how much would it bog up the system, and then there's been some arguments that it really doesn't help victims because they don't know - it's not accurate. But at this point, they're getting no information, so some information would be better.

The other ish - the other thing that can be do, we can have some enforcement mechanism. Right now, the victim doesn't get notice of the hearing. It's really up to the discretion of whatever that body is to decide if they're going to recall the case for hearing.

Sometimes victims don't even wanna go through it again. But if they don't get to that hearing, either it's a last minute hearing or they're outta town when somethin' is rescheduled, they lost out on their shot, unless somebody else gets involved, usually us or another victim advocate and tries to go higher upper to say this is what happened, can

we change it so that the victims can get there and make their statement. But we're relying on goodwill at this point, if that's that business.

REP. REBIMBAS: Okay. And certainly just thinking out loud, if the DOC already prepares something that does the approximate, and we all know that things change in the future based on their behavior, based on legislative body continuously changing legislation over and over again.

I guess I don't see the added burden of a, making a copy of a form, but also, I also see that if a victim has a victim advocate, understanding that this information is - provided verbally, maybe there is a way of just simply jotting it down and providing the victim, so I think there's ways around that.

Now, interesting, is there, because of the fact that sometimes there, it almost sounds like discretionary, if victims are notified of certain things that occur in the cases. At the time that the individual is sentenced, for example, is there anything that could be, is there a box that is checked off or a form that could be filed with the file that notifies any further action in that particular case in the future, that the victim is requesting to be notified? Is, does that already exist?

NATASHA' PIERRE: Yes. If, if they give them notice, they have that right to be notified. The problems come up if they've moved, do they get that mailing for notification? 'Cause there's rarely a follow-up. It's usually dependent on - some court houses are very good about them going to the home, but very few.

So, one, if they don't get the notification the court has done or whatever the body is, has done what they're supposed to be doing by sending out the notice. But doesn't mean the person got it to be involved. So that's one way it happens.

The other way it happens is if, say for example, they go to a hearing and they say the next hearing will be in a month, and that date gets pushed up. If that person's not available to make that hearing, it's really under the discretion of the judge whether they will hold it or not.

Just last week, we have a client who has a protective order for multiple years, over 50 years. The order has been broken twice. She's been kidnapped. The person has been arrested. It's been a long process.

Now that they've got it clear, they have the order. He's been arrested twice. We hope he's following the order. He now filed a civil order against her to recoup some money he claims she owes.

He does it deliberately when he knows she's outta town so she can't come to that, so he files a civil order, then he files a order to modify the protective order so he can file, be engaging with her during the civil process. But the protective order hearing, it's scheduled when he knows she's outta town.

So she calls our office, we go to court instead of her to say, hold off on anything on this until she can come into court. That judge gave us a day to work with the woman, who was in Morocco, to get a letter in to get her statement in.

But that required us, the judge, this woman working while she's at work in Morocco and emailing us to get a hold on just that hearing. Otherwise that hearing coulda come forward and they could've changed it to allow them - him to have some contact during this process. Even though he has an attorney and there's no reason for him to have contact with her directly at all.

So those are the type of circumstances. They're usually last minutes, unpredictable, and people have to move fairly quickly and try to convince the authority in charge that they should wait and listen to the victim.

REP. REBIMBAS: Sure. And I think, you know, and I think that, and unfortunately we only hear of the bad circumstances -

NATASHA PIERRE: Yeah, we only hear -

REP. REBIMBAS: - in the media, in the sense of when victims aren't properly notified. And certainly, you know, I find it offensive and no excuse when victims are supposed to be notified and are not notified. But I do think, you know, looking at both sides, when a victim moves, they should be providing -

NATASHA PIERRE: Oh, yeah.

REP. REBIMBAS: - their updated address to a court. Court should not be, you know, then held responsible that they didn't receive notification that went to their last known address or, you know, I don't even think that they should be responsible to have to go to the person's home to determine whether or not they're still living there or residing there or if they've received notification, but nonetheless, I think when appropriate notification's to be sent out, it should.

And I'm kinda surprised that if the hearing was set that it actually gets scheduled sooner. Again, I don't see, but for some extenuating circumstances, why a judge would that.

Probably more often it keeps getting scheduled at a later date, but if a victim's being notified of a hearing and then it gets scheduled sooner, I don't -

NATASHA PIERRE: What happens, sometimes that happens with, it happens quite frequently.

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Somethin' happenin' between, they'll get - now most times, victims can make it, and so we don't hear about -

REP. REBIMBAS: Sure.

NATASHA PIERRE: - the problems. We hear about when the victim absolutely couldn't make it and -

REP. REBIMBAS: Let me ask you this.

NATASHA PIERRE: But that happens.

REP. REBIMBAS: When you believe that a judge may have acted inappropriately in an action in a file, when it comes to notification and things of that nature, who do you complain to?

NATASHA PIERRE: We have to complain directly to that judge and try to work out somethin'. We don't, it, there's no, I mean, the victims complain to us.

REP. REBIMBAS: Sure.

NATASHA PIERRE: And we try to fix the situation by calling the courthouse and talkin' []. But sometimes it's so far after the fact that it's not going to change the situation.

REP. REBIMBAS: Because I can understand, obviously, you have a relationship with the courthouse. And you're probably bringing this to the attention of a prosecutor, probably not the judge directly unless maybe you had the opportunity to do it on the record in the sense of advocating for your client.

NATASHA PIERRE: Yeah, you're right with that one.

REP. REBIMBAS: Things of that nature. And it probably most likely gets resolved there and then, but again, if this is happening too often that victims aren't, you know, being properly notified or any other of the issues that victims' rights should be enforced, I'm just curious if it's not making it to the

appropriate individuals who then have authority over the judges, whether it's a judge issue, a training issue, and things of that nature.

So maybe something to further think about in the sense of then who could you guys communicate to if it's the judicial branch then regarding a particular action.

NATASHA PIERRE: Well, at this point, what we would like to do, and what I'm tryin' to do, I'm goin' around the state meeting with all the State's Attorneys and essentially after that is done, the as - I wanna meet with the assistants, to say, hey, I wanna be able to pick up the phone and tell you this is-going on.

And we have done that in some cases and where things can be changed without violating the defendant's rights, they did. But sometimes it's far beyond a stage where it wouldn't violate defendants' rights, or it has to, so -

REP. REBIMBAS: And let me then publicly thank you for taking the time to go around and doing that, because I think that's probably the most appropriate way and through policies and awareness through the judicial branch, opposed to coming before us with additional legislation to be requested, you know, in the future, that you're trying to address it now, and I believe in an appropriate way.

NATASHA PIERRE: And we're not sayin' every courthouse is a bad egg. We're not sayin' that at all. It's here and there somethin' happens. So.

REP. REBIMBAS: Sure. Thank you.

NATASHA PIERRE: And your comment about notification bein' sent out, I agree with that. But sometimes we do change the process then, too, so whatever we do, it needs to be consistent, and if we think we need to take an

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extra step, then we need to make sure that's part of the process of ensuring that the victims' get rights, their notice of their rights to be involved.

REP. REBIMBAS: Thank you for the work that you do and for takin' the time to be here to testify.

NATASHA PIERRE: Thank you.

REP. TONG: Further questions? Thank you.

NATASHA PIERRE: Thank you.

REP. TONG: Sarah Eagan. Sarah Eagan? Susan Storey. Madam Chief Public Defender. Nice to see you.

SUSAN STOREY: Good morning. With your permission, I have Attorney Chris Rapillo and Attorney Tejas Bhatt, both very knowledgeable on some of the issues that I'm gonna be talking about.

REP. TONG: Tejas has logged a lotta flight time with our Committee so far this session.

SUSAN STOREY: He has. But it's good flight time.

REP. TONG: It's fine. Yes. Welcome.

SUSAN STOREY: So, thank you. Representative Tong, Senator Kissel, Representative Rebimbas, members of the Judiciary Committee, thank you for allowing us to talk about our agency proposals, many having to do with juveniles.

I'm, we're testifying on 7050, 1127, that's the mandatory minimum, and 7042, which is AN ACT CONCERNING PLACEMENT OF CHILDREN BY THE COMMISSIONER OF DEPARTMENT OF CHILDREN AND FAMILIES.

Just as a preface to my remarks, I wanna say that we believe that all these proposals are in the general direction of where the nation is going on juvenile law and also the way the Judiciary is going in the past few years, which has proven extremely successful in the

and not because there's an extraordinary behavior or an extraordinary circumstance around them, that we can't come up with another way to deal with.

REP. TONG: Thank you. Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chairman, and good morning, ladies.

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This question is for Attorney Storey. You had mentioned earlier in your testimony, when referencing shackles and body shackle, that you said that especially for children of color it wouldn't be good. What did you mean by that?

SUSAN STOREY: I think that there are some, you know, children that are exquisitely sensitive to being shackled. And I also think that it's humiliating.

I think it gives the - I mean we had for many, many years an overrepresentation of minority children in the court system anyway. And to see them shackled, and in Waterbury shackled together, going up the stairs, which you can sort of see from the road, I just think it's, I think it's, it's just not called for.

I think it, when you have children coming into the juvenile justice system, maybe their first time that they have their, they get their sense of what justice is and what justice isn't.

And to have them shackled before the court when they haven't been found guilty of any particular charge, I think is, tells them something. I think it says to them, "You're incorrigible. You're already guilty. We don't value you."

And, you know, these children, a lot of the children that come in are also very neglected. So for the Court to have this attitude towards them before they're even know who they are, I

think is - I don't think it's the best practice, and I think a number of states are doing away with it.

REP. REBIMBAS: And I can understand your statements regarding the court - although I profoundly disagree that a judge is going to judge the juveniles coming before them based on the shackles. That's why we have the judges, to be nonbiased.

And if you have reason to believe that there's any judge on our juvenile benches that you believe has been biased based on shackles, I certainly hope you will be reporting that to this Committee or the Judiciary Branch as soon as possible.

With that said, would you concede that any white child could also be sensitive to shackles?

SUSAN STOREY: Absolutely.

REP. REBIMBAS: Okay.

SUSAN STOREY: Absolutely.

REP. REBIMBAS: Because I think I know your intent, because I can't imagine that you would put any one child, whether they're black, brown, yellow, purple over another child that may be of a different color or no color.

SUSAN STOREY: Absolutely. I just -

REP. REBIMBAS: Okay. All right. I just wanna make sure that I'm clear on that, because your statement could be misinterpreted in that regard.

Now, are you familiar with the policies that are going, I believe it was testimony earlier going into place by the ju - that's being placed by the judiciary branch regarding the shackles?

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SUSAN STOREY: Yes.

REP. REBIMBAS: Do you find them to be appropriate?

SUSAN STOREY: I think they're appropriate, but policy, policies come and go and policies in each court are interpreted differently. So there was a policy enacted a couple years ago, I think, as well, and, you know, this is still happening, so we really feel that it needs the stamp of approval from the legislature to have some effect statewide in a consistent way.

REP. REBIMBAS: And what policy was implemented a few years ago that you're claiming that wasn't carried through?

CHRIS RAPILLO: If I may, Representative, the judicial branch implemented a policy regarding shackling. It was aimed at reducing the number of children that came to court shackled.

What that policy contained, though, was an override that didn't come from the judge. It was interpreted by detention staff and sometimes by transport or by the judicial marshals in the court.

And what it led to was we still had about 75 percent of children showing up in court shackled on a daily basis.

REP. REBIMBAS: Okay. If these children are being transported to a court and then, only then, appearing before a judge, don't you believe it's appropriate to allow the people who are transporting that may have either witnessed behavior, been properly informed of behavior, or been victims of certain behaviors themselves to make those decisions?

Because when you say that it should be overridden by a judge, they haven't even appeared before a judge yet.

CHRIS RAPILLO: I think it's appropriate to give people input in the decision, but that a judge should make the final decision.

REP. REBIMBAS: But they haven't appeared before the judge yet.

CHRIS RAPILLO: They haven't appear - so what the policy that judicial had put into place now would provide for giving input and that if the decision was, if the recommendation was that the child needed to be shackled, the judge would have to hear everybody's testimony and that the judge would make that determination.

So I think that that's definitely a step in the right direction. Our concern, and the reason to continue to support the legislation in spite of the policy, which is definitely an improvement, is again, that administrations change and policies change and that if it, it's certainly easier to change a policy than it is to change a statute.

But I think that this policy that they put into place does do, does give everybody the opportunity to be heard. It was just that when it, when the decision was being made by people, I mean, the transportation people didn't have much contact with the kids. The judicial marshals had very little contact with the kids.

REP. REBIMBAS: Sure, and that's obvious. But the people who did have contact with those kids are properly informing them. Just like I would wanna know if I was transporting someone in my vehicle, I appreciate that information.

I don't necessarily believe the length of time that that individual personally spends with that individual is any more or less - I mean, I guess it would be more because you're actually seeing something opposed to what you're being told.

But I would appreciate that information not only for the safety of, my safety, but the other, the safety of the other individuals that are being transported.

And again, provide me with some clarity. Are these juveniles transported individually by themselves in these transportation vehicles or are there other juveniles around them?

CHRIS RAPILLO: You know what the po - the statute, they're transported together in groups most of the time. The statute only addresses shackles in court. So nothing impacts the ability to move a child from the Detention Center into the courtroom or into a vehicle.

This statute wouldn't - they would remain, I mean, I believe the anticipation was that the children would be shackled. They would leave the Detention Center, they would come over to the courthouse and that the shackles would come off when they go into the courtroom.

So that, the proposal that's before this Committee doesn't impact transportation's ability to have the children shackled as they move them. It only has to do with them being shackled when they walk into the courtroom.

And all the information would still flow from the detention staff, from the transport people, from probation, from anybody that has had contact with that child. That information would still come in.

It's - basically what this does is it presumes that the child won't be shackled. And then in order to have the child shackled, there has to be a finding that there's a reason for it.

REP. REBIMBAS: Which that would make a little more sense because then that puts the child before the judge in that regard, but I guess the only person we're protecting the child from being shackled before is a judge.

CHRIS RAPILLO: [].

REP. REBIMBAS: Because the Juvenile Court is sealed.

CHRIS RAPILLO: That, that's right.

REP. REBIMBAS: So is it your testimony that judges are being biased based on whether or not a child appears in court shackled?

CHRIS RAPILLO: It goes both to bias - when a child appears in court shackled, the judge, oftentimes what the judge is being asked to do is are they gonna release the child from detention or not.

So knowing that there's policies and that people are considering it, if the information isn't in front of the judge, they see the child in shackles, they may consider that there's a reason.

Do I have a specific instance where a judge that I know of that a judge has done something? I don't know. I would have to talk to the folks that work for me.

The other issue with the children being shackled, though, is there are plenty of studies that show that shackling provides a level of trauma to the kids. And that it reinforces the message to the kids that, you know, that we think you're dangerous.

REP. REBIMBAS: Sure, and I'm not gonna disagree with that, but then I'm curious as to why the, this is limited only to the courtroom.

CHRIS RAPILLO: That's where the -

REP. REBIMBAS: In the room that they're most protected.

CHRIS RAPILLO: What you're sayin' makes a lotta sense.

REP. REBIMBAS: I mean, but what I'm tryin' to figure out is, you know, policy versus putting this into law, the rationale behind this, because then everything your saying, really, you're putting'm before a closed room with a judge that is going to be unbiased, irrelevant whether or not they're shackled.

But I guess we'll move onto the next thing. Bill 7042. Specifically lines 35 through 40. Now, the criteria here for any transfer has to be when the youth is represented by counsel and it's in the best interest of the child or youth.

And earlier we heard testimony of, you know, that when is it in the best interest of the child? And I'm curious, too. When would it be found to be in the best interest of the child?

CHRIS RAPILLO: Well, I know that it has been found to be in the best of the interest of the child, because there have been children that've been transferred under that section.

REP. REBIMBAS: But it's an "or," previously was the testimony, in my understanding. Now it's an "and." So now they have to be represented by counsel and it's in the best interest of the child. So give me specific examples.

CHRIS RAPILLO: I can give you a sp - the case of In Re Tyriq T., which was something that went up, it's publicly, the facts are out in public because it was a case that went up to the Connecticut Supreme Court on a different issue.

But the judge found that she didn't believe that there were services in the Juvenile Court that would serve that child and that would've addressed the issue, so she found that it was in his best interest and in the best interest of the community that he be transferred to the adult court.

CHRIS RAPILLO: Sorry. The statute as currently drawn, it doesn't matter where the child is. If the child is there and has been committed as delinquent whether they're in the facility or someplace else, there's no difference in the statute.

And I would imagine that, I mean, it's never been used on a child that wasn't in one of the secure facilities.

REP. GONZALEZ: Oh, so never been used.

CHRIS RAPILLO: Hasn't been used. The two times that it was used, both involved children that were in secure facilities. It may have been used more than that. I know of twice.

REP. GONZALEZ: So even if a kid is in a foster parent and get in trouble, never has that been used.

CHRIS RAPILLO: No. Not to my knowledge.

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REP. GONZALEZ: Okay. And then my last question is, the kids that go to front of the judges, all - and I heard about Representative Rebinbas question about children of color.

Maybe you meant that maybe the majority of the kids they're, you know, minority kids when you say that? I thought that I was listening and I kinda understood maybe that the majority of the kids that were -

SUSAN STOREY: The majority of kids that we represent. And so that's what, you know, that is sort of our focus.

REP. GONZALEZ: That's right. Right. That's why you tend to say children of color, because those, the majority of the case, those are the one that you represent. Right.

SUSAN STOREY: That's right.

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REP. GONZALEZ: Right. Okay. All these kids, every kid that go in front of the judge, no matter what, they are in shackles?

SUSAN STOREY: No. No, it's not that no matter what. There's, there is, there was an article that came out, there had been a study done, about 25 percent of the time, the kids are not shackled.

REP. GONZALEZ: Not.

SUSAN STOREY: And that's in response, the judicial has a policy. There's a checkbox. It says whether they recommend that the child appear in court in shackles or not. And 25 percent of the time, the kids are appearing without shackles now.

REP. GONZALEZ: Who recommend that? Who makes that recommendation?

SUSAN STOREY: The recommendation comes from the Detention Center.

REP. GONZALEZ: From the Detention Center. Okay. Thank you. Thank you very much.

SUSAN STOREY: You're welcome.

REP. TONG: Further questions? Thank you both.

SUSAN STOREY: Thank you.

REP. TONG: Is Sarah Eagan here? Patrick Gallahue?

PATRICK GALLAHUE: Senator Coleman, Representative Tong, Senator Kissel, and the distinguished members of the Judiciary Committee. My name is Patrick Gallahue, and I'm the Director of Communications with the American Civil Liberties Union of Connecticut, and I am testifying in support of House Bill 7042.

We do believe there is a serious flaw in our state law that ju - the Committee has an opportunity to rectify today. The flaw is at

Massachusetts in which an employee up there was injured, and she had a history that I think is also in the public record of assaulting other youth as well as other staff, in particularly females, throughout her young life.

SEN. COLEMAN: Okay, so I guess I'm interested in this comparison. How is this comparison made?

How would this individual youth be considered more dangerous than any other youth that may be within the jurisdiction or custody of DCF?

BARBARA CLAIRE: Well, the standard isn't necessarily just more dangerous. The standard is there is no place that can safely house the child or that the child is a danger to himself or others. So there's, it's a two-part, it's a two-part analysis, either/or can apply.

In this particular case, because, directly from the incident at Massachusetts, which was the culmination of a long series of incidents, there was no place that could safely house Jane Doe.

We wanted to put her at CJTS except that, of course, she was transgender, and so that required some separation, and that allowed her to have a period of relative calm, which unfortunately was not the case when she was then put into the population at the girls' facility.

SEN. COLEMAN: Okay. Any other members have questions? If not, we thank you both.

BARBARA CLAIRE: Thank you very much.

SEN. COLEMAN: David Shapiro.

HB 7050

DAVID SHAPIRO: Senator Coleman and Senator Kissel and members of the Judiciary Committee, my name is David Shapiro. I'm the manager of the Campaign Against Indiscriminate Juvenile Shackling housed at the National Juvenile

Defender Center in Washington, D.C. Thank you for giving me the opportunity to speak today on H.B. 7050.

I have also appended two supportive letters from Judge Darlene Byrne in Texas and Judge Steven Teske in Georgia to my written testimony.

I've also brought today actual handcuffs and leg irons that the youth are placed in. Actually, these are Smith & Wesson brand, whereas the ones in Connecticut are Peerless, but they are the same things we're usin'.

And please do feel free to take a look at these after my testimony. This is the black box that protects the handcuffs. And these are the belly chains and leg irons that are used in court.

National best practice has established that effective shackling reform contains at least three basic components. One, that shackles be used only when absolutely necessary; two, that there be a presumption against their use; and three, that there be an opportunity for the child's attorney to contest the use of shackles.

While the proposed bill is worthy of support, we recommend that the language be amended to include this third principle of providing the child's attorney an opportunity to contest the use of shackles.

I work across the country to promote measures that maintain courtroom safety while ending the unnecessary and harmful practice of automatically shackling youth in Juvenile Court settings.

In at least 13 states, judges make individual determinations to restrain young people in court. This past year, South Carolina passed a bill unanimously to end the practice of indiscriminate shackling of juveniles. And

Alaska and Washington State also passed ends of these practices this past year.

In Pima County, which is Tucson, Arizona, they've implemented individualized shackling determinations. Out of 889 youth that have now appeared in court without, unrestrained, there've been no incidents.

In Los Angeles, the Juvenile Court handles about 6,000 cases a year, and the vast majority of youth are unshackled.

In Miami Dade County, indiscriminate shackling was eliminated in 2006. More than 25,000 have gone through court arraignments and trials unshackled with no escapes and no injuries.

The harm of indiscriminate shackling is broadly recognized. The American Bar Association passed a resolution calling for the end of the practice on, in February of this year.

Other professional organizations supporting shackling reform include the Association of Prosecuting Attorneys, the National Child Traumatic Stress Network, the American Academy of Child and Adolescent Psychiatry, the American Orthopsychiatric Association, and the Child Welfare League of America.

Shackles have a direct impact on youth the moment - may I continue? Or I - also free to take questions.

SEN. COLEMAN: What I'd prefer that you do is to summarize whatever balance of your testimony remains.

DAVID SHAPIRO: Sure. I just want to point out that under Judge Conway's leadership relating to the policy that was just implemented, Connecticut's judicial branch has created a tremendous improvement, and that will go into effect on April 1.

But what we have seen around the country is that administrative policies are not enough. They provide little accountability, are easily altered or even reversed.

And in Juvenile Court, where so much is confidential, and for good reason, the protection provided by statute is needed most.

Thank you for your time, and please do feel free to - any questions. I'm happy to take them. Or if you'd like to see the shackles.

SEN. COLEMAN: Are there questions for Mr. Shapiro? Representative Hewett.

REP. HEWETT: How you doin'?

DAVID SHAPIRO: I'm doin' well. How you doin', Representative?

REP. HEWETT: Good. I've got a quick question. From what I'm hearin', the judicial department has policies pertainin' to shacklin' juveniles.

If that's the case, do you think that this should be put into statute?

DAVID SHAPIRO: That's a great question. I think the policy is excellent. I, what we have seen across the country, as I said in my testimony, is that policies don't, have not worked in certain places.

In Pueblo County, Colorado, for example, there was a policy they put into place. When that judge retired, the next judge actually undid the policy. There was no reason to undo the policy, because as the retired judge said, nothing bad had ever happened in his courtroom.

It was just the next judge's prerogative to undo it. So they actually took a step back because they had policies there.

This would be the third policy enacted that has changed shackling practices in the state since December of 2010. There've also been three bills that have debated this issue, in 2007, in 2011, and in 2013, prior to this one.

You can also re - keep this policy in place with this statute, so that flexibility that the State's Attorney's office talked about earlier would still be in place. The statute would not preclude policies that can be changed year to year.

But what we want to see is that this is an important issue. That the legislature's imprimatur is on it, and that what the legislature says is that we can't have these kids being shackled indiscriminately in Connecticut courts.

The court is definitely free to make policies that address the issue as well, but until there's something that is permanent, I think that we will always have this debate about whether, what best practices will be.

REP. HEWETT: So you're sayin' that we should, the stat - it should be put into statute.

DAVID SHAPIRO: Yes.

REP. HEWETT: Okay. Instead of just somebody creatin' a policy.

DAVID SHAPIRO: Exactly.

REP. HEWETT: Okay. Thank you.

DAVID SHAPIRO: Thank you.

SEN. COLEMAN: Do other members have questions?
Senator Boucher.

SEN. BOUCHER: Thank you, Mr. Chairman, and thank you for your testimony.

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/jw

JUDICIARY COMMITTEE

March 30, 2015
10:30 A.M.

I've been listening to some of the testifiers this morning, and also reading - or this afternoon now - and reading from the judicial branch that they, in fact, have new policies going into place April 1, 2015.

And also concur with much of this and using this in only extraordinary circumstances, and in fact put in place a process where they would report back to the legislature on a yearly basis addressing some of the concerns that you just mentioned about it not being possibly consistent or it might change over time.

And they generally said that they heard the matter, understand it, and are addressing it and feel that the bill may not be necessary. How would you respond to them?

DAVID SHAPIRO: I think those are great moves forward, and I definitely think that that policy is outstanding. But again, the next Chief Judge that comes in can change that policy, and there's no deliberative process involving people to come in and speak before a legislature, for example, legislative body.

They, court rules, actually would, are different. Even statewide court rules are different. Policies are incredibly informal and that accountability will only last as long as this policy lasts. There've been two previous ones since December 2010.

Each one has tried to address the issue, and I think that when we have a statute in place, which does not in any way usurp the authority or jurisdiction of the court, that would be a far stronger and better policy and would emulate best practices most consistently. Thanks for the question.

SEN. BOUCHER: Thank you very much for your answer. Thank you, Mr. Chairman.

But what happened is last week he went to a, he was, he has been applying for the citizenship and then, you know, on March 5, he received a letter saying that he, his application was denied with the argument that he is a person that doesn't fit in this country because his supposedly previous criminal record, knowing that he has been a victim of this police officer in East Haven.

That's why I feel I have been a victim of the "Secure Communities" program. For that reason, I encourage you to pass the TRUST Act, H.B. 7039. Thank you.

SEN. COLEMAN: Thank you. Are there questions? Seeing no questions, we appreciate your testimony.

JOHN LUGO: Thank you very much.

SEN. COLEMAN: Susan Kelley.

SUSAN KELLEY: Good afternoon, Senator Coleman, Senator Kissel, and members of the Judiciary Committee. My name is Susan Kelley, and I'm the Child and Adolescent Policy Manager at the National Alliance on Mental Illness of Connecticut.

I am testifying today on behalf of NAMI Connecticut in support of Bill 1127, House Bill 7050, and House Bill 7042. We support Senate Bill 1127, which will permit the Court to depart from imposing the mandatory minimum sentence on a child who is transferred to the adult court for good cause shown.

As recognized in Miller and Graham, Miller v. Alabama and Graham v. Florida, extensive research and well-established scientific evidence demonstrates that adolescents have underdeveloped brains, making them more impulsive and susceptible to peer pressure than adults, and lacking in foresight.

This evidence strongly supports that juveniles should be treated differently from adults in the justice system because, among other things, juveniles generally have a greater likelihood for successful rehabilitation and less culpability for their actions.

We also know that many of the behaviors that lead youth to commit crimes are often all too often the result of unmet behavioral and mental health needs. Sixty-four percent of youth involved in the justice system in Connecticut have a diagnosable mental health disorder. And 80 percent admitted to detention report a trauma history.

Allowing courts to sentence juvenile to less than the mandatory minimum will allow the justice system to take into account, as it should, such individual factors as the mental health status of juvenile offenders and consider whether those offenders with mental health conditions have had an opportunity to seek rehabilitation and treatment.

We also support all components of House Bill 7050, and I would like to commend the Committee for raising this bill, because each component recognizes that our children deserve to be treated as growing and maturing young persons.

To that end, our juvenile sentencing laws and how we treat detained children will now, if 7050 is passed, more accurately reflect what we know from best practices both nationally and Connecticut.

That better outcomes are attained for juveniles by limiting the number of children transferred to the adult criminal system, and children often outgrow troublesome behaviors, are highly amenable to treatment, and have greater capacity for change.

Specifically, we also support, we support 7050's prohibition against physically

restraining children through use of shackles unless there is a true safety concern.

Unshackling of children prevents re-traumatization of the overwhelming numbers of children who enter the juvenile justice system with mental health problems; history of trauma, or both, and it's consistent with and helps promote trauma-informed practices that Connecticut is already undertaking throughout the state.

And last, we further support House Bill 7042. Under no condition should a child be transferred to adult prison unless he or she has been charged with an adult crime and their case has been transferred to adult court.

So in conclusion, we support each of these bills, and I appreciate the opportunity to address the Committee this afternoon.

SEN. COLEMAN: Thank you. Are there questions?
Representative Arce.

REP. ARCE: Thank you, Mr. Chairman. Thank you, ma'am, for being here today and testifying before us on all these bills.

I have sat here all morning, and trust me, I believe in many of these things in all these bills that are before us.

But I do have a concern, just like others have concerns, and one of my concerns is, I believe in giving second chances and a juvenile being treated as a juvenile. I believe in that.

But there's a point where juveniles today are - do type of crime where it cause the death of another person. And I'm tryin' to, I'm tryin' to explain myself the best way I can.

One of the things that we have within the state is that many people don't talk about is how gangs in the state recruit a lotta young people to commit crimes because they feel, you

know, they're gonna be treated as a juvenile, don't worry about it, that's how they talk to them.

And they go out and commit crime which cause the death of a person. Of another young person or another adult.

How would you think that that juvenile should be treated? Should be treated as an adult? Or should be treated as a minor for taking the life of someone else?

SUSAN KELLEY: Are you asking for my personal opinion on this?

REP. ARCE: Well, I, I'm asking, it could be personal, it could be, you know, in your professional career, or whatever. I just, I just wanted to get a feeling of, because I'm hearing a lot here today about all the second chances and how the juvenile should be treated.

And I give you, I'll give you an example of what's goin' on in my district. As we speak. You know, just waiting for a gang war to erupt at any time.

And just this past week, I had two homicides in my district, and two people died. In different days, in different part of the district, which was gang-related. And it was done, this homicides, this killing was done by juveniles.

Should they be treated as adults? Or should they be treated as -

SUSAN KELLEY: Well, currently, in the case of juveniles who commit a homicide, I, they're treated as adults. I'm not going to get into the specifics of each, there are differences that the laws, the laws are different depending on what crime is committed.

I actually think that, you know, I think that's a very sad situation. And I think what it does, in my mind, what it really speaks to is how susceptible juveniles are to peer pressure into doing things that they have no ability to think - or less ability to think ahead about the consequences of their actions.

And so to hold them accountable as we do adults, I don't believe should be the case. I think they should be treated as juveniles.

I would remi - in this case, however, the mandatory minimum law that I was addressing today. That does not, you know, that does not take away the ability of a judge to give a juvenile a mandatory minimum. It just allows the judge to, for good cause shown, to consider other factors, and it may not be appropriate in all circumstances.

But to have a blanket rule, a blanket law that says all juveniles have to have the mandatory minimum, I think goes contrary to what we know about the susceptibility of juveniles, especially in the gang context where a lot of these kids don't have families and that, and the gangs are supplying that family relationship connection.

I think more needs to be done to try to keep kids out of gangs as opposed to treating them harshly as legally as we do adults.

REP. ARCE: Thank you. I would disagree with that a lot of these kids don't have family. They do have families. And that the only family they find is within the gangs. I always disagreed with that.

I mean, I live in this, in, I've been in Hartford for many, many years. I grew up in Hartford. So I know how gangs and you know the streets and stuff like that works.

But thank you so much for your answer, and I appreciate it.

SUSAN KELLEY: Thank you.

SEN. COLEMAN: Thank you. Are there other questions? Any other questions? Seeing none, thank you very much.

SUSAN KELLEY: Thank you.

SEN. COLEMAN: Sarah Iverson.

SARAH IVERSON: Hello, Senator Coleman, Representative Tong, and distinguished members of the Judiciary Committee. My name is Sarah Iverson, and I am a policy fellow at Connecticut Voices for Children.

Connecticut Voices for Children supports S.B. 1127, H.B. 7042, and H.B. 7050, which I will discuss in order today. In recognition that children take until well beyond age 18 to mature, these three bills align Connecticut with national best practices and afford critical protections to Connecticut's youth involved in the juvenile justice system.

First off, we support 1127, which gives the Court the discretion to sentence a child to a term of imprisonment shorter than the prescribed mandatory minimum sentence. S.B. 1127 would bring Connecticut into compliance with the 2012 Supreme Court decision, *Miller v. Alabama*, which declares that mandatory life sentences without the possibility of parole are unconstitutional for juveniles.

In order to fully comply with *Miller*, Connecticut must reform its laws and ensure that judges are allowed the discretion to consider age-related factors like youth susceptibility to immaturity and possibility for rehabilitation when sentencing juveniles.

Second, Connecticut Voices supports H.B. 7042, which eliminates the ability of the Commissioner of Children and Families to

transfer a child in his or her care to the Department of Corrections.

There is no instance in which an adult correctional facility is an appropriate placement for a child unless he or she is charged with a crime that legally warrants prosecution as an adult.

In fact, national research shows that juveniles housed in adult facilities face an increased likelihood of traumatic outcomes. They are 36 times more likely to commit suicide, five times more likely to be sexually assaulted, and 24 percent more likely to be re-arrested for a felony.

DCF has garnered significant savings in recent years as it has reduced the number of children in congregate care. We urge the legislature to ensure that these savings are reinvested in the department so that it has sufficient support services to serve all children in its custody.

Children with extreme needs should be placed in settings that can be - that can provide the supports necessary to meet the child's needs. Not in adult facilities. Further investments must be made to ensure that DCF has the capacity to meet the extreme needs of children in its care.

Third, we support H.B. 7050, which reduces the unnecessary shackling of juveniles in court. Shackling leads to increased problematic behaviors and a risk of trauma in juveniles, and limiting shackling does not pose a safety risk or negatively impact courtroom order.

The Judicial Department has recently announced a new policy which creates a presumption that shackles will be removed from a juvenile prior to and throughout the juvenile's appearance in Juvenile Court. This presumption can be overridden if the judge determines that the juvenile is a danger to himself or others.

Just very quickly, we suggest that H.B. 7050 be amended to reflect and codify this language, and we also suggest that there's a requirement that the Court Support Services Division oversee implementation of this practice, collect data, and mandate that the Juvenile Justice Policy and Oversight Committee issue an annual report to the legislature to analyze this data.

Thank you very much, and I welcome your questions.

SEN. COLEMAN: Any questions? Do any members have questions? If not, thank you, Ms. Iverson.

SARAH IVERSON: Thank you very much.

SEN. COLEMAN: Abby Anderson.

ABBY ANDERSON: Good afternoon, Senator Coleman, Representative Tong, members of the Committee. Thank you for the opportunity to testify today. My name is Abby Anderson. I'm the Executive Director of the Connecticut Juvenile Justice Alliance. We're a statewide public policy and advocacy organization working to reduce the criminalization of children:

In alignment with our mission, we strongly support Senate Bill 1127 and House Bills 7042 and 7050. You've heard a lot of testimony already today, so I'm gonna try to not duplicate and be brief.

Regarding 7050, we support reductions in the use of shackling of youth in the courtroom. As you've heard, the Judicial Branch has worked on a policy around this, and we greatly appreciate and respect the work that they've done to address this issue through policy, and we believe that's incredibly important.

We do believe that legislation, maybe language vetted through the Judicial Department that codifies that policy is important. As you've

heard, policy is fantastic. New leadership can come in and change policy whenever they would like.

We'd like to see something this important and important to children put into code, and also as Voices just testified, to do some reporting as well.

We support raising the age of transfer to adult court from 14 to 15, and considering B felony crimes when committed by juveniles for discretionary rather than automatic transfer.

One thing you haven't heard testimony on today is the language in 7050 establishing the Juvenile Justice Policy Oversight Committee as a permanent legislatively-appointed body.

This Committee serves as a key table to discuss and oversee reform and policy initiatives. Connecticut is lauded nationally for its juvenile justice work, and a permanent JJPOC would be a great tool to keep that and future work on track.

7050 also mandates JPOC collecting, analyzing, and reporting key data points related to juvenile justice, which ensures transparency for you as legislators, for system stakeholders, and as the public.

We support minor language changes to this section we know that the Tow Youth Justice Institute staff of the JJPOC is going to propose.

Senate Bill 1127, as you've heard, gives judges the discretion to consider a youth's age when sentencing a youth in adult court instead of having to impose a mandatory minimum. As we've heard and has been talked about, Connecticut has done a lot of work around these issues, and we think this falls right in line with that, factoring youth's age into decisions about how they are treated.

H.B. 7042 removes DCF's ability to use adult prison as a back-up plan for a youth it finds especially difficult to manage. All I can add to the discussion on that is we find it incredibly difficult to believe that it is okay for DCF to say, "You know what? This kid is just really, really hard, and so we need to send them to DOC."

And to say that we have to send them to DOC for treatment needs? I don't think anybody has ever looked at the Department of Corrections as a treatment facility or somebody that has a mandate to provide treatment. And especially when you're looking at a young person. It's DCF's mandate to treat the needs of children no matter how difficult they are, and for DCF to give up, we think is unacceptable.

We believe that most of these bills, 7042, 7050, and 1127, are important, and they're the logical next steps for Connecticut, that it has already been on a trail of juvenile justice reform leadership. And we think this moves it one step further. Thank you.

SEN. COLEMAN: Thank you. Are there questions for Ms. Anderson? Chairman Tong.

REP. TONG: Thank you, Mr. Chairman. Hey, Abby, nice to see you.

I want to talk about 7042, and this Jane Doe issue. I assume you've had a chance to review Judge Kaplan's decision in that transfer statute case. Yes?

ABBY ANDERSON: Yes.

REP. TONG: Okay. Sorry, they need to record your answer -

ABBY ANDERSON: I'm sorry. [].

REP. TONG: Just going back through it after having the chance to speak with the Chief Public Defender and Ms. Rapillo earlier, it does

have to, I'd really have to go back and look at that.

But I think your underlying premise of having an expedited process is a good one, right, 'cause especially for young people, that, it's a much larger percentage of their life than it is for an older person, and that's tough, too, you know.

Under the statute, the judge revisits whether or not the child still needs to be in the adult system like every six months. And that's a long time. So I will certainly do some research and get back to you.

REP. BARAM: Okay. And the last question I have is, if you're knowledgeable on this, when DCF makes a decision to transfer a child, do you know how much time takes place before the transfer to go through their internal process of reviewing the decision, making sure they're complying with federal and state laws - is this something that takes days, weeks, or is it done on an immediate basis within an hour because of an exigent circumstance.

ABBY ANDERSON: I do not have the answer to that. I do believe that Sarah Eagan is still testifying today, and she probably has some of these answers, but again, I'm happy, you know, I'll come see you, make sure I write down your questions, and I'll get back to you.

REP. BARAM: Okay. Thank you very much.

REP. TONG: Further questions? Thank you. Speaking of, Sarah Eagan. Good afternoon.

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HB 7042

SARAH EAGAN: Good afternoon. Senator Coleman, Representative Tong, Senator Doyle, Representative Fox, esteemed members of the Judiciary Committee. Thank you for this opportunity to testify today.

My office, I run, I'm sorry, I'm Sarah Eagan, and I run the Office of the Child Advocate for

the State of Connecticut, and we're here - we've submitted written testimony on a number of provisions before you, and I wanted to focus specifically on 7050, as well as 7042.

I thought I'd start there, since that is where the discussion has been. My office does strongly support the provisions of 7042, which albeit a rarely used statute, was used with much infamy in this past year, and we strongly support measures to limit or prevent the Department of Children and Families from transferring a youth who is unconvicted of an adult crime or charged with a transferrable offense to the Department of Corrections.

I think that, I came in late, and I apologize for that. I had a competing event this morning. But I did hear a lot of the questions, and I think, and a lotta the discussion. And I think that the questions are good. You know, I think that they're fair.

The question of, in my role as the Child Advocate, you know, my office was involved early on in addressing the concerns that the, at the time, impending request for transfer to adult court was first made.

In fact, my office learned of it within the end of January, the beginning of February, within days of it being made known that the department would seek a transfer, so there wasn't even a court petition pending yet.

And my office had been made aware of this concern that there was a youth, a dually committed youth who had some sort of an aggressive incident in an out-of-state treatment facility and for whom this transfer was sought.

And so I immediately rolled up our sleeves as it is our statutory duty to respond to these types of inquiries, to take a look at who was this youth and what happened and what's goin'

very opaque. And we don't get to see a lot of it:

And the memorandum of decision that emerged after this case is one of the few memorandums of decision that anybody really gets to see. And I can see that reading that 22-page decision, one would be alarmed by the type of behavior that's described therein.

And it is alarming. It is a very fair description of the problem or difficulties that some of our youth present with. I would submit respectfully that although it is a fair description of the problem, it is not a fair dictation of what the solution is.

That the solution is always treatment and relationship-driven support for adolescents. Otherwise, we're never gonna get the kind of public safety or rehabilitative outcomes that we need.

I just wanted to va - the only other bill that I wanted to just briefly highlight is 7050. You have my written testimony, so I won't repeat that, but I did wanna underscore our strong support for the statutory reform of the shackling policies for juveniles and that we, there are now at this point over half a dozen states that have codified changes to juvenile shackling policy.

And it is, as others have mentioned today, the very recently issued, very recent - I may not be able to find it in my written testimony, but very recently issued policy from the American Bar Association Criminal Justice Division - I found it - which is dated just February 2015, which recommends that states establish a presumption against the use of shackles in the courtroom.

Connecticut, the Court Support Services Division for the Connecticut Judicial Branch just put together a new policy that I think is terrific and very progressive. I think it

would be an important step to codify that policy so that it's long-standing, can be institutionalized and can be disseminated, trained on, and adhered to in a fair, consistent way around the state. So. I appreciate your indulgence.

REP. TONG: Thank you.

SARAH EAGAN: Thank you, Representative Tong.

REP. TONG: Well stated. Without notes. Thank you for your testimony.

SARAH EAGAN: Thank you.

REP. TONG: There's a lot in what you said that I think all of us agree with, and the goals of DCF, state policy, intensive therapeutic treatment. At the end you summarized it, relationship-based treatment, and I can't rephrase it the way that you did, but I think we all agree on that.

AB 7042

I've said before that I've realized, really realized that I'd become a parent and responsible for now three little human beings was when my daughter was first born and I was reading a story on cnn.com about child abuse in Texas.

Some horrific incident. And, you know, in the past, you would just, if you're reading a newspaper or surfing online and you'll see a story that is dramatic. Sometimes a very sad or horrible story, you'll click on that link and you'll read it and get more informed.

And I realized I couldn't get through the first couple of sentences. I just couldn't read that kinda thing anymore. And it just, it's so horrifying and cuts to the core of what it means to be a parent, and you just can't stomach it.

And the other day, we heard testimony on Wednesday about the case of Athena Angeles.

The violence that is often less visible but no less harmful happens on structural and state levels. For instance, laws that can be used to marginalize trans youth in the State of Connecticut such as statute 17a-12 as it currently reads.

Changing this statute is necessary in order to not only protect the lives of trans youth in CT but almost as important as that, in fact as important as that; the communities that we belong to.

Myself and many others in this room are committed to creating a world that is not based on violent systems that oppress people such as racism and transphobia. Too often, we find ourselves on the receiving end of verbal and physical threats, which are the immediate results of those systems.

We have no other choice but to fight back and create communities that sustain us. As leaders of our state, you have a responsibility to defend our communities, especially when we come into spaces that don't traditionally represent us and allow ourselves to be honest and vulnerable within them. Thank you very much.

SEN. COLEMAN: Thank you. Are there any questions? Seeing none, we appreciate your testimony.

RORY NOONE: Thank you.

SEN. COLEMAN: Brenda R?

BRIANA R.: Sorry, my name's Briana. [laughs]

SEN. COLEMAN: Briana, okay.

BRIANA R.: It was a mistake.

SEN. COLEMAN: It's indicated as Brenda, so.

BRIANA R.: Yeah, I know. I just want to say good morning. Thank you Senator Coleman and

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Representative Simmons over there and you because clearly you guys are the only ones left on the board, and I would like to thank you 'cause you're the only one who cares what I have to say.

I was very excited to be here. I'm kind of nervous. I'm here to talk about juveniles being in shackles.

SEN. COLEMAN: Briana, before you get started, don't let the fact that all the members are not present at the moment be any indication of a lack of concern or indifference concerning your issue. There are multiple meetings that are goin' on. Some of the members are on more than just this Committee, so they're in other rooms and participating in other hearings and other meetings.

As well, be aware that even if we're not present here, some may be taking lunch at this particular point in time, but there are monitors throughout the building where you can be heard and seen, and I'm just indicating to you it would be a big mistake to conclude -

BRIANA R.: As long as you get my message across for me. Thank you.

SEN. COLEMAN: Okay. Well, people are paying attention and people are concerned about whatever your issue is.

BRIANA R.: Thank you, because a lotta my peers, I'm here representin' Passages, and a lotta my peers were intimidated to come up here and speak, and there's only four people here - no offense.

But anyways, I hope you do get my testimony across. And thank you guys for this opportunity.

I just wanted to say if you've never been in shackles, then clearly you've never been in trouble with the law, because it doesn't

matter if you're an adult with man one or a student with petty theft or a juvenile with petty theft. You're gettin' shackled regardless.

And I feel like you're getting robbed of your due process, and I think - I've been in shackles. This is some, I have my little note thing right here, but I'm gonna, this is comin' from me. I've been in shackles before. I felt humiliated. I felt like an animal. I felt horrible.

And I know that's the point. The point is to scare kids, youth, to never want to go back to jail or whatever, but what's really happenin' is you're scarin' the youth to not have faith in our court systems because you're showin' us that - hold on, I lost my thought. [laughs]

Anyways, you're givin' us fear because when we're in shackles, we already feel in, we, you know, no matter how innocent we are, we still feel guilty, before we go to court or anythin', and I just think that shacklin' is, for juveniles should not be the same as shacklin' for adults.

I think it should have different standards. I don't think a juvenile with littler crimes should be shackled the same way as an adult. In some countries, most adults don't even get shackled to go to court.

I also have a problem with you gettin' shackled to go to the dentist or to go to the doctor. I have a friend who had to have her baby in shackles. Imagine the agony of not bein' able to flexible your, like, to move your legs wide enough because you're in shackles, have your baby in shackles.

Or goin' to get your root canal or you teeth - your wisdom teeth taken out, and havin' to go back to class in the detention program and not bein' able to lift your hand to hold your cheek because you're in pain.

Like you, there's certain things that we should have exceptions for when we are shackled, like the dentist or the doctors, because even, yes, I can understand where court officials say, "Oh, you know, this person is a flight risk. This person could hurt me or my other kids in the juvenile system."

But you really can't give everybody the same, because not everybody's the same, like one of those ladies over here said, and - basically [laughs] - wait a second, I lost my thought, you guys.

Another incident that happened was, dammit, I lost my spot, I'm sorry. [laughs]

SEN. COLEMAN: Your last point was not everybody's the same.

BRIANA R.: Yes.

SEN. COLEMAN: Okay.

BRIANA R.: [laughs] All right. Not everybody's the same, and we should all get treated differently. And I don't know, I just feel like shacklin' is not right and it's not in the best interest of the child, and I could speak for that as being a juvenile, you feel me?

Like, I'm sorry, I'm so nervous. I had this all planned out. [laughs]

SEN. COLEMAN: You're doin' a good job.

BRIANA R.: And I'm happy that you guys listened to me, because I'm really excited that I got to use my voice today to try to make a difference. I know I didn't get my point across like how I wanted to do, but at the end of the day, you know, shacklin's not right.

You heard me, Mr. Senator. You can get my point across to everybody else who wasn't sitting here today, and thank you very much.

SEN. COLEMAN: You didn't seem very intimidated to me.

[laughter]

BRIANA R.: Ah, trust me, if I wasn't intimidated, it'd be a whole different situation.

[laughter]

BRIANA R.: It'd be a lot worse.

SEN. COLEMAN: Senator Winfield has a question for you.

BRIANA R.: Yes, Senator Winfield.

SEN. WINFIELD: Actually, it's a comment. Thank you, Mr. Chair.

I just wanted to say to you that I have not always been on this side of the table. I once was an advocate for several issues.

BRIANA R.: You're from New Haven, right?

SEN. WINFIELD: I'm from New Haven.

BRIANA R.: Me as well, 'so.

[laughter]

SEN. WINFIELD: Okay. And when I first showed up, I was well into adulthood and had several experiences where I spoke in front of people, and I have to say that you did a, an excellent job, and you may not think you got your point across in the manner that you wanted to, but you did get your point across.

And the whole thing about whether or not people are listening? What's really going to make people listen is whether you answer

several, one question. Why? Why we should or should not do what is before us here.

And I think telling your story allows us to understand why, so because you told your story and the story of people that you know, you did that. So thank you for coming today.

BRIANA R.: and those were all very true stories, and it was true that my friends were scared to come up here.

And when we walked into the building, one of my friends were like, "Aw, I feel weird in here."

I said, "Why do you feel weird bein' around successful people? You shouldn't feel weird bein' around success."

He was like, "I don't know, I just do."

I'm like, "Nah, you, if anything, you should feel like these people are your peers because we have the same rights as everybody else."

And I, if I ever, like you said, you were on this table, and with one day I'm on that table, then I have reached my goal. And I made today be worth it. I got my point across. I got what I had to say done, and I've reached all my goals.

Thank you. Thank you, everybody.

SEN. COLEMAN: Thank you. Any other comments or questions for Briana?

BRIANA R.: Yes. Keep'm coming.

[laughter]

SEN. COLEMAN: Okay, thank you, Briana.

BRIANA R.: Thank you. Thank you, everybody.

SEN. COLEMAN: Come back and see us again.

BRIANA R.: One day I'll be sittin' up there.

SEN. COLEMAN: I bet.

[laughter]

SEN. COLEMAN: Curtis R.

CURTIS R.: Good afternoon, Senator Coleman and everyone else. Thank you for having me here today. Excuse the bad hair day.

SEN. COLEMAN: I wish I was so lucky as to have such a bad hair day.

[laughter]

HB7050

CURTIS R.: Well, thanks for the compliment. It makes me feel better.

About a month ago, I was shackled for a court appearance after I was remanded to detention. This made me feel so bad about myself that when I walked to the courtroom, I felt like an animal, bein' prepared to put down.

I also started to feel like I was some type of killer or a monster the way I was shackled. Other people, including my family, called me a criminal.

Still to this day I don't think it was necessary to shackle me the way I was. Due to the fact that I am no animal. I am just as human as the man with the robe in front of me.

I also feel if there is gonna be four guards and three CTU staff in the courtroom along with me, what is the point of shackles? Should I be shackled down in front of my family like that, I know that for my grandmother seeing me like that crushed her heart into pieces.

I recommend that the state should make a law and have the kids walk with their hands behind, on the side of them, or maybe in front

of them. My theory for that would simply be that it looks more humane.

Also, I feel that it would not only stop the physical harms to kids' body but it'll also stop the mental harm to a child.

I also feel that this shouldn't only take effect in courtrooms but also when kids go for appointments and et cetera. I mean, just the thought of havin' to be shackled to a hospital bed makes me sick to my stomach, and bein' sick to your stomach makes matters worse.

Who knows what people might think when they see you like this. My last opinion is even adults aren't shackled in courtrooms as much as children are, and bein' someone who had experienced this firsthand made me lose a lot of faith in myself.

It made me think to myself, "Is this all I'm worth? Am I this much of a threat? Or why do I get treated so much like an animal?"

SEN. COLEMAN: Thank you, Curtis. Are there questions or comments for Curtis? Seeing none, we appreciate your testimony.

CURTIS R.: Thank you.

SEN. COLEMAN: Thanks for being here.

CURTIS R.: Thank you for havin' me.

SEN. COLEMAN: Elizabeth Larkin.

ELIZABETH LARKIN: Good afternoon, esteemed members of the Judiciary Committee. My name is Elizabeth Larkin. I'm from New Haven Connecticut, and I am reading the testimony of a youth who did not feel safe submitting his testimony to public record in person. I am prepared to answer questions on his behalf if I am able.

HB 7042

SEN. COLEMAN: Good afternoon.

ELISA VILLA: Representative Tong, and Committee members. My name's Elisa Villa. I'm the president of the Connecticut Criminal Defense Lawyers Association, and I'm here today to testify just very briefly on three bills. Raised Bill 1127, House Bill 7050, and House Bill 7039.

We, CCDLA, has submitted written testimony. There's been a lot of eloquent and very specific testimony on these bills today, and I'm not going to reiterate that for your pleasure.

However, I would just like to emphasize that the two bills, 1127 and 7050, with regard to these two bills, we urge you to pass both of them.

They bring changes to the juvenile justice system in Connecticut, which will reflect the reality of adolescent brain development by treating all juvenile defenders in age-appropriate ways.

There is a national consensus at this point that children and adolescents are different from adults, and therefore their treatment within our system, criminal justice system, should differ from that of adult offenders.

The fundamental reason for this shift in thinking is the recognition that children and adolescents have enormous capacity for growth and rehabilitation.

Specifically regarding Raised Bill 1127, the CCDLA also endorses the testimony of the Office of the Chief Public Defender.

Again, this proposal will serve to bring Connecticut's juvenile justice system in line with recent Supreme Court decisions that call for changes as this Committee is aware.

And so I'll just summarize by saying that Junta for Progressive Action, we represent many clients who are directly affected by this issue, and I've heard time and again that individuals, just as the cases that you've heard today, individuals are worried to go forward to the police, even under our current TRUST Act.

There are - there're situations in which they just don't feel comfortable reporting to court, reporting crimes against them, reporting abusive landlords, reporting wage theft against them. The list goes on and on, and so I hope that you'll strongly consider strengthening our TRUST Act again and progressing the policy here in Connecticut. Thank you very much.

SEN. COLEMAN: Thank you. Are there questions for Mr. Torres? Any questions? If there are none, thank you for your testimony.

Tamri R. Emily Linares. Carmen Saez. Joe Foran. Anadelia Cruz. I have now called every name that has been -

Okay. Recalling Marisa Halm.

MARISA HALM: Thank you very much. I'm sorry to keep you here. I'll just make it quick. I'm here to just cover H.B. 7050.

So Senator Coleman, Representative Tong, Senator Kissel, and Representative Rebimbas, thank you for the opportunity to speak.

My name is Marisa Halm. I'm an attorney with the Center for Children's Advocacy. I provide individual representation to youth and their families who're involved in or at risk for being involved in the juvenile justice system.

(SB 1127)

I've submitted written testimony on three different bills. We are supporting S.B. 1172, AN ACT CONCERNING MANDATORY MINIMUM SENTENCES OF CHILDREN TRIED AS ADULTS; H.B. 7042, also

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/jw

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10:30 A.M.

known as the Jane Doe bill. There's been a lotta talk on that.

And the bill that I wanted to focus on was H.B. 7050, AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM. We support this act in full with a few additions and inclusions.

The first piece that we just wanted to raise is related to section 4 on shackling. There's - I know that there's been a lot of discussion around the issue of shackling, and I know that the Judicial Department testified against this component of the bill because they recently put a policy in place.

We just wanna underscore the fact that a policy is not law. It doesn't carry the force of law, and that it's very important that this piece be put into law.

For example, the policy - judicial has changed their policy three times within the last five years. That's how quickly policies can be changed.

And policy doesn't carry the force of law, so it doesn't need to - it doesn't have to be followed like laws are followed, so for example, even though judicial had a policy previously where there was a presumption against shackling, you would go to the Bridgeport court and a child with the same circumstances would not be shackled and you'd then go to a Vernon court, and a child with exactly the same scenario would be shackled even though the policy prescribed against it.

So we are strongly urging the Committee to pass this bill with that section in it. We'd like you to also be aware of the fact that we have been working with the Judicial Department. The reason that they changed and put a new policy into effect is a result of our advocacy.

We actually provided to them alternate language than what's in the existing bill, and we're happy to share that language with you. That was, that's a concession from the language that appears in the current bill, and we'd be happy to share that language with you if you were interested.

Two other issues that should be addressed in 7050 but are not are - very quickly, and again, I will point you to my written testimony. There was information appended to them - are automatic juvenile record erasure and in addition to that, the re-enrollment for youth coming out of certain juvenile justice facilities that are not currently covered in statute. That includes detention, congregate care, and other related residential settings.

Thank you for your time.

SEN. COLEMAN: Thank you. Are there questions for Ms. Halm? If there are none, thank you very much.

MARISA HALM: Thank you very much.

SEN. COLEMAN: Are there any other individuals who care to address the Committee today? Are there any other individuals who care to address the Judiciary Committee today?

If not, we've called every name that has appeared on our list, and if there are no others that wish to address the Committee today, I will declare this public hearing closed. Thank you, members.



**TESTIMONY OF THE CONNECTICUT JUVENILE JUSTICE ALLIANCE
FOR THE JUDICIARY COMMITTEE
MARCH 30, 2015**

IN SUPPORT OF:

RAISED S.B. NO. 1127 AN ACT CONCERNING MANDATORY MINIMUM SENTENCES FOR CHILDREN TRIED AS ADULTS

RAISED H.B. NO. 7042 AN ACT CONCERNING THE PLACEMENT OF CHILDREN BY THE COMMISSIONER OF CHILDREN AND FAMILIES

RAISED H.B. NO. 7050 AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Sen. Coleman, Rep. Tong, and members of the Judiciary Committee, thank you for the opportunity to testify today. My name is Abby Anderson, I am the Executive Director of the Connecticut Juvenile Justice Alliance – a statewide, nonprofit organization working to stop the criminalization of Connecticut's children and youth, and advocating a safe, fair, and effective system for those involved. In alignment with that mission, the Alliance strongly supports SB 1127, HB 7042, and HB 7050.

S.B. 1127 Mandatory Minimum Sentences For Children Tried As Adults

This bill would permit a trial judge, in adult criminal court, to sentence a child between the ages of 14 and 17 to a period of incarceration that is less than the mandatory minimum for that crime, if the child demonstrates good cause for that treatment. It would be in line with Connecticut's commitment to treating juveniles who are accused of crimes as the children they are, taking into account their developing brains and their unique potential for rehabilitation.

Everyone can learn and change. This is especially true of children and teens, which is why courts and legislatures across the country are embracing the notion of individualized sentencing for juveniles. Any parent knows that an otherwise thoughtful, caring teen can sometimes make inexplicably risky, dangerous or harmful choices. Research this state knows well and bases its juvenile justice policies upon, confirms that teen brains are different from adult brains, leaving them less able than adults to regulate their emotions, more likely to act impulsively when with peers or for immediate rewards, and less able to consider potential long-term consequences.

If we are convinced of the undeveloped nature of a child's mind, his or her diminished culpability and the immense potential for rehabilitation and success, it makes no sense to then require that those same children be treated like adults and subject to harsh mandatory-minimums.

It is illegal in Connecticut for a child of 14 to drive, drink, smoke, vote, enter into contracts or work full-time. It is mandatory, however, for that same child to be sentenced to at least 5 to 10 years in prison, depending on the crime, regardless of any individual characteristics

of that child, his background, his family history, his mental health or the circumstances of the case. Giving judges the discretion to consider the youthfulness of an offender, a sentence to less than the mandatory minimum, is consistent with the United States Supreme Court's *Miller v. Alabama* ruling, and with the state's pending Second Look legislation.

H.B. 7042 Placement Of Children By The Commissioner Of Children And Families

This bill would eliminate the ability of the Commissioner of Children and Families to transfer a child in his or her care to the Department of Correction. Connecticut law provides for a child who has committed a serious crime to be transferred to the adult criminal justice system. This is the only circumstance where a child under the age of 18 should be held in an adult prison. A child committed as delinquent, neglected or abused should never be moved to an adult correctional facility when that child has no adult charges.

Currently, the Department of Children and Families can use an adult prison as a backup plan when a child committed to its care is difficult to manage. This is unacceptable. If a parent tried to send their child to prison for being difficult, DCF would be called. Unfortunately, children already in the care of DCF aren't afforded the same protection.

We can all agree DCF has a difficult job. Many of the children who end up in DCF care have complex, often traumatic, histories whose families and schools could not provide services that successfully treated their behavioral and mental health needs. But it is DCF's job to help all children in its care, especially the ones who are hard. If DCF does not have appropriate services or programs in place, that is a failure of the system, not the child. So why should the child suffer in adult prison, where he or she will almost certainly be kept in isolation? A transfer to a prison, even for a short time, allows the state to give up and tells a child and a family that they cannot be helped. It serves no other purpose than to punish and contain. We owe our children, our families, and our communities better than that.

H.B. 7050 Juvenile Justice System

Section 1

Connecticut and national best practice in the last decade has been to limit the number of youth who are tried in adult court. To that end, the proposal to make the transfer of B felonies to adult court discretionary is consistent with Connecticut's Raise the Age reforms and the pending Second Look legislation. We know that public safety and the best interest of the child are most effectively served in the juvenile justice system where there are services and treatment available. In the cases where transfer is appropriate, the court would still have the ability to do so.

The Alliance would also like to see the lower age for transfer to the adult court raised from 14- to 15-years of age. As aforementioned, there has been a movement to limit number of youth who are tried in adult court. This is in response to research showing lower recidivism rates when youth are kept in the juvenile system, brain research deepening our

understanding of youth behavior, and their amenability to rehabilitation. Also, the transfer law in Connecticut was written when the age of jurisdiction was 16. We raised that age, so it follows intellectually that we would raise the transfer age.

Section 3

This would establish the Juvenile Justice Policy Advisory Committee as a permanent, legislatively appointed body and would expand the committee's areas of review. This is an important step to ensure that stakeholders in the juvenile justice system continue to have a venue to discuss reform and policy initiatives. It also mandates that important data points are collected, analyzed and reported to the legislature and the public. This creates a transparent system that is accountable to both lawmakers and the public.

The Alliance also supports the minor changes the Tow Youth Justice Institute at the University of New Haven proposed in their testimony.

Section 4

Legislation will make sure that shackling reform in Connecticut is permanent. After releasing figures that showed 75 percent of the children appearing in our state's juvenile courts were restrained in some way, the Judicial Branch took action by creating an internal policy to place reasonable limits on shackling. Fewer children are being shackled today than were just a few months ago. This is an enormously positive development, and the branch deserves credit for making it happen. But policies can be changed at will. Unless shackling reform becomes law, there is no guarantee that the reform will stick - particularly should leadership in the branch change. Shackling kids indiscriminately is wrong. It will still be wrong 10 years from now. The legislature has an obligation to protect today and tomorrow's children.

By passing these bills we would declare that in Connecticut we care about all children, even those accused of committing crimes. Thank you for your time.

Alliance member organizations:

AFCAMP, Center for Children's Advocacy, Center for Effective Practice, CHDI, Connecticut Junior Republic, Connecticut Legal Services, Connecticut Voices for Children, Connecticut Youth Services Association, Community Partners in Action, FAVOR, LifeBridge Community Services, 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



**Testimony of the National Alliance on Mental Illness (NAMI) of
Connecticut before the Judiciary Committee
March 30, 2015**

IN SUPPORT OF

Proposed Senate Bill 1127: AN ACT CONCERNING MANDATORY MINIMUM SENTENCES FOR CHILDREN TRIED AS ADULTS.

Proposed House Bill 7050: AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM.

Proposed House Bill 7042: AN ACT CONCERNING PLACEMENT OF CHILDREN BY THE COMMISSIONER OF CHILDREN AND FAMILIES (DCF).

Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Susan Kelley and I am *the Child and Adolescent Policy Manager* at the National Alliance on Mental Illness of Connecticut (NAMI Connecticut). In addition to providing educational programs and support groups, NAMI Connecticut advocates at the state level for improved mental health and related services and supports, and ending stigma and discrimination against persons living with mental health challenges. I am testifying today on behalf of NAMI Connecticut in support of **SB 1127, HB 7050, and HB 7042.**

SB 1127 will permit the court to depart from imposing the mandatory minimum sentence on a child who was transferred to the adult court, for good cause shown.

This change is consistent with the U. S. Supreme Court's reasoning in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), which requires that a court give individualized review for factors, such as amenability to treatment and propensity for change before sentencing a youth to life without parole.

As recognized in *Miller, and Graham v. Florida*, 130 S. Ct. 2011 (2010), extensive research and well-established scientific evidence demonstrates that adolescents have underdeveloped brains, making them more impulsive and susceptible to peer-pressure than adults, and lacking in foresight. This evidence strongly supports that juveniles should be treated differently from adults in the justice system because among other things, juveniles generally have a greater likelihood for successful rehabilitation and less culpability for their actions.

We also know that many of the behaviors that lead youth to commit crimes are all too often the result of unmet behavioral and mental health needs. 64 percent of youth involved in the juvenile justice system in Connecticut have a diagnosable mental health disorder,¹ and 80 percent of children

¹ Behavioral Health Services for Young Adults Task Force Report (2014)

admitted to detention report trauma histories.² Nationally, substance abuse is linked to 78 percent of cases where juveniles are taken into custody.³ As a result, long prison sentences and mandatory minimum sentencing requirements unfairly punish youth with untreated mental health and behavioral disorders. Giving youth offenders a second chance is critically important when viewed from this mental health perspective, particularly when research shows 70 to 80 percent of all children and youth nationwide with a diagnosable mental illness fail to receive mental health services.⁴

Allowing courts to sentence juveniles to less than the mandatory minimum will allow the justice system to take into account, as it should, such individual factors as the mental health status of juvenile offenders, and consider whether those offenders with mental health conditions have had an opportunity to seek rehabilitation and treatment.

In addition, it is very troublesome that a disproportionate number of children of color are being unfairly punished in this way, as minority youth are over-represented in the juvenile justice system and under-represented in the behavioral health system. Enacting SB 1127 would be a significant step forward in juvenile justice while Connecticut continues to undertake the difficult task of improving access to quality mental health services for all children in Connecticut, under the Children's Behavioral Health Plan of PA-13-178, the Sandy Hook Commission Report of 2015, and related work.

We also support all components of HB 7050, which permits discretionary transfer to adult criminal court for children charged with a class B felony; raises the age for transfer from age 14 to age 15; raises the age of a child from 16 to 18 concerning certain protections for an admission, confession, or statements by a child; requires the Juvenile Justice Policy and Oversight Committee (JJPOC) to continue its review of Connecticut's juvenile justice system; and prohibits children from being shackled or otherwise restrained prior to being adjudicated a delinquent unless such restraint is necessary to ensure the safety of the public.

We commend the Committee for raising HB 7050 because each component recognizes that our children deserve to be treated as growing and maturing young persons. To that end, our juvenile sentencing laws and how we treat detained children will now more accurately reflect what we know from best practices both nationally and in Connecticut: better outcomes are attained for juveniles by limiting the number of children transferred to the adult criminal system; the brains of adolescent and young adults are not fully developed until age 25; children often outgrow troublesome behaviors, are highly amenable to treatment, and have greater capacity for change than adults.

Specifically, we support HB 7050's prohibition against physically restraining children through the use of shackles unless there is a true safety concern. The practice of shackling our children is particularly pernicious when we know that children of color are disproportionately represented in

² *Building a Trauma-informed System of Care for Children in Connecticut*, presentation to Sandy Hook Commission, 2012, Robert Franks, PhD, Connecticut Center for Effective Practice, Child Health and Development Institute (CHDI).

³ CASA Columbia (2004). Accessed:

<http://www.casacolumbia.org/addiction-research/reports/substance-abuse-juvenile-justice-children-left-behind>

⁴ *Mental Health: A Report of the Surgeon General*, Rockville, MD; US Dept. of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health, 1999.

the juvenile justice system though studies tell us that youth of all races and ethnicities engage in similar behaviors.⁵ Furthermore, unshackling of children prevents re-traumatization of the overwhelming numbers of children who enter the juvenile justice system with mental health problems, histories of trauma, or both, and is consistent with and helps promote trauma-informed practices that Connecticut is undertaking throughout the state.

The other provisions of HB 7050 similarly are significant steps forward to improve juvenile justice: discretionary transfer of children charged with class B felonies to the adult criminal system appropriately recognizes that children can and should receive treatment and services in juvenile programs; raising the age of transfer from age 14 to age 15 furthers the goal of limiting the number of children transferred to juvenile court in light of best practices; raising the age for protections afforded to confessions/admissions/statements by children from age 16 to age 18 recognizes the impressionability of young persons; requiring the JJPOC to continue its review of the state's juvenile justice system validates its current work and the importance of considering and implementing further reforms. For all of these reasons we support HB 7050 in its entirety.

We further support HB 7042. Under no conditions should a child be transferred to adult prison unless he or she has been charged with an adult crime and their case has been transferred to adult court. DCF is under state mandate to serve all children, including those with difficult problems. If a child has complex problems and is difficult to handle, DCF must find alternative services or programs to meet this child's needs as it does for all children in Connecticut who have a range of behaviors and needs. Singling out a child for adult prison is against this mandate and should not be permitted.

In conclusion, we support SB 1127, HB 7050, and HB 7042.

Thank you for the opportunity to address the Judiciary Committee.

Respectfully submitted,

Susan Kelley
Child and Adolescent Public Policy Manager
NAMI Connecticut; staff to Keep the Promise Coalition

⁵ Centers for Disease Control Youth Risk Behavior Surveillance. Accessed at <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.



Independent research and advocacy to improve the lives of Connecticut's children

Testimony Supporting

Raised S.B. 1127: An Act Concerning Mandatory Minimum Sentences for Children Tried As Adults, H.B. 7042: An Act Concerning the Placement of Children by the Commissioner of Children and Families, and H.B. 7050: An Act Concerning the Juvenile Justice System

Sarah Iverson, Edie Joseph, and Cyd Oppenheimer, J.D.

Judiciary Committee

March 30, 2015

Senator Coleman, Representative Tong, and distinguished members of the Judiciary Committee:

My name is Sarah Iverson and I am a Policy Fellow at Connecticut Voices for Children. I am testifying today on behalf of Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth, and families.

Connecticut Voices for Children supports **S.B. 1127: An Act Concerning Mandatory Minimum Sentences for Children Tried as Adults, H.B. 7042: An Act Concerning the Placement of Children by the Commissioner of Children and Families, and H.B. 7050: An Act Concerning the Juvenile Justice System.** In recognition that children take until well beyond age 18 to mature, these three bills align Connecticut with national best practices and afford critical protections to Connecticut's youth involved in the juvenile justice system.

1. Connecticut Voices for Children supports **S.B. 1127**, which gives the court the discretion to sentence a child to a term of imprisonment shorter than the prescribed mandatory minimum term. **S.B. 1127** would bring Connecticut into compliance with the Supreme Court decision in *Miller v. Alabama* (2012), which declares that mandatory life sentences without the possibility of parole are unconstitutional for juveniles.¹ In order to fully comply with *Miller*, Connecticut must reform its laws and ensure that judges are allowed the discretion to consider age-related factors when sentencing juveniles.

With the advent of magnetic resonance imaging (MRI) technology, and exhaustive studies conducted over the last two decades, a scientific consensus has emerged that children's brains are not fully developed until late into their twenties. The last features of the brain to develop are those that control judgment, decision-making, and proper understanding of the consequence of actions.² This information about teenage brain development ought to have significant impact on how we view young people's culpability, competency, and potential for rehabilitation, and therefore how the courts try and sentence juveniles.

The US Supreme Court has recognized the importance of these scientific findings, noting "[j]uveniles' susceptibility to immature and irresponsible behavior means 'their irresponsible conduct is not as morally reprehensible as that of an adult'" in justifying their 2005 decision to declare the death penalty unconstitutional for juveniles.³ The Supreme Court took further steps in *Graham v. Florida* in 2010, when it declared unconstitutional life sentences for juveniles for all crimes other than homicide and required that states "impose a sentence that provides some meaningful opportunity for release based on demonstrated maturity and rehabilitation."⁴ Most recently, in *Miller v. Alabama* (2012), the Supreme Court struck down mandatory life without parole sentences for all juveniles including those convicted of murder. The Court stated that we must treat juvenile offenders

differently from adults, reasoning:

"Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys...And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it."⁵

In order to comply with *Miller*, Connecticut must pass S.B. 1127, as well as ensure that judges incorporate consideration of youth-related factors, like immaturity and the possibility of rehabilitation, when sentencing juveniles. We have taken important steps in recent years in recognizing that children take until well beyond age 18 to mature. S.B. 1127 helps ensure that juvenile sentencing rules incorporate the scientific and legal consensus that has emerged concerning treatment of juveniles by the courts.

2. Connecticut Voices for Children supports HB 7042, which eliminates the ability of the Commissioner of Children and Families to transfer a child in his or her care to the Department of Corrections. There is no instance in which an adult correctional facility is an appropriate placement for a child, unless he or she is charged with a crime that legally warrants prosecution as an adult.

National research shows that juveniles housed in adult facilities face an increased likelihood of traumatic outcomes: juveniles are 36 times more likely to commit suicide in an adult facility than in a juvenile detention facility,⁶ are five times more likely to be sexually assaulted,⁷ 24 percent more likely to be rearrested for a felony,⁸ and are often placed in solitary confinement apart from adult prisoners, leading to an increase in symptoms of paranoia, anxiety, and depression, even after very short periods of isolation.⁹ Connecticut has been a national leader in reducing the number of youth placed in adult jail; H.B. 7042 affords this same protection to youth in the custody of the State.¹⁰

The Department of Children and Families has garnered significant savings in recent years as it has reduced the number of children in congregate care. We urge the legislature to ensure that these savings are reinvested in the Department, so that the Department has sufficient mental, behavioral, emotional, and social support services to serve all children in its custody. Children with extreme needs should be placed in settings that can provide the supports necessary to meet the child's needs, not in adult facilities. Further investments must be made to ensure that DCF has the capacity to meet the extreme needs of children in its care.

3. Connecticut Voices for Children supports H.B. 7050, which (a) reduces the unnecessary shackling of juveniles in court and (b) includes other provisions that take youth-related factors into account in the juvenile justice system.

a. Shackling

Shackling children at a juvenile hearing, without a finding from a judge that such restraint is necessary for public safety, punishes and humiliates children for crimes for which they have not yet been adjudicated delinquent. Shackles have historically been used as a form of punishment, and can be degrading to the shackled child.¹¹ In fact, in the U.S. Supreme Court case *Deck v. Missouri*, the majority found that, unless there exists a particular reason for shackling in adult criminal hearings, shackling 1) undermines the presumption of innocence, 2) diminishes the right to counsel by making it more difficult for a defendant to communicate with his or her lawyer, and 3) undermines the dignity of the courtroom.¹²

The practice of juvenile shackling is particularly troubling, because substantial evidence from psychological research shows that shackling youth in court is humiliating and leaves the young person feeling as if he or she has been treated like a "dangerous animal."¹³ These feelings can persist into adulthood, and can actually confirm a child's own belief that he or she is a bad person, leading to increased court involvement and running counter to a Juvenile court's stated purpose of rehabilitation.¹⁴

The Judicial Department has recently announced a new policy which creates a presumption that shackles will be removed from a juvenile prior to and throughout the juvenile's appearance in juvenile court. This presumption can be overridden if the judge determines that the juvenile is a danger to himself or others, and no lesser restrictive means are deemed sufficient to mitigate such danger. We suggest that H.B. 7050 be amended to reflect and codify this language. We also recommend that H.B. 7050 be amended to require that the Court Support Services Division (CSSD) oversee implementation of this practice, collect data regarding the use of shackling, and mandate that the Juvenile Justice Policy and Oversight Committee issue an annual report to the legislature analyzing this data. The addition of these provisions would create accountability in the implementation of a statutory presumption against shackling, as well as increase transparency in our Courts.

b. Other Provisions in H.B. 7050

We also support the following sections of H.B. 7050:

- Section 1(a), which removes the provision allowing automatic transfers of class B felonies from the juvenile court docket to the regular criminal docket. Since Connecticut and national best practice has been to limit the number of juveniles tried in adult court, in recognition of the aforementioned increased likelihood of negative life outcomes for juveniles in the adult justice system, this change will help ensure that children remain in a developmentally appropriate setting.¹⁵ In addition, the court will retain the discretion to transfer class B felony cases to the regular criminal docket when appropriate through a judicial hearing.
- Section 1(a), which raises the age from fourteen to fifteen, of automatic transfer from the juvenile court docket to the regular criminal docket. As stated above, Connecticut and national best practice has been to limit the number of juveniles tried in adult court. In addition, scientific consensus has emerged that children's brains are not fully developed until late into their twenties, particularly in the areas that control judgment, decision-making, and proper understanding of the consequence of actions.¹⁶ The age of automatic transfer must be raised to ensure that juvenile

sentencing rules incorporate the scientific and legal consensus that has emerged concerning treatment of juveniles by the courts, so that children are tried in courts that are tailored to serve their needs.

- Section 2(a), which prohibits the admission of statements made by children under eighteen without their parents present in all cases. This provision helps to protect juvenile defendants from self-incrimination, recognizing that children are less capable than adults of understanding the consequences of their actions and are more vulnerable to coercion and false confession.¹⁷

Taken together, S.B. 1127, H.B. 7042, and H.B. 7050 afford crucial protections to Connecticut's youth involved with the Court system, and bring Connecticut in line with national best practices.

Thank you for the opportunity to testify. Please reach out to myself or my colleagues with any questions.

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¹ Miller v. Alabama, No. 10-9646, Supreme Court of the U.S. June 25, 2012

² See, for example, Kendall Powell, "Neurodevelopment: How Does the Teenage Brain Work?" Nature 442 (24 August 2006): 865-867, available at: <http://www.nature.com/nature/journal/v442/n7105/pdf/442865a.pdf>. See also, Jay M. Giedd, "The Teen Brain: Insights from Neuroimaging," Journal of Adolescent Health 42 (2008): 335-343, available at: http://brainmind.umin.jp/Jay_2.pdf and Debra Bradley Ruder, "The Teen Brain," Harvard Magazine, (September - October 2008) available at: <http://harvardmag.com/pdf/2008/09-pdfs/0908-8.pdf>.

³ Roper v. Simmons, 543 U.S. 551 (2005).

⁴ Graham v. Florida, No. 08-7412, Supreme Court of the U.S. May 17, 2010.

⁵ Miller v. Alabama, No. 10-9646, Supreme Court of the U.S. June 25, 2012.

⁶ See, "Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America," Campaign for Youth Justice (November 2007), available at http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf

⁷ See, Beck, Allen J. and David Cantor, "Sexual Victimization in Juvenile Facilities Reported by Youth, 2012," U.S. Department of Justice, Bureau of Justice Statistics (June 2013), available at <http://www.bjs.gov/content/pub/pdf/svjfy12.pdf>.

⁸ See, Robert Hahn et al, "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System," The Center for Disease Control (November 2007), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>.

⁹ See, "Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America," Campaign for Youth Justice (November 2007), available at http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/CFYJ-Jailing_Juveniles_Report_2007-11-15.pdf.

¹⁰ See, "State Trends: Legislative Victories from 2011-2013," Campaign for Youth Justice (2013), available at <http://www.campaignforyouthjustice.org/documents/ST2013.pdf>.

¹¹ See, Brian Gallagher & John Lore III, "Shackling children in juvenile court: The growing debate, recent trends and the way to protect everyone's interest," *UC Davis Journal of Juvenile Law & Policy*, Summer, 2008. Available at http://jilp.law.ucdavis.edu/archives/vol-12-no-2/09_Article-Gallagher-Lore.pdf.

¹² See, *Deck v. Missouri*, Opinion of the Court. Available at http://scholar.google.com/scholar_case?case=7408663479458041642&q=deck+v.+missouri&hl=en&as_sdt=2,7&as_is=1.

¹³ See, Affidavit of Dr. Marty Beyer, available through the Miami Public Defender's Office at <http://www.pdmiami.com/unchainthechildren/AppendixDBeyer.pdf>.

¹⁴ See, Affidavit of Dr. Marty Beyer, available through the Miami Public Defender's Office at <http://www.pdmiami.com/unchainthechildren/AppendixDBeyer.pdf>

¹⁵ See, "State Trends: Legislative Victories from 2011-2013," Campaign for Youth Justice (2013), available at <http://www.campaignforyouthjustice.org/documents/ST2013.pdf>.

¹⁶ See, for example, Kendall Powell, "Neurodevelopment: How Does the Teenage Brain Work?," *Nature* 442 (24 August 2006): 865-867, available at: <http://www.nature.com/nature/journal/v442/n7105/pdf/442865a.pdf>. See also, Jay M. Giedd, "The Teen Brain: Insights from Neuroimaging," *Journal of Adolescent Health* 42 (2008): 335-343, available at: http://brainmind.umin.jp/Jay_2.pdf and Debra Bradley Ruder, "The Teen Brain," *Harvard Magazine*, (September - October 2008) available at: <http://harvardmag.com/pdf/2008/09-pdfs/0908-8.pdf>.

¹⁷ See, Amicus Brief of the American Psychological Association in *Roper v. Simmons*, July 19th, 2004. In *Roper v. Simmons*, the Supreme Court held that sentencing a juvenile to death constitutes cruel and unusual punishment, because juveniles are less culpable for their actions. Amicus brief available at <http://www.apa.org/about/offices/ogc/amicus/roper.aspx>.



NATASHA M. PIERRE, ESQ.
State Victim Advocate

Testimony of Natasha M. Pierre, Esq., State Victim Advocate
 Submitted to the Judiciary Committee
 Monday, March 30, 2015

Good morning Senator Coleman, Representative Tong, Senator Kissel, Representative Rebinbas and distinguished members of the Judiciary Committee. For the record, my name is Natasha Pierre and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Senate Bill No. 1127, *An Act Concerning Mandatory Minimum Sentences for Children Tried as Adults*
House Bill No. 7050, *An Act Concerning the Juvenile Justice System*

While the Office of the Victim Advocate (OVA) is extremely mindful of the movement to evaluate and modify the manner in which the criminal justice system responds to criminal juvenile offenders, this movement is not taking into consideration the impact of these changes on victims. The OVA understands that certain U.S. Supreme Court decisions have driven some of the proposed changes, however, there appears to be an endless stream of proposals that go beyond the scope of the court decisions.

Senate Bill No. 1127 would allow the court to depart from any mandatory minimum sentence in a case of a juvenile being tried and sentenced as an adult.

This proposal appears to be a response to a recent Connecticut Supreme Court decision, *State v. Taylor G*¹. Taylor G. was tried as an adult and convicted of sexual assault offenses that he committed when he was 14-15 years old against his 6-7 year old cousin. He was sentenced to a mandatory term of ten years imprisonment. The Supreme Court upheld the defendant's sentence and rejected the defendant's claim that the mandatory sentence amounted to cruel and unusual punishment.

Section 1 of House Bill No. 7050 attempts to further dilute the manner in which the criminal justice system responds to serious crimes committed by juvenile offenders by eliminating the automatic transfer of Class B felonies to adult court.

¹ Supreme Court Docket No. SC19222 (March 17, 2015).

Again, the OVA recognizes that juvenile offenders are not adult offenders; however, there are some crimes that are so serious, including class A and B felonies that require the system to respond appropriately through the transfer from juvenile court to the adult criminal docket.

I must emphasize to you that from a crime victim's perspective, the impact of the crime is no less because the crime was committed by a juvenile. In the case I mentioned earlier, for that 6 year old, it doesn't matter that the offender was 15 years old. She is forever harmed by that action.

The impact of crime may include emotional trauma, physical trauma and injury, psychological trauma and financial burdens. Although crime victims are afforded certain participatory rights through the criminal justice process, the process does not allow for crime victims to recover from the impact of crime.

With each proposal made to lighten the burden or consequences for juvenile offenders, crime victims are led back to court for sentence review hearings, sentence reduction consideration, appeals, parole hearings, violation of probation hearings, etc. In some cases, crime victims have been waiting for the criminal justice process to end for more than twenty years.

These changes have a direct impact on the victims of juvenile offenders and those needs and rights need as much consideration as the ones given to the offenders. There needs to more funding and resources dedicated to victim's services throughout the state to handle the resulting trauma victims will experience over and over again as more opportunities are granted to review and amend sentences. I would be more than willing to work with you and other advocates to develop a comprehensive plan that does not focus solely on offender rights.

I urge the Committee to reject Senate Bill No. 1127 and Section 1 of House Bill No. 7050. Thank you for consideration of my testimony.

Respectfully submitted,

Natasha M. Pierre, Esq.
State Victim Advocate

STATE OF CONNECTICUT
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Sarah Healy Eagan
Child Advocate

**Testimony of Sarah Eagan, Child Advocate, State of Connecticut
In Support of Raised Bills 7042 and 7050**

March 30, 2015

Senator Coleman, Representative Tong, Senator Doyle, Representative Fox and esteemed members of the Judiciary Committee, the Office of the Child Advocate appreciates the opportunity to offer this testimony today in support of Senate Bills 7042 and 7050.

The mandate of the Office of the Child Advocate (OCA) includes evaluating the delivery of state funded services to children and advocating for policies and practices that promote children's well-being and safety.

Raised Bill 7042, An Act Concerning the Placement of Children by the Commissioner of the Department of Children and Families.

The Office of the Child Advocate strongly supports Raised Bill 7042, An Act Concerning the Placement of Children by the Commissioner of the Department of Children and Families. This proposal would amend C.G.S. § 17a-12 which would prevent the Department of Children and Families from transferring a child—yet un-convicted of an adult crime or even charged with a transferrable adult offense—to the Department of Corrections.

The only youth who may be placed in an adult prison should be those youth who have committed a serious crime such that jurisdiction over adjudication and disposition related to that crime have been transferred to the adult court.

It is vital to note that DCF has broad statutory obligations under C.G.S. § § 17a-13 and 46ba-121 et seq. to serve all children under their care, including those children and youth who have been subjected to abuse and neglect as well as children and youth with disabling mental health disorders.

DCF is statutorily required to operate a continuum of supports for such children, including those children who as a result of mistreatment at the hands of adults now present with significant psychiatric or behavioral health disorders (C.G.S. § 17a-3).

This past year saw the use of Section 17a-12 to transfer Jane Doe, a transgender youth living under the care and custody of DCF, to the Department of Corrections. Jane Doe had not been charged with an adult offense or convicted of an adult crime. She had recently been committed to DCF custody for delinquency reasons but had been living under DCF's guardianship for several years as a result of her history of significant victimization, physical abuse and neglect. Jane, like many other youth who have experienced terrible traumas, presented with significant treatment needs.

As a result of Jane Doe's aggressive behavior at an out-of-state treatment facility, DCF sought, within *mere days* of learning of Jane's behavior, to seek a transfer of Jane to adult prison.

Current law did not require that DCF present a court with any clinical, mental health findings or expert consultation to support this transfer nor did current law require that a court find that such transfer serves the best interests of the child.

The proposed change outlined in this bill brings the law in line with DCF's statutory obligation to ensure the safety and welfare of the children in their care and, for children who are committed to DCF's guardianship (as Jane was), to take all actions necessary to promote children's best interests and welfare. (Conn. Gen. Stat. § § 46b-121, 129).

Raised Bill 7050: An Act Concerning the Juvenile Justice System

Raised Bill 7050 Sharply Limits the Circumstances in which a Child or Youth May be Mechanically Shackled in Juvenile Court.

Section 4 of 7050 would ensure that youth, prior to adjudication, are not shackled unless a court finds that such shackling is necessary due to the youth presenting a public safety risk.

The American Bar Association (2015) issued a strong statement against routine shackling of juveniles.

The American Bar Association Criminal Justice Division, in a resolution dated February 2015, recommended that states establish *a presumption against the use of shackles in the courtroom, and that such shackles be used only when mechanical restraint is determined, after a hearing, to be the least restrictive means to ensure the public safety.*¹

Current Connecticut Judicial Branch Policies Now Oppose Routine Shackling of Juveniles

¹ American Bar Association, Criminal Justice Division, House of Delegates, Resolution 107A, passed February 9, 2015, found at: http://www.americanbar.org/news/reporter_resources/midyear-meeting-2015/house-of-delegates-resolutions/107a.html.

A recently issued policy by the Judicial Department Court Support Services Division now provides for a presumption against shackling and gives youth the right to be heard in such matters.

Codifying such policy into law will serve the state and youth by ensuring that best practices are applied evenly throughout the state, that due process is afforded all juveniles, and that the law reflects the modern presumption against mechanical restraint.

This provision brings CT in line with other states such as New Hampshire, Pennsylvania, New York, Florida, North Carolina and South Carolina that have moved to limit shackling of youth in the court room.

Moreover, this important juvenile justice reform is consistent with recommendations from the nation's leading experts in juvenile justice treatment reforms. In a 2014 attestation, Dr. Julian Ford, a Connecticut-based clinical psychologist and expert in working with traumatized children and youth in the juvenile justice system, strongly recommended against indiscriminate shackling of juveniles. The routine mechanical restraint of youth, according to Dr. Ford, can cause severe reactions for youth and undermine the goals of the juvenile court system—namely to rehabilitate youth and assist them with improving their own behavior.

OCA Strongly Supports Additional Provisions of Raised Bill 7050 that Strengthen the Raise the Age Reforms.

OCA strongly supports Raised Bill 7050 which would accomplish the following:

1. Increase the age for transferring youth to adult court from 14 to 15;
2. Permit court authority to hear the appropriateness of transferring minors charged with C, D, and now B felonies.
3. Raise the age at which a child's admission or alleged confession must be made in the presence of a parent or guardian from 16 to 18.
4. Appropriately define the role of the legislature's Juvenile Justice Policy Oversight Committee to ensure effective and transparent strategic planning and investment in continued juvenile justice reforms.

Taken as a whole, the reforms articulated in Raised Bill 7050 are consistent with juvenile justice and criminal justice reforms sweeping the country—to ensure the state's statutory framework reflects the neuroscience of adolescent brain development, and that offending youth are addressed whenever possible in the juvenile justice system so as to increase prospects for improved public safety and individual rehabilitation.

Numerous studies confirm the expense and frequent futility of housing juvenile offenders in the adult criminal justice system.² Recidivism rates for youth incarcerated in adult prison are

² Studies have shown no positive impact of incarcerating juveniles in adult prison, even where serious crimes were committed. Singer, Simon I., and David McDowall. 1988. "Criminalizing Delinquency: The Deterrent Effects of the New York Juvenile Offender Law." *Law and Society Review* 22:521-35; cited in "Bishop, Donna, "Juvenile Offenders in the Adult Criminal System,"

extremely high around the country, compelling the question of how well such practices improve the public safety. Connecticut is a leader on criminal justice and juvenile justice reform and has seen a dramatic reduction in the number of incarcerated minors and young adults over the last decade. Connecticut's crime rates are now at a historic low, with arrests and violent crime rates down throughout the state. These statistics confirm the success of Connecticut's progressive reforms in the area of juvenile and criminal justice. Raised bill 7050 continues this important reform work without compromising the state's ability to ensure individuals who commit serious crimes are held accountable for their actions.

**** Respectfully, OCA proposes adding language to 7050 that would regulate the use of restraint and seclusion in juvenile justice and other child-serving facilities, and that would convert the advisory committee for the state-operated Connecticut Juvenile Training School into a legislative appointed body.**

OCA continues to see urgent need for improved conditions of confinement and outcomes for juvenile justice-committed and incarcerated youth and for continuous quality improvement and reporting regarding all state-operated facilities.

In 2014 OCA re-opened an investigation into conditions of confinement at the Connecticut Juvenile Training School and Pueblo Girls' Program, in part due to a number of citizen complaints that had been registered with this Office. OCA subsequently developed the following concerns:

- Over-reliance on restraint and restrictive sanctions to manage certain children and youth, including lengthy seclusions, physical and mechanical restraints and handcuffs for girls and boys.
- Lack of appropriate trauma-informed interventions for youth entering the facility with known and extensive histories of abuse, neglect, trauma and complex mental health disorders.
- Over a dozen examples of suicidal behavior in the girls' and boys' facilities collectively over the last 8 months.
- Arrest of girls' and boys' in these facilities for conduct that may arise out of their mental health disorders.
- Unreliable framework for measuring and reporting regarding conditions of confinement.

The state, through the Department of Children and Families, has taken some steps in recent months with the goal of improving conditions for youth at CJTS and Pueblo. The Department

27 *Crime and Justice* 81 (2000); Fagan, Jeffrey, 1996. "The Comparative Advantage of Juvenile versus Criminal Court Sanctions on Recidivism among Adolescent Felony Offenders." *Law and Policy* 18:77-112; cited in "Bishop, Donna, "Juvenile Offenders in the Adult Criminal System," 27 *Crime and Justice* 81 (2000); Winner, L., Lanza-Kaduce, L., Bishop, D., and Frazier, C. 1997. The transfer of juveniles to criminal court: Reexamining recidivism over the long term. *Crime and Delinquency* 43(4): 548-563 (see source: Frontline/PBS, *Does Treating Kids Like Adults Make a Difference*, found on the web at <http://www.pbs.org/wgbh/pages/frontline/shows/juvenile/stats/kidlikeadults.html>)

has recently contracted with a clinical consultant to evaluate the facilities, sent certain staff to training regarding techniques to reduce restraint and seclusion, and the Department is collaborating with the University of New Haven Youth Justice Institute to examine conditions of confinement at CJTS and Pueblo.

These are positive steps that can assist with state with improving these facilities moving forward.

*****Any state-funded, child-serving facility or program, whether a therapeutic or juvenile justice program, must be able to provide trauma-informed rehabilitative and mental health supports, and must be able to evaluate and report how well it is addressing youths' need for assessment, stabilization, treatment, rehabilitation, education and discharge to community care.**

Language may be added to Raised Bill 7050 that codifies the need for reforms in the use of restrictive measures in state-run and state-contracted facilities and that ensures increased transparency for a historically opaque system. Such transparency will support, rather than obstruct, a framework for collaborative and strategic reforms in the area of juvenile incarceration and juvenile justice diversion.

Thank you in advance for your time and consideration.

Respectfully submitted,

Sarah Healy Eagan, J.D.
Child Advocate, State of Connecticut

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Testimony of Robert Bidwell, M.D.
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is Robert Bidwell. I am writing in support of Section Four of H.B. 7050. I am a physician, board certified in pediatrics and adolescent medicine. I currently care for youth at the Hawai'i Youth Correctional Facility and O'ahu Juvenile Detention Facility. I have worked extensively in juvenile detention/correctional settings since 1984.

When I meet with youth at the O'ahu Juvenile Detention Facility and the Hawai'i Youth Correctional Facility, I ask whether they have been shackled in a courtroom as a part of my routine health assessment. Most say yes. Handcuffs and ankle chains are most frequently reported. Many youth report at least minor injuries to their ankles and wrists.

Though the physical harm is troubling, it is the lasting emotional effect of shackling that most concerns me as a pediatrician. When asked, "How did you feel when you appeared in court in front of the judge wearing shackles?" the youth I am speaking with will often begin to cry. "I felt so shamed." "I felt like a criminal." "It didn't seem

like anyone cared." "I felt like a danger to society." "I felt like I wasn't welcomed there." "I didn't think anyone wanted to listen to why things happened the way they did." "It seemed like I was being targeted." "It didn't seem fair." The most frequent responses spoke of shame and pain at having family see them in shackles. "It hurt so much to have my little 3-year-old brother and 5-year-old sister there seeing me like that, and to see my mother crying."

It's not surprising that these are the responses I get given that a high proportion of young people in the juvenile justice system have experienced trauma and exhibit symptoms of Post-Traumatic Stress Disorder.¹ Shackling can mirror past trauma, particularly physical and emotional abuse, increasing the risk that trauma's effects will endure long-term. Putting youth in situations reminiscent of past trauma can cause distress, invasive thoughts about the original incident, and physical symptoms such as abdominal pain, nausea, vomiting, sweating, chest pain, and a sense of suffocation and impending death. Stress makes it harder to focus, and impairs memory and self-expression.

Adolescents are exceptionally vulnerable to the humiliation inherent in shackling. A fundamental task of adolescence is to develop a sense of self and self-esteem. Shackling implies that one is bad, dangerous, a criminal, or sub-human, leading youth to see themselves in this way. This might lead someone who would otherwise be rehabilitated to engage in anti-social behaviors.

¹ Dierkhising, C., et. al., Trauma histories among justice-involved youth: findings from the National Child Traumatic Stress Network (2013), available at <http://www.ejpt.net/index.php/ejpt/article/view/20274>.

Lesbian, gay, bisexual and transgender youth are over-represented in the juvenile justice system.² Many experience rejection and physical and emotional violence from families and peers. Shackling can represent more treatment as "other" and unacceptable. In a world that finds it hard to accept them, LGBT youth are particularly vulnerable to the shackling practices imposed by the state.

Shackling takes away an opportunity to self-regulate. Instead of learning and practicing acceptable ways to behave, the child comes to believe that he or she must be tightly controlled. When youth are not shackled, the adults working with them find other ways to manage behavior, such as communicating expectations, modeling appropriate behavior, and providing reinforcement when the youth follows rules.

Given the damage caused by shackling, it should be used only in rare cases where the child poses a safety risk and cannot be managed with other less-restrictive means.

My experience is relevant to Connecticut. In Hawai'i, we also have not yet enacted shackling reform legislation. I see this as a real problem, but members of our judiciary have made statements that the shackling of youth is uncommon in Hawai'i's courts and therefore not a problem. This clearly is not true, as a large majority of youth of the youth I see in my clinic report the experience of appearing shackled before a judge in courtrooms across our state. I believe that court officials often do not see, *really see*, what is occurring in their own courtrooms, a failure that is made easier by often deferring to others the decision to shackle or not shackle a child. Because the practice of shackling children has, in a sense, become "invisible" to many court officials because its occurrence has become commonplace, there has been little or no consideration of the

² Majd, K. et. al., "Hidden Injustice: Gay, Lesbian and Transgender Youth in the Juvenile Justice System." National Juvenile Defender Center, 2009.

significant harm that shackling imposes on the youth standing before them. I ask you to carefully consider this legislation because I have seen how informal (or even formal) policies fall far short of their intended goals. The presumption in Section Four of this bill is vital.

Thank you for your time and consideration.

Respectfully submitted,

/s/ Robert Bidwell

Robert Bidwell, M.D.
Associate Clinical Professor of Pediatrics,
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The ChildTrauma Academy
www.ChildTrauma.org

Testimony of Eugene Griffin, J.D., Ph.D.,
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is Eugene Griffin. I am writing in support of Section Four of H.B. 7050.

I am an attorney, a clinical psychologist, and the lead developer for the MacArthur Foundation's Models for Change Curriculum on Mental Health and Juvenile Justice, which informs juvenile justice administration and line staff about working with mentally ill and traumatized adolescents. Our curriculum has been used in over 20 states.

When I served as the unit chief of the Triagency Program, a long-term inpatient psychiatric unit for severely disturbed adolescents, the program received intakes from three agencies- the Illinois Department of Corrections; Mental Health; and Child and Family Services. All these adolescents were admitted because they were mentally ill and either extremely self-destructive or violent towards others. Lesser treatments, including short-term hospitalizations, had failed. Clinically, there was little difference between the youth referred by the different agencies. All had a history of high-risk behaviors, and all were in need of intensive care. Only the Department of Corrections brought youth to our facility in shackles.

In our hospital, we never used shackles. Youth could stay in the program for over a year. When youth were clinically stable and ready for discharge, they would be picked up by the referring agency. Again, only the Department of Corrections would shackle all youth upon

discharge. Many times I observed youth who had made tremendous clinical progress and behaved well for months step forward to be shackled. After saying appropriate goodbyes to peers and hospital staff, the youth would silently step forward, put out their hands and legs on command and tense up as they were shackled. Only the most basic communication with them was now a possibility. This limited functioning is not adequate for courtroom settings.

Indiscriminate shackling is excessively punitive and, in some cases, can trigger a trauma reaction. Adults attempting to shackle a calm youth can trigger classic traumatic responses, such as fighting, fleeing, or freezing. The violent behavior and running behavior are more easily identifiable. The freezing behavior (dissociation) is more passive (meaning that it is harder to distinguish, and may lead most people to believe that the young person is doing fine) but results in a youth being unable to talk, listen or communicate.

When adults treat youth punitively as a matter of course, the relationship and interaction between the adults and the youth is adversely affected. Shackling a youth who has shown no signs of violence or intent to escape can be perceived by the youth as excessive and unfair. This perception is likely to embarrass and distress the youth. A youth who is upset will be less likely to think rationally, more likely to act out, and less able to communicate with his attorney or pay attention to courtroom proceedings.

Safety and communication are better supported through a rehabilitative approach that does not include indiscriminate shackling. This starts by treating youth with basic respect. It then focuses on not only stopping inappropriate behavior but also replacing it with more appropriate responses. It requires safety and structure. While a rehabilitative approach might include the use

The ChildTrauma Academy
www.ChildTrauma.org

of shackles with those youth who have a history of violence or running, the goal would be to eliminate the need for shackles. Thus, shackles should be a last resort, not a starting point.

For these reasons, I urge you to pass H.B. 7050, which establishes a presumption against automatic juvenile shackling. Thank you for your consideration.

Respectfully submitted,



Eugene Griffin, J.D., Ph.D.

ChildTrauma Academy
Assistant Professor, Northwestern University Medical School, Retired

ATTACHMENT AH.B. 7050. Proposed New Section 5Concerning the Erasure Of Records In Delinquency And Family With Service Needs Matters

Section 5. Section 46b-146 of the general statutes is repealed and the following is substituted in lieu thereof :

(a) (1) Whenever [any] a child has been convicted as delinquent [, has been adjudicated a member of a family with service needs] for the commission of a serious juvenile offense or has signed a statement of responsibility admitting to having committed a [delinquent act] serious juvenile offense, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to [whom] which the child has been committed by the court, such child, or the child's parent or guardian, may file a petition with the Superior Court [. If such] for erasure of records pursuant to this subdivision. The court shall order all police and court records pertaining to such child to be erased if the court finds [(1) that (A) at least [two years or, in the case of a child convicted as delinquent for the commission of a serious juvenile offense,] four years have elapsed from the date of such discharge, [(2) that] (B) no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, [(3) that] (C) such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such [two-year or] four-year period, [(4) that] (D) such child has not been convicted as an adult of a felony or misdemeanor during such [two-year or] four-year period, and [(5) that] (E) such child has reached eighteen years of age, [, the court shall order all police and court records pertaining to such child to be erased.]

(2) Whenever a child has been convicted as delinquent for the commission of a delinquent act other than a serious juvenile offense, has been adjudicated a member of a family with service needs or has signed a statement of responsibility admitting to having committed a delinquent act other than a serious juvenile offense, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to which the child has been committed by the court, the court shall order all police and court records pertaining to such child to be erased on the second day of January of each year or on a date designated by the court without the filing of a petition if the court finds that (A) at least two years have elapsed from the date of such discharge, (B) no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, (C) such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such two-year period, (D) such child has not been convicted as an adult of a felony or misdemeanor during such two-year period, and (E) such child has reached eighteen years of age.

(3) Upon the entry of such an erasure order, all references including arrest, complaint, referrals, petitions, reports and orders, shall be removed from all agency, official and institutional files, and a finding of delinquency or that the child was a member of a family with service needs shall be deemed never to have occurred. The persons in charge of such records shall not disclose to any person information pertaining to the record so erased, except that the fact of such erasure may be substantiated where, in the opinion of the court, it is in the best interests of such child to do so. No child who has been the subject of such an erasure order shall be deemed to have been arrested ab initio, within the meaning of the general statutes, with respect to proceedings so erased. Copies of the erasure order shall be sent to all persons, agencies, officials or institutions known to have information pertaining to the delinquency or family with service needs proceedings affecting such child.

(b) Whenever the case of a child who is charged with being delinquent or being a member of a family with service needs is dismissed, [as not delinquent or as not being a member of a family with service needs,] all police and court records pertaining to such charge shall be ordered erased immediately, without the filing of a petition.

(c) Nothing in this section shall prohibit the court from granting a petition to erase a child's records on a showing of good cause, after a hearing, before the [time] date when such records could be erased.

CONNECTICUT

ATTACHMENT B

The determination that a child is a youthful offender is not considered to be a criminal conviction. CON. GEN. STAT. § 54-76k.

Juvenile Record Contents

For the purposes of this section, "records of cases of juvenile matters" includes, but is not limited to, court records, records regarding juveniles maintained by the Court Support Services Division, records regarding juveniles maintained by an organization or agency that has contracted with the Judicial Branch to provide services to juveniles, records of law enforcement agencies including fingerprints, photographs and physical descriptions, and medical, psychological, psychiatric and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies and clinics. Public Act 14-173, available at <http://www.cga.ct.gov/2014/act/Pa/pdf/2014PA-00173-R00SB-00152-PA.PDF>; CONN. GEN. STAT. § 46b-124(a).

Confidentiality of Law Enforcement Records

No distinction is made between law enforcement records and court records.

Confidentiality of Court Records

All records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be confidential and for the use of the court in juvenile matters and shall not be disclosed. All records of cases of juvenile matters, as provided in section 46b-121, except delinquency proceedings, or any part thereof, and all records of appeals from probate brought to the superior court for juvenile matters pursuant to section 45a-186, shall be confidential and for the use of the court in juvenile matters, and open to inspection or disclosure to any third party, including bona fide researchers commissioned by a state agency, only upon order of the Superior Court, with a few exceptions. Public Law 14-174, available at: <http://www.cga.ct.gov/2014/act/Pa/pdf/2014PA-00173-R00SB-00152-PA.PDF>.

Exceptions: The following parties may inspect juvenile records (CON. GEN. STAT. § 54-761):

- Member and employees of the Board of Pardons and Parole and the Department of Corrections, provided the child has been adjudged a youthful offender and sentenced to a term of imprisonment or been convicted of a crime
- Judicial branch employees
- Social service providers working with or providing services to the child

- Employees and authorized agents of state or federal agencies involved in the delinquency proceedings
- The child's parents or guardian (until the child reaches the age of majority or is emancipated)

Additionally, under Act No. 14-173, the following individuals also have access to juvenile records:

- The Court Support Services Division of the Judicial Branch, to allow the division to determine the supervision and treatment needs of a child or youth, and provide appropriate supervision and treatment services to such child or youth, provided such disclosure shall be limited to information that identifies the child or youth, or a member of such child's or youth's immediate family, as being or having been (A) committed to the custody of the Commissioner of Children and Families as delinquent, (B) under the supervision of the Commissioner of Children and Families, or (C) enrolled in the voluntary services program operated by the Department of Children and Families. Public Act 14-173, available at: <http://www.cga.ct.gov/2014/act/Pa/pdf/2014PA-00173-R00SB-00152-PA.PDF>.

Exceptions to Confidentiality

Nature of Offense: Records are not kept confidential when a child is arrested for or charged with committing a Class A felony. CON. GEN. STAT. § 54-761.

Emergency Circumstances: If a child has escaped from a detention facility and a warrant has been issued for his or her re-arrest, law enforcement officials may disclose information from the juvenile's record. CON. GEN. STAT. § 54-761.

Availability of Records Online or In Commercial Background Reports

Juvenile records are not available online.

Consequences for Unlawfully Sharing Confidential Information

No information found.

Sealing or Expungement

Erasure: CON. GEN. STAT. § 46b-146

Excluded Offenses

No information found.

Automatic (without application)

No information found.

Eligibility

A youth (or parent/ guardian thereof) who has been released from juvenile court supervision and has turned 18 years old may petition the court for expungement if:

- 2 years have passed since release from placement
- No subsequent juvenile or adult criminal proceeding is pending against him or her
- He or she was not convicted of a delinquent act that constitutes a felony or misdemeanor if committed by an adult during the intervening 2 year period
- He or she was not convicted as an adult of a felony or misdemeanor during the 2 year period

If the juvenile was convicted as delinquent of a serious offense, he or she must wait 4 years before petitioning for expungement, but all other criteria are the same.

If a nolle prosequi is entered, the records are erased 13 months after it was entered. If a prosecutor continues the case for 13 months (and no prosecution or other disposition of the matter occurs), the case is treated as though it was nolle prossed. CON. GEN. STAT. § 46b-133a(b).

Notification

No information found.

Petition/Application

The petition must contain the following information (CONN. GEN. STAT. § 46b-146):

- Child has reached 18 years of age.
- At least 2 years have elapsed from the date of discharge from any agency or institute the youth has been committed to, or 4 years in the case of a child convicted as delinquent for the commission of a serious juvenile offense
- No subsequent juvenile proceeding or adult criminal proceeding is pending against child
- Child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during the 2 year or 4 year period
- Child has not been convicted as an adult of a felony or misdemeanor during the 2 year or 4 year period

Hearing

CON. GEN. STAT. § 46b-146 states that upon a petition for expungement, the court will hold a hearing and determine whether the applicant has met all of the required criteria. If these conditions are met, the court will enter an erasure order, which removes all references including arrest, complaint, referrals, petitions, reports and orders, from all agency, official and institutional files, and a finding of delinquency shall be deemed never to have occurred.

Court Process

If the requirements laid out in CON. GEN. STAT. § 46b-146 are met, or, on a showing of good cause, the court grants the erasure petition, the court will enter an erasure order, which removes all references including arrest, complaint, referrals, petitions, reports and orders, from all agency, official and institutional files, and a finding of delinquency shall be deemed never to have occurred. CON. GEN. STAT. § 46b-146. The persons in charge of such records shall not disclose to any person information pertaining to the record so erased, unless disclosing the fact of such erasure is, in the opinion of the court, in the best interests of the child. No child who has been the subject of such an erasure order shall be deemed to have been arrested *ab initio*, within the meaning of the general statutes, with respect to proceedings so erased. Copies of the erasure order shall be sent to all persons, agencies, officials or institutions known to have information pertaining to the delinquency or family with service needs proceedings affecting such child. CON. GEN. STAT. § 46b-146.

Effect

If the required conditions are met the court will enter an erasure order, which removes all references including arrest, complaint, referrals, petitions, reports and orders, from all agency, official and institutional files, and a finding of delinquency shall be deemed never to have occurred. CON. GEN. STAT. § 46b-146.

The persons in charge of such records shall not disclose to any person information pertaining to the record so erased, except that the fact of such erasure may be substantiated where, in the opinion of the court, it is in the best interests of such child to do so. No child who has been the subject of such an erasure order shall be deemed to have been arrested *ab initio*, within the meaning of the general statutes, with respect to proceedings so erased. Copies of the erasure order shall be sent to all persons, agencies, officials or institutions known to have information pertaining to the delinquency or family with service needs proceedings affecting such child. CON. GEN. STAT. § 46b-146.

The Department of Corrections and the Bureau of Pardons and Parole can still access erased juvenile records. ATTY GEN. OF CONN., Formal Op. 2009-012 (Nov. 20, 2009), available at <http://www.ct.gov/AG/cwp/view.asp?A=1770&Q=451112>.

Consequences for Sharing Sealed/Expunged Information

None found.

Fee

None found.

ATTACHMENT CH.B. 7050: Proposed New Section 6

Concerning the Re-Entry of Youth Leaving Detention or Congregate Care of Related Residential Facilities

Section 6: Subsection (e) of 10-186 of the general statutes is repealed and the following is substituted in lieu thereof:

(e) A local or regional board of education shall immediately enroll any student who transfers from Unified School District #1 or, Unified School District #2, a juvenile detention center, congregate care, or any other residential placement. Student enrollment shall not be delayed by additional enrollment requirements or any other special conditions imposed by the local or regional board of education. In the case of a student who transfers from any of these out home placements, such student shall be enrolled in the school such student previously attended, provided such school has the appropriate grade level for such student.

Center for Children's Advocacy

TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY
In Support Of
H.B. 7050: AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Judiciary Committee

March 30, 2015

Senator Coleman, Representative Tong, Senator Doyle, Representative Fox and esteemed members of the Judiciary Committee

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit organization affiliated with University of Connecticut School of Law in support of H.B. 7050: An Act Concerning the Juvenile Justice System. The Center supports this bill, and specific components therein, as it will establish new and crucial protections for youth in the juvenile justice system. Specifically, H.B. 7050 will: 1) establish legal guidelines for and a presumption against the shackling of youth in the courtroom; 2) expand the protections for confessions made by youth accused of crimes or delinquencies without their parent present up until their eighteenth birthday; and, 3) increase the age of transfer to adult court for juveniles to age fifteen (15) while limiting the class of felonies for transfer to only those most serious class A felonies. H.B. 7050 will also extend, expand and further define the role of the Juvenile Justice Policy Oversight Committee so that juvenile justice efforts will remain coordinated and focused and assessment data will be readily available to the public. While Connecticut has been a national leader of juvenile justice reform in many respects, reform and oversight are still needed. H.B. 7050 will ensure Connecticut continues in the right direction for the benefit of its most vulnerable and at risk youth.

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The Center provides holistic legal services for Connecticut's poorest and most vulnerable children through both individual representation and systemic advocacy. Through our TeamChild Juvenile Justice Project, the Center collaborates with the Juvenile Probation Offices in Hartford and Bridgeport to improve our clients' juvenile justice outcomes by securing needed services through community agencies or the school system. We also run Disproportionate Minority Contact (DMC) Reduction Projects in Hartford, Bridgeport, New Haven and Waterbury, where we work with local stakeholders to develop strategies to reduce the disproportionate representation of youth of color in our juvenile justice system.

Pass and Expand Section Four, Limiting the Shackling of Juveniles in the Courtroom

The Center strongly urges you to pass Section 4 in its entirety, while also adding in a provision that establishes the right for youth to have a hearing in front of a judge if there is a disagreement about their being shackled in court.

Currently, Connecticut has no law governing the shackling of juveniles in the courtroom. We find this difficult to reconcile with fact that the use of shackles on children is

traumatizing, humiliating, and interferes with each individual child's defense. Medical and clinical experts agree that shackling negatively impacts youth by undermining their sense of self and interfering with their ability to self-regulate concentrate and process information. Moreover, a large number of youth involved in the juvenile justice system have a trauma history themselves. The experience of being chained in shackles may lead to further traumatization.

National best practice, including a February 2015 resolution from the American Bar Association (ABA) Criminal Justice Division recommends that jurisdictions establish a clear presumption against the use of shackles in the courtroom:¹

That the American Bar Association urges all federal, state, local, territorial and tribal governments to adopt a presumption against the use of restraints on juveniles in court and to permit a court to allow such use only after providing the juvenile with an opportunity to be heard and finding that the restraints are the least restrictive means necessary to prevent flight or harm to the juvenile or others.

H.B. 7050, Sec. Four Must be Passed as Existing Policy Does Not Carry the Force of Law

The shackling of adults in criminal court is almost wholly prohibited by well-established case law founded on principles of due process. Yet, the shackling of children in court is governed solely by the internal policy of the Judicial Department Court Support Services Divisions (CSSD). It is notable that this policy was recently and expeditiously updated by the current administration of Judge Conway to create a strong presumption against shackling, granting judicial authority over the issue and giving youth the right to a hearing if there is a disagreement over their being shackled. The policy is a strong example of national best practice. As it has just gone into effect, we have not yet had the chance to monitor its impact.

While we appreciate Judicial's action and work on this important issue, we feel strongly that a policy is not enough. First and foremost, policy does not carry with it the force of law. For example, CSSD's previous shackling policy was not followed consistently, although it laid out clear proscriptions. A child in Bridgeport court would have had an entirely differently experience with shackling than a child in court in Vernon-Rockville, even though their circumstances and offense were the same. Second, policy can be readily changed without any recourse. As the recent policy was put into effect quickly and swiftly by Judge Conway, it could also be changed just as expeditiously with a change in the administration or as a reactionary response to a crisis situation that might occur. This is why we need legislation to address indiscriminate shackling.

By passing H.B. 7050, and adding a clause ensuring a youth is entitled to a hearing if they are being asked to wear shackles in the courtroom, we will create a legal presumption against shackling, vest decision making about shackling in the judicial authority, encourage the use of less restrictive alternatives, and require an affirmative finding of fact on the record that a

¹ American Bar Association, Criminal Justice Division, House of Delegates, Resolution 107A, passed February 9, 2015, found at: http://www.americanbar.org/news/reporter_resources/midyear-meeting-2015/house-of-delegates-resolutions/107a.html.

child poses a safety risk to the general public *before* a child can be shackled in court. This is the least our youth deserve.

Other Jurisdictions Have Limited Shackling With Great Success

Over the last several years, jurisdictions across the United States have taken affirmative action to limit courtroom shackling of youth through the passage of laws. These states include New Hampshire, Pennsylvania, North Carolina and South Carolina. Other states have established affirmative court rules, including Florida, New York, New Mexico and Washington state, among others. What has been learned from these jurisdictions, is limiting shackling does not result in any concrete negative consequences. Youth are not escaping or causing danger in the courtroom, and hearings on the issue, when they occur, happen quickly and without incident.

For example, when Miami-Dade County, Florida implemented a rule in 2006 that youth could not be shackled without an affirmative determination in court that they were dangerous, more than 25,000 youth appeared unshackled in court between 2006 and the present time.² Not once instance of harm was reported.

Similarly, in September 2014, Washington state implemented a court rule requiring a hearing and an affirmative finding that a youth was dangerous before s/he could be shackled. As a result, hearings have been held rarely, and no instances of harm have been reported. In addition to Florida and Washington, Alaska, New Hampshire, New Mexico, North Carolina and South Carolina have adopted similar laws or rules requiring a hearing for any youth to be shackled. It is time for Connecticut to do the same.

H.B. 7050 Should be Expanded to Include Provisions for Automatic Juvenile Record Erasure

H.B. 7050 should be amended to add language that includes provisions for automatic juvenile record erasure. (See Attachment A for suggested language.) Automatic record erasure is consistent with the purpose of the juvenile justice system, which is to be rehabilitative and forgiving in nature. Currently, record erasure is permitted for youth with a history in the system who have not had subsequent involvement for a period of two years. However, the process to request erasure is a cumbersome, complicated one, beyond the capacity of and an unrealistic pursuit for most of the youth it is meant to benefit. Adding the suggested language to H.B. 7050 will facilitate automatic erasure for these same youth who have already demonstrated a level of rehabilitation.

Connecticut needs such a law, as the Juvenile Law Center recently assessed.³ (See Attachment B for JLC Connecticut fact sheet.) Ranked 31st out of the 50 states in protecting the

² The rule in Miami-Dade County became a statewide rule in 2010 that has been implemented throughout Florida with similar success.

³ See Juvenile Law Center, *Failed Policies, Forfeited Futures: A Nationwide Scorecard on Juvenile Records*, November 2014, found at: <http://juvenilerecords.jlc.org/juvenilerecords#!/rankings/total>

confidentiality of juvenile justice records of youth by the Center, Connecticut could start improving its process by facilitating automatic erasure for low offending youth.

Automatic record erasure would preserve the confidentiality that the juvenile court intends to impart on youth and protect them from the stigma associated with having a criminal record. The language suggested would not, however, change the current law for youth convicted of serious juvenile offenses. Finally, passing this bill will have no additional fiscal impact to the budget. Funding to implement these new automatic erasure provisions was put in the Fiscal Year 2015 budget and is just waiting to be used.⁴

H.B. 7050 Should Also Be Expanded to Include Language to Facilitate Re-enrollment of Youth Discharging Youth from Certain Juvenile Justice Facilities

In 2011, the legislature adopted important language to ensure the automatic re-enrollment in school of youth coming out of certain juvenile justice placements, namely Manson Youth Institute and the Connecticut Juvenile Training School. These specific protections to be expanded to include youth in other juvenile justice placements such as detention, congregate care and other residential settings. (See Attachment C for suggested language.)

Additionally, a provision rendering enrollment practices that create barriers illegal needs to be added as well. Too many youth who attempt to re-enter their home communities after being in a juvenile justice placement experience delays, unnecessary barriers and push out. Clear statutory language prohibiting such practices will help to ensure that youth remain in school and on track to achieve their diploma.

The Center for Children's Advocacy urges you to pass H.B. 7050 with the aforementioned additions and changes. To do so would help to ensure that the youth in our juvenile justice system benefit from appropriate oversight and are afforded more rehabilitative measures to which their status as youth entitles them.

Thank you in advance for your time and consideration.

Respectfully submitted,

/s/

Marisa Mascolo Halm, Esq.
Director, TeamChild Juvenile Justice Project

⁴ CT Office of Fiscal Analysis, Judicial Department budget overview, 2014-15.

Testimony of Brenda R HB-7050

IN SUPPORT OF HB 7050, AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Dear Representative Tong, Senator Coleman, Distinguished Members of the Committee on Children: I submit this testimony in support of Section 4 of HB 7050.

I'm 15 years old. I was first shackled when I was 14 years old, and then again 6 months ago. Being shackled made me feel like I was treated like an animal. Being held and walked like I was a dog made me feel like an animal.

I think being shackled made me feel bad about myself. It made me feel like I was a bad person and something was wrong with me. My DCF worker, my therapist, and my Mom and Dad all saw me shackled when I walked into court. I felt everyone's eyes on me, they were looking at me as a big criminal. My parents cried.

Shackles were not necessary for truancy. A 15 year old young woman whose crime was truancy: Not going to school, should not be shackled. Shackles aren't necessary because they make people feel less than what they are.

I think if I walked in without shackles it would have been better. I didn't need shackles; the marshals walked me into court.

This issue is important because it's just wrong, especially if a child is truant, to be shackled. It's important because shackling kids is just wrong.

Brenda R

Waterbury

Passages Program

Testimony of Briana E. HB-7050

IN SUPPORT OF HB 7050, AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Joint Committee on Judiciary

March 30, 2015

Submitted by Briana E.

Dear Representative Tong, Senator Coleman, Distinguished Members of the Committee on Children: I submit this testimony in support of Section 4 of HB 7050.

If you never had the humiliating experience of being shackled you never been in trouble with the law. It doesn't matter if you're an adult or a juvenile with petty theft: You're getting shackled regardless & getting robbed of due process.

I was shackled and I felt embarrassed, humiliated, and guilty no matter what. I felt like an animal.

Another injustice I can recall with shackling with one of my good friends had to go to the doctor to have her baby in shackles. Imagine the agony of not being able to deliver your child with flexibility in your legs to give birth.

One of my teachers at the time was working a detention center at it brought her Tto tears when she had to explain and relive the story, students of hers that would come to class right having a root canal and wisdom teeth taken out in chains. They would come to class with blood still in their mouths, imagine the pain of not being able to raise your hand to your cheek to comfort yourself.

Youth are shackled with leg irons, belly chains & handcuffs it discriminates and traumatizes them, shackling youth is unnecessary if the child doesn't post a threat.

I think the point is to scare young people into never wanting to come back jail, but what you are really doing is having youth lose faith in our court system because it appears that the Court doesn't care about the presumption of innocence

Medical professionals in states across the country agree that the harm of shackling young people affects them longer than if a adult was shackled. We should focus on keeping them out of the justice system, not putting them into it. Young people do not need to be shackled for courts to appear before a judge safely and efficiently.

Shackling is automatic in juvenile court, without even finding by a judge that a child

presents a flight or safety risk. While courts in other countries rarely allow adults to be shackled: It's crazy

I've been shackled.

Briana E

New Haven

Passages Program

Testimony of Curtis R. HB-7050

IN SUPPORT OF HB 7050, AN ACT CONCERNING THE JUVENILE JUSTICE
SYSTEM

Joint Committee on Judiciary

March 30, 2015

Submitted by Curtis R.

Senator Coleman, Representative Tong, Distinguished Members of the Committee on children, I submit this testimony in support of Section 4 of HB 7050:

About a month ago, I was shackled for a court appearance after I was remanded to detention. This made me feel so bad about myself that when I walked into the court room, I felt like an animal being prepared to be put down.

I also started to feel like I was some type of killer or a monster the way I was shackled, other people- including family called me a criminal. Still until this day I don't think it was necessary to shackle me the way I was, due to the fact that I am no animal: I am just as human as the man with the robe in front of me.

I also feel that if there is going to be 4 guards and 3 CTU staff in the courtroom with me, what is the point of shackles? Should I be shackled down in front of my family like that I know that for my grandmother seeing me like that crushed her heart into pieces.

I recommend the state should make an law and have the kids walk with their hands behind, on the side, or in front of them my theory for that would simply be that it

looks more humane also I feel it would not only stop the physical harm to kids body it can also stop the mental harm to an child.

I also feel like this shouldn't only take effect in courtrooms but also when kids go for appointments etc. I mean just the thought of having to be shackled to an hospital bed makes me sick to my stomach, and being sick to your stomach makes matters worse, who knows what people might think when they see this.

My last opinion is even adults aren't shackled in court rooms as much as children and me being someone who had to experience this first hand made me lose a lot of faith in myself and my me think to myself, is this all I am worth? Am I this much of a threat?, or Why do I get treated like so much like an animal?

Curtis R.

New Haven

Passages Program



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

H.B. No. 7050 (RAISED) AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

JOINT COMMITTEE ON JUDICIARY
March 30, 2015

The Division of Criminal Justice opposes Sections 1, 2 and 4 of H.B. No. 7050, An Act Concerning the Juvenile Justice System, respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT to, at a minimum, delete those sections of the bill.

Section 1 of H.B. No. 7050 would eliminate the mandatory transfer to the regular (adult) docket of the criminal proceedings involving a juvenile charged with a class B felony. The only charges (class A felonies) for which automatic transfer would occur are: Murder (53a-54a), Felony Murder (53a-54c), Arson Murder (53a-54d), Assault of a Woman Resulting in Termination of Pregnancy (53a-59c); Kidnapping in the First Degree (53a-92); Kidnapping in the First Degree with a Firearm (53a-92a); Home Invasion (53a-100aa); Arson in the First Degree (53a-111); Employing a Minor in Obscene Performance (53a-196a); and under certain circumstances, Sexual Assault in the First Degree (53a-70); Aggravated Sexual Assault in the First Degree (53a-70a); and Aggravated Sexual Assault of a Minor (53a-70c).

Among the crimes for which automatic transfer would not occur are: Manslaughter in the First Degree (53a-55); Manslaughter in the First Degree with a Firearm (53a-55a); Assault in the First Degree (53a-59); Assault of an Elderly, Blind, Disabled or Pregnant Person or a Person with Intellectual Disability in the First Degree (53a-59a); Kidnapping in the Second Degree (53a-94); Kidnapping in the Second Degree with a Firearm (53a-94a); Burglary in the First Degree (53a-101); Arson in the Second Degree (53a-112); Robbery in the First Degree (53a-134); and under certain circumstances, Sexual Assault in the First Degree (53a-70), Aggravated Sexual Assault in the First Degree (53a-70), Sexual Assault in the Second Degree (53a-71) and Sexual Assault in the Third Degree with a Firearm (53a-72b).

Perhaps the most significant implication of adjudicating the case on the regular docket is the ultimate sanctions available to the court in the final disposition of the case. The most severe sanction that may be imposed for a matter disposed of in the juvenile court is the commitment of the offender to the Department of Children and Families for an indeterminate period of up to 18 months, or up to four years if adjudicated delinquent for a serious juvenile offense. DCF commitments are also terminated when the defendant turns age 20 regardless of the amount of time left on the commitment. For a matter decided on the regular docket, the penalty can include

incarceration in the custody of the Department of Correction for a period that can conceivably – and appropriately – exceed four years and continue beyond the defendant's 20th birthday. These class B felony offenses are serious, and in most cases, violent crimes and should be treated as such. The protection of the public safety may well dictate that incarceration beyond commitment to DCF is not only appropriate, but prudent. Offenders convicted on the regular docket may also be required to register with the Commissioner of Emergency Services and Public Protection as a sexual offender or as an offender convicted of committing a crime with a deadly weapon, further protecting the public safety. It must be noted that there is already a safeguard in the existing law to assure that only the small number of very serious crimes, which justify prosecution on the regular docket, remain on that docket. Section 46b-127(a)(2) already allows for the prosecutor where appropriate to transfer back to the to the juvenile docket any class B felony case that has been transferred to the regular docket.

This bill would establish the same transfer standards for class B felonies that now apply to class C, D, E or unclassified felonies. The practical result would be to preclude the transfer of any class B felony case to the adult docket, since that has effectively been the case with lesser felonies since the enactment of Public Act 12-1, June Special Session, which allows transfer only when the court finds that the best interests of the public *and* the child are served by adjudicating the case in the adult court. Rarely has a court found that the best interests of the child are served by transferring a case to the adult docket. This eradicates any real consideration of the best interests of the community and is contrary to one of the most fundamental purposes for which our criminal justice system exists, that being the protection of public safety. If the Committee is going to amend this section in any way, it should restore the right of the court to determine that the best interest of the public is served by transferring a case to the adult docket. The Division would respectfully offer the following substitute language to subdivision (1) of subsection (b) of Section 46b-127:

(b) (1) Upon motion of a prosecutorial official, the superior court for juvenile matters shall conduct a hearing to determine whether the case of any child charged with the commission of a class C or D felony or an unclassified felony shall be transferred from the docket for juvenile matters to the regular criminal docket of the Superior Court. The court shall not order that the case be transferred under this subdivision unless the court finds that (A) such offense was committed after such child attained the age of fourteen years, (B) based upon sworn affidavit, there is probable cause to believe the child has committed the act for which the child is charged, and (C) the best interests of the child [and] or the public will not be served by maintaining the case in the superior court for juvenile matters. In making such findings, the court shall consider (i) any prior criminal or juvenile offenses committed by the child, (ii) the seriousness of such offenses, (iii) any evidence that the child has intellectual disability or mental illness, and (iv) the availability of services in the docket for juvenile matters that can serve the child's needs. Any motion under this subdivision shall be made, and any hearing under this subdivision shall be held, not later than thirty days after the child is arraigned in the superior court for juvenile matters.

The bill seeks to further erode the transfer statute and protection of public safety by changing from 14 to 15 the age at which the juvenile transfer statute applies for any felony, including Murder and other class A felonies.

Section 2 of H.B. No. 7050 would require that a parent be present with a 16- or 17-year-old when they are interviewed by the police or a juvenile court official. Such a requirement already exists for anyone under age 16, but those age 16 or 17 can waive their right to have a parent present but only after they have been properly advised of their rights and the police have made a reasonable attempt to contact a parent. If the waiver is subsequently challenged, the court must decide if the waiver was made knowingly and intelligently by applying the "totality of circumstances" test.

Imposing a blanket rule requiring the presence of a parent or guardian before the 16- or 17-year-old can be interviewed -- even if the juvenile does not want the parent there -- places an unnecessary burden on the police. The burden is enhanced by the fact that a 16- or 17-year-old can legally drive and may be farther from home than someone under age 16. Further, as currently written the bill would appear to apply to statements given by anyone under age 18 in *any* case, including juvenile, motor vehicle, criminal, or civil, and exclude any statement the juvenile makes whether while under custodial interrogation or regardless of spontaneity. At the very least the Committee may wish to further scrutinize the proposed language to consider this concern.

Section 4 of the bill sounds well-intentioned but may, in fact, result in a greater danger to the juvenile himself or herself as well as to others who are present in the course of court proceedings. As the Division has stated in the past, if this bill were to be enacted, a juvenile being transported to court from a secure facility would be free of restraints for the first time when he or she is brought into court. For any juvenile contemplating escape or assault on the judge, prosecutor, probation officer or victim that may be present, being brought into the court room unrestrained would present the first opportunity to take such action. This might result in injury to those present including the juvenile himself or herself.

The bill presumably would permit restraints if the judge determines that the use of such is necessary to ensure public safety. Absent specific threats, the staff might not be aware of such danger unless and until the juvenile causes a problem in court. If there was any prior knowledge or concern, this provision would appear to require a hearing on the issue of using restraints before the juvenile could be brought into court thereby delaying the originally scheduled hearing and further delaying all other scheduled hearings. The security and protection of all involved -- again, including the juvenile -- is the responsibility of the Judicial Marshals and other professional staff and should be left to their professional judgment.

With regard to Section 3 of the bill, the Division has been an active participant in the Juvenile Justice Policy and Oversight Committee since the inception of the JJPOC. The Division looks forward to its continued participation in this process and as such supports this section of the bill.

In conclusion, the Division respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE report amending Section 1 of the bill as referenced above and

deleting Sections 2 and 4 in their entirety. We thank the Committee for affording this opportunity to offer input on this matter and would be happy to provide any additional information you require or answer any questions you might have.



University of Connecticut
Health Center

Department of Psychiatry MC1410, 263 Farmington Ave., Farmington, CT 06030

TESTIMONY OF DR. JULIAN FORD

on

HB 7050: An Act Concerning the Juvenile Justice System

JUDICIARY COMMITTEE

March 30, 2015

My name is Julian Ford. I am a professor of psychiatry at the University of Connecticut School of Medicine. I conduct therapy with adult and child survivors of trauma. I also do research on assessment and treatment of Post-Traumatic Stress Disorder (PTSD) and disorders of extreme stress following complex trauma. I am the Director of the Center for Trauma Recovery and Juvenile Justice within the National Child Traumatic Stress Network, and a senior academic fellow with the Child Health and Development Institute. I have led or co-authored a series of research and policy studies concerning mental health and traumatic stress services for youths in the juvenile justice system.

I would like to express my strong support for legislation that places limits on shackling in our state's juvenile courts.

Relationships of trust are important for pre-adolescents and adolescents. When a figure who should be worthy of trust, such as a juvenile court judge, subjects a youth to the humiliation of being chained, the youth will perceive that as a betrayal of trust. The experience of betrayal, despite this not being at all the intent of the court, can break down the adolescent's willingness to engage in restorative actions. The act of



University of Connecticut Health Center

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shackling also conveys a message to the adolescent that she or he is socially an outcast and either dangerous or out of control. This can tragically reinforce the adolescent's sense of herself or himself as a fundamentally damaged and unacceptable person.

Adolescents are still forming their own sense of whom they can trust and who they are as a person (their relational bonds and sense of self) and are acutely conscious of how they are perceived. Shackling suggests that they are untrustworthy and inherently violent or uncontrollable. Thrusting these perceptions upon a youth in the process of developing an identity is damaging. That damage may be permanent.

During adolescence, autonomy is an important focus. Shackling takes away the ability to control one's own body, a breach of autonomy at the most basic level. This can lead youths to disregard their own safety and their responsibility to members of the community, posing a barrier to self-determination that can engender a greater rather than reduced fight-flight response..

In controlling the body, shackles also control behavior. One of the developmental tasks of adolescence, which is congruent with the mission of the juvenile court, is self-regulation. Shackles make self-regulation impossible, or a distant second to escape and survival, reducing a young person's own motivation to develop this capacity.



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Shackling shifts focus from controlling one's own behavior to an overwhelming need to break free from those restraints. Instead of thinking, "How should I be behaving right now?" a young person will think, "How do I get out of these?" Self-regulation is critical to a young person's success in the community.

Research has repeatedly shown high rates of trauma histories and high rates of Post-Traumatic Stress Disorder among youth in detention. Shackling can reactivate memories of trauma and lead to PTSD symptoms, such as anxiety, anger, distrust, non-compliance, depression and dissociation.

Shackling can hinder the ability to participate in court proceedings effectively. The distraction of shackles requires extra processing capacity and working memory. It may stifle sensory-perceptual awareness and thereby make it difficult to perceive and appropriately select important information from the environment.

Shackling changes the way that adults deal with youth. An unshackled youth will be led to behave well through meaningful communication and motivation. Shackles take away the incentive for adults to perform these essential functions.

There are better ways of managing behavior, even with youth who present challenges. Staffing by professionals who understand youth development and the effects of



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trauma will prevent adverse events in most cases. I hope that the legislature will give serious consideration to the harm that shackling can do to young people in the juvenile court, harm that can be easily prevented by your actions.

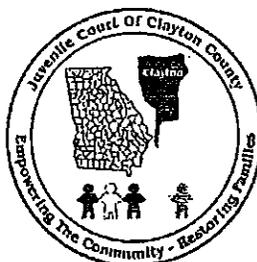
Thank you for the opportunity to comment on this legislation.

Attachment A.

Steven C. Teske
Chief Judge

Deitra Burney-Butler
Judge

Bobby D. Simmons
Judge



John P. Johnson, III
Director of Juvenile Court Services

A. Colin Slay
Chief of Staff

Robin Austin
Clerk of Court

Juvenile Court of Clayton County

March 13, 2015

Judge Teske Letter

My name is Steven Teske, and I am the chief judge of Clayton County Juvenile Court in Georgia. I am a past president of the Council of Juvenile Court Judges of Georgia and am a member of the Board of Trustees of the National Council of Juvenile and Family Court Judges. I have testified before Congress and state legislatures on matters of juvenile justice reform. I am the author of the book *Reform Juvenile Justice Now: A Judge's Timely Advice for Drastic System Change*. I support legislative efforts to end the automatic shackling of children and adolescents in juvenile court.

After a year of following an informal practice of making individualized shackling determinations in my own courtroom, I signed an order in late February formalizing this practice. I discussed limiting shackling with my sheriff before changing practice. I encouraged him to visit Florida, where indiscriminate shackling is banned statewide, to observe the juvenile court there and confer with colleagues. He found that shackles were not necessary to maintain order and trained his staff in the new policy.

The change has not diminished the safety of my courtroom and has benefitted the children who come before me. No child has fled my courtroom or assaulted anyone in the past year. Anecdotally, I have found that children behave better when they are unshackled and they

Clayton County Youth Development and Justice Center • 9163 Tara Boulevard • Jonesboro, Georgia 30236
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are less likely to lash out at detention staff and others in the courtroom. This has been the common experience in jurisdictions that have limited juvenile shackling.

The relationship between law enforcement and youth is critical. In Clayton County, I led a community-wide effort to limit arrests in public schools. We found that when there was a decline in student arrests for minor misbehavior, our young people were more comfortable communicating with law enforcement. This led to more cooperation and better policing. By limiting juvenile shackling, Connecticut will have safer courts and safer communities, just as we saw in Clayton County.

Whether through court rule or legislation, shackling reforms always leave room for judges to order a child shackled if there is a flight or safety risk. The rare hearings when we must consider shackling a child are not burdensome. My Massachusetts colleague Judge Blitzman reports that these procedures take approximately five minutes in his courtroom. This is in line with my own experience.

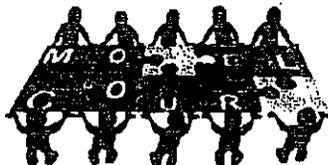
In short, I have found no disadvantages to ending indiscriminate shackling in my courtroom. I encourage you to pass legislation that will limit shackling to reflect the rehabilitative mission of the juvenile court.

Steven C. Teske, Chief Judge
Clayton County Juvenile Court
Clayton Judicial Circuit

Attachment B



The Travis County Model Court for Children and Families



Lead Judge:

The Honorable Darlene Byrne
126th District Court of Travis County
P.O. Box 1748
Austin, Texas 78701

Staff Attorney:

Katy Gallagher Parker

David A. Shapiro, Esq.
Campaign Manager
Campaign Against Indiscriminate Juvenile Shackling
National Juvenile Defender Center, Washington D.C.
Via Electronic Mail to: DShapiro@njdc.info

March 24, 2015

My name is Judge Darlene Byrne and I am writing to voice my position regarding the indiscriminate practice of shackling juveniles. I preside over the 126th Judicial District Court in Travis County, Texas, and in July will become president of the National Council of Juvenile and Family Court Judges ("NCJFCJ"). The NCJFCJ is one of the largest and oldest judicial membership organizations in the nation and serve approximately 30,000 juvenile court professionals and judges. The position I espouse in this letter is my personal position and not that necessarily of my fellow district court judges or the entire membership of the NCJFCJ. The NCJFCJ is considering a resolution that would call for an end to the indiscriminate or automatic shackling of juveniles across the country, however, this resolution is still in the development stage.

Indiscriminate shackling of juveniles is inconsistent with the rehabilitative purpose of the juvenile justice system.

Mission Statement:

The Travis County Model Court for Children and Families is a multidisciplinary effort to make certain every child has a safe, permanent, healthy home in a timely manner and strengthen families, while ensuring fairness and procedural protections for individuals

Contact us at: Ph. (512) 854-4915 Fax (512) 854-9780 Email: Katy.GallagherParker@traviscountytx.gov

In Travis County, we use shackles in juvenile court only under extraordinary circumstances and as a last resort to ensure the safety and well-being of our youth and staff. To give you a sense of the size of our juvenile court docket, in Fiscal Year 2013 we held 3,132 detention hearings. In Fiscal Year 2014 we held 3,506 such hearings. Very few, if any, children in my courtroom were shackled during that time period, though if any had posed a security or flight risk, I would not have hesitated to hold a hearing to determine whether restraints should have been used. My courtroom has always been a place of safety. The fact that youth in my court remain unshackled has not resulted in the need for additional security. In fact, I have found that youth probably behave better, are better listeners, and are more engaged in the court process when they remain unshackled. From FY 2013 to present, I am aware of no incidents of physical harm or escape in our juvenile courtrooms despite the absence of shackles.

The most recent event I can recall in which a child was shackled occurred when a probation officer advised the judge prior to a hearing that the child was having a very difficult time in detention and that the child had said he would "go off" in the courtroom. The youth had been destructive and had assaulted an officer, so shackling was authorized at that hearing. Although the youth was sullen and nonresponsive during the hearing, no other form of acting out occurred and the hearing went on without incident. Other than that isolated incident, I cannot recall another child being shackled in my courtroom during the past several years. We conduct hundreds of hearings a week and our juvenile court typically hears five to ten detention hearings per day.

On one other occasion I am aware of in a fellow judge's courtroom, a child flipped over a table. Our probation team was able to get that situation under control without further incident or

injury and our courtroom practices have remained constant. Judges should ask whether we are going to operate our courtrooms out of fear for the .1% of children who pose a risk or for the benefit of the 99.9% of kids who act respectfully in court.

The children in my court come from the same diverse backgrounds and share many of the same tragic stories of young people in courts all across the country. But they are still children, and we cannot lose sight of this.

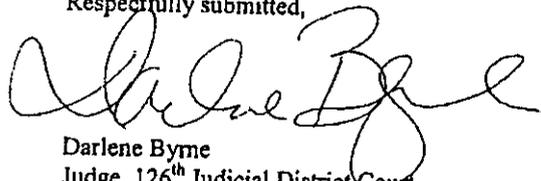
A child who comes into my court in shackles immediately knows that he or she is different from the other kids. There is a sense of embarrassment, humiliation, and shame. I sense they feel that they are disappointing me as a judge. We rarely acknowledge how judges and the decisions we make might be affected by seeing a shackled child before us. Shackles place a barrier between the judge and the child. It is simply not in the interest of justice, or in the child's best interest, to have children shackled. To ensure that young people fully participate in our court proceedings and understand my directives, I insist that they remain unshackled or, in the alternative, that we spend more time talking to them to ensure that they fully comprehend their situation.

A court of law must be a place of respect and dignity. Only in the rarest of circumstances, when there is a serious risk of harm or flight from custody, should we ever need to shackle a child. Experience has taught me that the best way to deescalate a tense situation or to improve a child's behavior in my courtroom is with proper courtroom management—not by shackling the child. Judges can speak calmly, allow for short recesses, and deescalate emotional situations. That's what judges do.

In our jurisdiction, unarmed juvenile probation officers supervise children in the courtroom. Our Chief Juvenile Probation Officer has served for more than 20 years and understands adolescent behavior and development. We work together closely to find ways to keep my courtroom safe and to keep children unshackled whenever possible.

In summary, I do not believe that shackling children in court is necessary to maintain safety, and at times it may actually engender more problematic behavior. Shackling humiliates young people and can reactivate past traumas. Shackling should be limited to those rare instances when a judge believes that a child poses a security risk and that courtroom safety cannot be achieved in any other way. Please join me in voicing opposition to the indiscriminate or automatic practice of shackling juveniles in court.

Respectfully submitted,



Darlene Byrne
Judge, 126th Judicial District Court
Travis County, Texas

CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING

Testimony of David A. Shapiro, Esq.
Manager, Campaign Against Indiscriminate Juvenile Shackling
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is David Shapiro. I am the Manager of the Campaign Against Indiscriminate Juvenile Shackling, housed at the National Juvenile Defender Center in Washington, D.C. Thank you for giving me the opportunity to speak today on HB 7050, Section Four, concerning the shackling of youth in the courtroom. In further support of my testimony, I am attaching letters from two judges who are national leaders in juvenile shackling reform. (See Attachment A from Judge Teske and Attachment B from Judge Byrne.)

National best practices establish that effective shackling reform contains at least three basic components: 1) that shackles be used only when absolutely necessary; 2) that there be a presumption against their use; and 3) that there be an opportunity for the child's attorney to contest the use of shackles. While the proposed bill is worthy of support, we recommend that the language be amended to include this third principle of providing the child's attorney an opportunity to contest the use of shackles.

I work around the country to promote measures that maintain courtroom safety while ending the unnecessary and harmful practice of automatically shackling youth in juvenile court settings. In at least 13 states, judges make individual determinations whether to

Contact David Shapiro 646.942.6343 DShapiro@njdc.info

CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING

restrain a young person based on safety and whether that child is a flight risk. This past year, South Carolina, Alaska, and Washington State ended the practice of automatically shackling all youth in juvenile court settings. South Carolina's bill passed both houses unanimously.

Here is the experience of three other jurisdictions that have eliminated the automatic shackling of youth. I am happy to provide other examples as well.

- Pima County (Tucson), Arizona, implemented individualized shackling determinations last March. The court there reports that as of July 2014, 889 youth have now appeared unrestrained without incidents.
- In Los Angeles, the juvenile court handles about 6,000 cases a year, and the vast majority of youth are unshackled.
- In Miami Dade County (Florida), indiscriminate shackling was eliminated in 2006. More than 25,000 children have gone through court arraignments and trials unshackled with no escapes and no injuries.

The harm of indiscriminate shackling is broadly recognized. The American Bar Association passed a resolution calling for the end of indiscriminate shackling of juveniles on February 9, 2015. Other professional organizations supporting shackling reform include the Association of Prosecuting Attorneys, the National Child Traumatic Stress Network, the American Academy of Child and Adolescent Psychiatry, the American Orthopsychiatric Association, and the Child Welfare League of America.

Shackles have a direct impact on youth the moment they step foot into the courtroom. Leading experts tell us that shackled children have a harder time following judges' instructions, taking notes, recollecting narratives, and even appearing truthful. Overall,

CAMPAIGN AGAINST INDISCRIMINATE JUVENILE SHACKLING

even youth wearing only handcuffs are less likely to communicate effectively and more likely to come across poorly to judges—not simply because of what they look like in shackles, but because of how shackles affect their ability to present themselves.

Experts also speak about the link between trauma and shackles. Shackling often involves a sense of powerlessness, betrayal, fear, humiliation, and pain. The experience of indiscriminate shackling brings up earlier childhood traumas and increases the likelihood that the effects of this trauma will reverberate through their lives for years to come.

Under Judge Conway's leadership, Connecticut's judicial branch has created a new policy which is a tremendous improvement. What we have seen across the country, however, is that administrative policies are not enough. They provide little accountability, and are easily altered, or even reversed. In juvenile court, where so much is confidential—and for good reason—the protection provided by statute is needed most.

These are just some of the reasons to think critically and carefully about the shackling practices in Connecticut's courts and support the passage of HB 7050, Section Four. Give Connecticut's children a statute that will protect their rights and well-being. Thank you for your time. I am happy to answer any questions you may have.

Testimony of Janayia D. HB-7050IN SUPPORT OF HB 7050, AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

Joint Committee on Judiciary

March 30, 2015

Submitted by Janayia D.

Dear Representative Tong, Senator Coleman, and Distinguished Members of the Committee on Children: I submit this testimony in support of Section 4 of HB 7050.

I was shackled when I was 16, this year when I went to court and was remanded back to detention. I was also shackled for Doctor's appointments.

I felt cage like an animal like I committed a major crime or murdered someone. It was terrible and I looked like a hot mess.

I felt that people were looking at me; I was embarrassed. I f felt they were talking about me like I was a bad person that I would not succeed as a person, that I was a bad person.

I think they should surround with talk with security instead of shackling children and teens.

Janayia D.

Derby

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**Written Testimony in Support of House Bill No. 7050,
An Act Concerning the Juvenile Justice System**

Good afternoon Senator Coleman, Representative Tong and distinguished members of the Judiciary Committee. My name is David McGuire. As staff attorney for the American Civil Liberties Union, I am here in Support of House Bill No. 7050, An Act Concerning the Juvenile Justice System.

I would first like to commend the committee for raising such an important piece of legislation. The legislature has taken great steps to reform Connecticut's Juvenile Justice System in recent legislative sessions, and this bill will bring our state one step closer to ensuring that our youth are treated fairly. These amendments would bring our juvenile sentencing scheme into line with judicial trends by accounting for major differences between children and adults. In recent years, the U.S. Supreme Court has relied on scientific studies about adolescent brain development. The Court has stressed that youth are less culpable for their crimes and more capable of rehabilitation. In *Miller v. Alabama* (2012) the Court specifically noted juveniles' "diminished culpability and greater prospects for reform." The Court has made unquestionably clear that children are different than adults and that difference must be reflected in how courts sentence children in adult court.

Section 1 raises the minimum age for automatic transfer from the juvenile docket to the regular criminal docket from 14 to 15. This section would also make progressive changes to transfer of cases from the juvenile matters docket to the adult criminal docket. Under this bill class B felonies would no longer result in the automatic transfer to adult criminal court. This comports with recent United States Supreme Court jurisprudence and is sound public policy. This appropriately leaves it up to courts to decide if the charged child's development and fact of the case necessitate the transfer of the class B felony case to adult court.

There are inconsistencies regarding the admissibility of statements made by children. Statements taken from children under age 16 outside the presence of a parent are inadmissible in delinquency prosecutions. Section 2 would extend these protections to 16 and 17 year olds, as well. Children are far more susceptible to duress and coercion especially in stressful and intimidating law enforcement atmosphere. Until a youth offender has reached the age of adulthood, considerations must be made for their age and development.

Section 4 of this bill prohibits the shackling of any youth under the age of 18 unless restraint is necessary to ensure the safety of the public. Currently, shackling of juveniles occurs without regard to important factors such as height, weight, gender, offense or threat to public safety. We firmly believe that the shackling of youth under the age of 18 is an unjust practice.

Youth are far more susceptible to emotional, physical and psychological harm and the majority of youth that enter the juvenile justice system have experienced some form of harm in this nature before they are offenders. Shackling has a negative effect on the emotional and psychological wellbeing of youth. The shackling of juveniles is inhumane and reinforces the notion that these youth are deserving of humiliation and shame. This practice is inconsistent with the rehabilitation goals of the juvenile justice system.

The majority of youth offenders are not charged for serious crimes and are not harmful or dangerous in a court room. In 2014, South Carolina, Washington, North Dakota and Alaska passed legislation banning the use of shackles on youth under the age of 14.¹ In 2015, legislation has been introduced in eight other states that would end indiscriminate juvenile shackling.² We urge Connecticut to join these states and end the practice of indiscriminate juvenile shackling.

Collectively, these amendments make Connecticut's juvenile justice system more fair and just. We urge the committee to pass this bill.

¹ <http://njdc.info/wp-content/uploads/2014/09/CAJS-Progress-March-20151.pdf>

² Nebraska, Indiana, Colorado, Mississippi, Missouri, Utah, Minnesota and Tennessee



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Testimony of Gwyneth Rost, Ph.D.
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is Gwyneth Rost. I am a speech-language pathologist and an assistant professor of Communication Disorders at the University of Massachusetts, Amherst. One of my central clinical and research interests is how communication works in the justice system. I have worked clinically with juvenile and young adult offenders, both diagnosing and treating language disability in this population.

I am writing in support of Section Four of Connecticut's H.B. 7050, which establishes a presumption against indiscriminate juvenile shackling. Whenever youth are shackled, their communication is negatively affected.

The language of court proceedings is more complex than is typical of adolescent daily life. It is beyond the developmentally appropriate limits for young adolescents. The gap is even wider for youth with language disabilities. Youth in the justice system are likely to have undiagnosed language-related disabilities.

The juvenile justice system further hampers the communication abilities of these youth by shackling them. Restraint impedes communication in four ways: a) it impedes gesture use, making the act of speaking more difficult, b) it impedes language

comprehension, further hindering conversation, c) it impedes reading of appropriate paperwork, and d) it impedes note-taking.

- a) Shackling youth can impede their abilities to answer questions truthfully, clearly, or concisely in court.

Restraint impedes the use of gestures that speakers use for a variety of meaning and organizational purposes. Deictic gestures (such as pointing) allow a speaker to speak less ambiguously and be more comprehensible to the listener. Beat gestures (such as the "meaningless" movement of hands) assist the speaker and listener in keeping track of sentence structure. Shackling removes the speaker's abilities to use embodied cognitive processes in which motion or space act as a memory aid or trigger. These processes support language production in general speech by supporting memory for what has recently been said and what needs still to be said. This allows speech to flow clearly. Without gesture, as is the case in restraint, spoken responses are less complete and comprehensible. Under these conditions, spoken responses will appear to be less truthful than is the speaker's intent. In addition, spoken responses may appear to be more combative than is the speaker's intent.

- b) Shackling youth can impede their comprehension. It may additionally interfere with long-term memory for what was said or ordered.

Physical restraint of any type impedes comprehension and memory for what has been heard. Youth who are restrained have attention drawn to restraint, and away

from linguistic interactions. Therefore, when language is difficult, they will often fail to process what they are told or asked. Restraining youth in academic situations leads to poorer learning outcomes: the same student will learn a lesson better when unrestrained than when restrained. To extend this to the court, one would expect that a youth who is shackled during proceedings will understand the proceedings less, remember the proceedings more poorly, and follow the instructions given to him/her less accurately than the same youth would if he/she were not restrained.

In addition, youth who have a history of trauma report that forms of restraint make them fearful and heighten memory of trauma. These emotions prime their language comprehension so that they perceive what they hear as being combative and may respond by withdrawing attention from the proceedings, or by responding disrespectfully in return. In this situation, children are likely to perceive rehabilitative efforts as being merely punitive, and will be less likely to buy into their own rehabilitation.

c) Shackling can interfere with functional reading strategies.

Functional illiteracy is rampant in the population of juvenile offenders. One of the most typical compensatory strategies employed by poor readers is to use pointing gestures to assist their reading. Pointing allows a reader to keep pace with the document and to visually mark important words. Youth who are manually

restrained are unable to make use of this appropriate compensatory strategy, affecting their ability to comprehend written materials and to remember the content therein.

d) Shackling can interfere with functional writing.

Manual restraint impedes a person's ability to write. Note-taking might improve memory for proceedings and rulings.

Given the negative consequences of shackling, particularly when it comes to actually complying with court instructions and actively participating in proceedings that concern them, youth should be shackled only in the very rare cases where they pose a real safety risk and cannot be managed with other less-restrictive means.

Because shackling harms the rights of young people to participate in their court proceedings, and because such a practice simply isn't necessary, Connecticut should pass H.B. 7050. Thank you for your time and consideration.

Respectfully submitted,



Gwyneth C. Rost, Ph.D., CCC-SLP
Assistant Professor, Department of Communication Disorders
University of Massachusetts, Amherst

CHRISTOPHER S. MURPHY
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April 2, 2015

Joint Committee on Judiciary
Connecticut General Assembly
Legislative Office Building, Room 2500
Hartford, CT 06106

Dear Co-Chairs Coleman and Fong, and Ranking Members Kissel and Rebimbas:

I write to express my strong support for legislation that would place reasonable limits on the use of shackles in Connecticut's juvenile courts. When I speak about juvenile justice reform to colleagues in Washington, I frequently cite Connecticut's leadership in this area. We have made great strides in our state toward a system that better protects public safety while giving young people the kind of help they need to be successful at home, at school, and in the community. Many of the policies that made these achievements possible originated in the Judiciary Committee.

In the U.S. Senate, I intend to advocate this year for a reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP), the landmark statute that sets federal standards to protect youth who come into contact with the juvenile justice system. I believe that one of the critical elements of a new JJDP will be the inclusion of standards related to youth shackling, and I am hopeful that Connecticut will once again prove to be a leader and a model that I can point to in my work at the federal level. The introduction of H.B. 7050 and the March 30 hearing in your Committee are clear steps in the right direction that provide an opportunity for getting ahead of possible federal guidelines, and I applaud you for your leadership.

Most states, including Connecticut, still allow the indiscriminate shackling of young people in their juvenile courtrooms, but this is changing rapidly. In the past 12 months, three states have changed their policies to allow shackling only in those rare circumstances when a youth presents a safety risk that cannot be managed by less drastic measures. The American Bar Association and the Child Welfare League of America have both recently come out against the automatic shackling of youth in court. There is an emerging national consensus that indiscriminate juvenile shackling is an indefensible practice.

Youth and court advocates are not the only professionals championing these reforms. Mental health experts tell us that the experience of shackling may have long-term effects. As the Child Welfare League of America said in its policy statement, "feelings of shame and humiliation may inhibit positive self-development and productive community participation. Shackling doesn't protect communities. It harms them."

In Connecticut, 80 percent of children admitted to detention report histories of trauma. In 2013, 90 percent of boys admitted to the Connecticut Juvenile Training School had more than one DSM-IV diagnosis. The Pueblo Unit for girls has not been open long enough to report similar data, but research has found the rate of mental disorders for girls in the juvenile justice system to be higher than it is for boys. I applaud efforts to divert children with acute mental health needs from the juvenile justice system and encourage you to support a redoubling of those efforts. However, advocating for one set of reforms while not addressing another would continue to leave too many young people in the system vulnerable. Shackling children without discretion is an outdated practice that can lead to increased trauma and humiliation.

For all these reasons, it is my sincere hope that Connecticut can continue to be at the forefront of juvenile justice reform and pass anti-shackling legislation this session. H.B. 7050 is an encouraging step, but I believe it could be further strengthened to ensure that shackling of youth is a practice that is used in only the most extreme and rare circumstances. To that end, I respectfully offer the following suggested language:

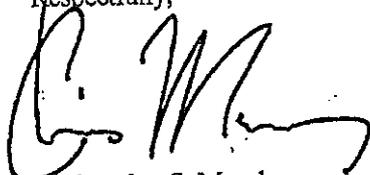
Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a child during a court proceeding and must be removed prior to the child's appearance before the court unless the court finds both that:

- (1) The use of such restraints is necessary to ensure the safety of the public;*
- and,*
- (2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.*

The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order.

It is time that Connecticut placed limits on the use of shackles in juvenile court, and I fully support your efforts and leadership in enacting new legislation to do so.

Respectfully,



Christopher S. Murphy
U.S. Senator



TESTIMONY of DONALD ROSENBLITT, M.D.,
In Support Of
H.B. 7050 An Act Concerning The Juvenile Justice System

Submitted to the Connecticut General Assembly
Joint Committee on Judiciary

March 30, 2015

State Capitol, Hartford, Connecticut

My name is Donald Rosenblitt. I am writing in support of Section 4 of H.B. 7050. I am a child psychiatrist and psychoanalyst. I am the founder and the executive and clinical director of the Lucy Daniels Center in Cary, NC, a regional provider of education and mental health care for children. I have served the American Psychoanalytic Association as executive counselor and chair of the Board of Professional Standards.

North Carolina law allows for shackling only when reasonably necessary. Courtrooms in North Carolina are just as safe now as they were prior to this policy being enacted. I would encourage Connecticut to take similar action. Shackling is not necessary to maintain acceptable courtroom behavior. Indeed, it may engender more problem behavior. It humiliates young people and can reactivate past traumas. All of this occurs at a sensitive period in their development and may do permanent harm.

Connecticut has made significant advancements in juvenile justice reform through the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative. The Initiative

discourages the use of mechanical restraints in juvenile facilities in part because they "may evoke feelings of guilt, humiliation, embarrassment, hopelessness, powerlessness, fear and panic." Humiliation would be amplified in the courtroom because of its public nature.

Most court-involved youth have suffered from abuse and neglect. Often, a significant component of the reasons adolescents turn to crime is that they are attempting to deal with shame, weakness and helplessness by putting themselves above rules and controls. For these youth in particular, shackling is not only inherently shame producing, but it may well hinder recovery by actually reinforcing the underlying psychological problems that can lead to problematic behaviors, including further criminal activity. Traumatic memories and experiences can be evoked by trigger experiences that can be literally measured in seconds.

Adolescence is a time of significant brain plasticity. Development is highly sensitive to environment, particularly to negative experiences. In other words, harm done to an adolescent can have a permanent effect. In adolescence, young people develop their sense of identity. Shackling sends negative messages: *You are dangerous. You are a criminal. You are less than human.* The negative messages relayed to the youth by the act of shackling may shape the way he or she self-identifies.

A child might well ask: *What is so horrible about me that I have to be in chains?* The child may come to one of two conclusions: Either he is a person incapable of self-control, or he is being treated unfairly. Neither of these conclusions encourages rehabilitation.

Adolescence is a time of opportunity, as well as vulnerability. Adolescents respond extremely positively when they feel respected and heard. Research shows that young people who say that they've experienced procedural fairness are more likely to cooperate with the court. Being shackled can hinder relationships with judges, defense attorneys, or others whose

collaboration is key to a successful outcome.

When young people are physically restrained, they lose control over their behavior at the most basic level. Self-regulation is not only a central goal of the juvenile court; it is foundational to many behaviors and milestones: academic success; healthy relationships; career development; and, of course, law-abiding behavior. Taking away the opportunity to self-regulate at a critical moment in a youth's life makes all of these positive outcomes less likely.

For these reasons, and because Section 4 of H.B. 7050 establishes a much-needed presumption against shackling, I urge you to pass it. Thank you for your time and consideration.

Respectfully submitted,



Donald Rosenblitt, M.D.
Clinical/Executive Director,
Lucy Daniels Center



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ATTORNEY SUSAN O. STOREY
CHIEF PUBLIC DEFENDER

**TESTIMONY OF SUSAN O. STOREY, CHIEF PUBLIC DEFENDER
JUDICIARY COMMITTEE
March 30, 2015**

RAISED BILL 7050, AN ACT CONCERNING THE JUVENILE JUSTICE SYSTEM

The Office of Chief Public Defender supports passage of Raised Bill 7050, An Act Concerning Children in the Juvenile Justice System, and urges this Committee to report favorably on this proposal. This bill includes a number of important concepts that will make the juvenile justice system fairer to the children who enter the juvenile court each year. Much of what appears in Raised Bill 7050 is not new. The proposals regarding Class B felonies and discretionary transfers, the admissibility of statements for 16 and 17 year olds and shackling have been proposed by our Office and debated before this committee in past sessions. Given recent statutory changes and Supreme Court rulings, the Office of Chief Public Defender believes that these proposals are more important than ever and should receive favorable consideration.

Section 1 addresses the law on the transfer of cases from the juvenile matters docket to the adult criminal docket. This proposal moves Class B felonies from the mandatory transfer provisions of Conn. Gen. Stat. Sec. 46b-127a to the discretionary transfer section, 46b-137b. Nothing in this proposal will prevent a court from transferring a child to the adult criminal justice system. Mandatory transfer will be reserved for young people charged with the most serious crimes, murder, aggravated sexual assault, arson and kidnapping. Youth charged with Class B felonies would still be eligible to have their cases transferred to adult court. This proposal will provide the youth with a hearing where a judge would determine if the circumstances of the crime justified such a transfer. The court would then balance the child's background and circumstances with the availability of services in the juvenile court and the interests of the community.

Giving the courts the discretion to decide if the facts and circumstances surrounding a child charged with a B felony warrant transfer to adult court is consistent with the emerging body of law on the treatment of juveniles. Both the United States and the Connecticut Supreme Courts have held that that an individual child's immaturity, and propensity to change and develop must be considered before

a court can impose a sentence of death, or life without parole, or a lengthy sentence that results in an effective life sentence.¹ These rulings take into account the fact that a child, even a child who is charged with a serious crime, is an unformed being, capable of change and rehabilitation. Moving Class B felonies to the discretionary transfer section and allowing hearings for those juveniles would not lead to a backlog of cases in the juvenile matters courts. In Fiscal 2014, the Office of Public Defender represented 157 children in cases where the state moved to transfer them from juvenile matters to adult court. Some of those children were charged with Class A felonies that would remain mandatory transfers under this proposal. Even if all 157 now required hearings in the juvenile court, there would be no significant impact on court business. Juvenile arrests have decreased by 23% between 2006 and 2013 and continue to fall.² There have been no significant reductions in staff and the courts easily have the capacity to manage these relatively brief hearings.

This proposal also raises the minimum age for transfer from 14 to 15. This is an appropriate and intermediate suggestion in light of the fact that the original transfer law was written when the age of juvenile jurisdiction was 16. The younger the child, the more likely he or she is to exercise poor decision making and would also be more likely amenable to the treatment and services available in the juvenile court.

Section Two would amend Conn. Gen. Stat. Sec. 46b-137, **Admissibility of confession or other statement in juvenile proceedings** to eliminate the disparate rules for admissibility of statements for juveniles and apply the current protections to cases that have been transferred to the adult court from the juvenile docket. Currently, Conn. Gen. Stat. Sec. 46b-137 has two different standards for admissibility of statements of juveniles. For children under age 16, statements taken outside the presence of a parent are inadmissible in a later delinquency prosecution. Juveniles who are 16 and 17 years old can ask to have their parents present but the police are not required to stop questioning them and are only obligated to make reasonable efforts to locate a parent or guardian.

¹ Roper v. Simmons, 543 U.S. 1 (2005); Graham v. Florida, 130 S. Ct. 2011 (2010); Miller v. Alabama 132 S. Ct. 2455, 2464 (2012); State v. Riley, (SC 19109) (2015)

² Juvenile Justice Policy Oversight Committee, Progress Report to the Connecticut General Assembly, January 2015.

There is no reason to treat 16 and 17 year olds differently than younger children. When Connecticut raised the age of juvenile court jurisdiction in 2010, we recognized that young people should be held accountable differently from adults. In the recent line of cases dealing with how the death penalty and life without parole are applied to juveniles, the United States Supreme Court recognized that children have been scientifically proven to be less able to understand the consequences of their actions than adults³. The United States and the Connecticut Constitutions require that any confession be knowing and voluntary⁴. Multiple studies and plain common sense tell us that children and youth are more susceptible to be intimidated or coerced by an adult authority figure. Children will often tell an adult what they want to hear, without regard for the consequences.

As a result, there is always a question of whether a truly knowing and voluntary waiver can be taken from a juvenile without the assistance of counsel or at least a concerned adult. Extending the protections given to children under 16 to all juveniles who come into contact with law enforcement is appropriate and consistent with how the law relating to young people is evolving nationally. In line with the cases adopting a different standard of accountability for children, the United States Supreme Court has indicated that all statements must be reviewed using the "reasonable child standard" to determine if a child waived their right to remain silent in a knowing and voluntary manner⁵. According to the Center on Wrongful Conviction of Youth at Northwestern University Law School, only 15 of the fifty states do not require that a parent be present for interrogations. It simply makes sense that any minor would need the assistance of their parent to make such an important decision.

This proposal would ensure that the protections provided to children by Conn. Gen. Stat. Sec. 46b-137 continue if the case is transferred to adult court. Under current Connecticut case law, this same statement that was made without the presence of a juvenile's parents becomes admissible against the child once the case is transferred to adult court. In State v. Robin Ledbetter, 263 Conn. 1 (2003) the Connecticut Supreme Court held that Conn. Gen. Stat. Sec. 46b-137 does not apply to a child whose case is transferred to adult court. The Ledbetter case predates all the Supreme Court rulings mandating that youth and development be taken into account when a child is prosecuted as an adult. Whether a statement made by a juvenile is admissible should not be dictated by the venue of the criminal prosecution. Nor should it provide motivation for the prosecution to transfer the matter from the juvenile court to the adult court, if they fear the statement does not comport with Conn. Gen. Stat. Sec. 46b-137. Conn. Gen. Stat. Sec. 46b-137 was originally passed to ensure that a minor, who is not legally able to waive his rights or make legal decisions, has the counsel of a parent or guardian before choosing to speak to the police. The fact that a child is charged with a crime that can be transferred should not result in fewer protections.

Section 3 would establish the Juvenile Justice Policy Advisory Committee as a permanent, legislatively appointed body and would expand the Committee's areas of review. This is an important step to ensure that stakeholders in the juvenile justice system continue to have a venue to discuss reform and policy initiatives. It also mandates that important data points are collected, analyzed and reported to the legislature and the public. This creates a transparent system that is accountable to both lawmakers and the public.

³ Roper v. Simmons, 543 U.S. 1 (2005); Graham v. Florida, 130 S. Ct. 2011, 2010; Miller v. Alabama 132 S. Ct. 2455, 2464 (2012)

⁴ US Constitution, Amendment 5, Connecticut Constitution, Article 1 Section 8

⁵ J.D.B. v. North Carolina, 131 S. Ct. 2394, 2404 (2011)

Section 4 would prohibit the shackling of a child charged with a delinquency offense during a court proceeding unless a judge determined that the child presented a danger to public safety. The Office of Chief Public Defender has consistently proposed legislation to prevent the unnecessary shackling of juveniles since 2007. Shackles would be allowed in some circumstances but this proposal creates the presumption that children will not be shackled in court. In most of the juvenile courts across the state, children charged with delinquency offenses are routinely shackled for court appearances. They are almost always required to wear ankle chains and in some cases are subjected to belly chain restraints that require them to wear both ankle shackles and handcuffs that are attached to a belly chain. These circumstances include children as young as age 9, often charged with misdemeanors or violations of probation. This is humiliating to the child, undermines the presumption of innocence, and is entirely counterproductive to the rehabilitative purpose of the juvenile court. Unnecessarily placing a child in chains drives home to the child that he or she is "bad" or "dangerous". Studies have shown that the shackles are distracting and interfere with the child's ability to understand the court proceedings. It is important to note that American Bar Association recently passed a resolution urging jurisdictions to limit juvenile shackling to cases where a true risk is posed by the youth. Ending indiscriminate shackling will clarify that the courts must recognize that children should be treated in a manner that enhances their ability to reform and rehabilitate.

Since this bill was proposed, the Judicial Branch has issued a new policy that creates a presumption that children will not be shackled. The new policy is promising, as current practice allowed detention staff or the judicial marshal to override the child's risk score and require restraints. The new policy eliminates this discretion and will lead to more children appearing in court free of restraints. However, policy is not law and it can be changed as administrations change. Legislative passage of this proposal would codify the concept that a child should come to court unrestrained and would require that a judge make an individualized determination of danger each time a child was allowed to be shackled.

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March 30, 2015

Senator Eric Coleman, Co-Chair
Representative William Tong, Co-Chair
Judiciary Committee
Room 2500, Legislative Office Building,
Hartford, CT 06106

Re: Testimony in support of House Bill 7050 - An Act Concerning The Juvenile Justice System.

Dear Senator Coleman, Representative Tong and Committee Members:

The CCDLA is a not-for-profit organization of approximately three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, the CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

The CCDLA urges this committee to **vote favorably on HB 7050**. The CCDLA also supports the testimony submitted by the Office of the Chief Public Defender. This bill, along with other bills this committee has before it, would make Connecticut's juvenile justice system reflect the realities of the brain development of juveniles and change it to treat those juveniles in age-appropriate ways. There is a national consensus that juveniles are different than adults and should not be treated the same way.

Section 1 of this bill would address this in two ways: first, it would move Class B felonies - those that carry maximum prison sentences of 20 years - from cases that get *automatically* transferred to adult court to the group of cases that initially remain in juvenile court.¹ However, a prosecutor could still make a motion to have the case

¹ Currently, only prosecutors have the authority to return a case to juvenile court from adult court. Not even judges can do that.

transferred to adult court and judge would have to the power to order that transfer to adult court, if the individual circumstances of the case warranted it. In doing so, the judge would find that the best interests of society and the child aren't served by keeping the case in juvenile court. This is line with the thinking of recent Supreme Court cases which have emphasized that even young children who commit serious crimes are undeveloped and have tremendous potential for rehabilitation. This change would permit judges to make individual decisions in each case, by taking into account the specific circumstances of the crime and the child. By not automatically exposing children to the penalties of an adult court system along with the attendant felony convictions, we are ensuring that we make every reasonable attempt to allow these children to outgrow their criminal behavior and have the opportunity to contribute to society.²

Section 1 of this bill would also raise the age at which cases can be transferred to adult court by one year, to 15. The younger the children are, the greater their potential for rehabilitation and the greater their immaturity, lack of foresight and inability to understand the consequences of their actions. Connecticut should not expose children that young to harsh adult penalties. By keeping those young children in juvenile court, we are ensuring that the focus is less punitive and more rehabilitative.

Section 2 of this bill would protect children in vulnerable situations such as when they are being interrogated by police. Currently, there is an oddity in our law: statements given by children between 14 and 18 must be taken in the presence of a parent or guardian or after reasonable efforts are made to locate one. If taken in contravention to those requirements, the statement is inadmissible in any juvenile proceeding, but suddenly *becomes admissible if the case is transferred to adult court*.

This is counter-intuitive.³ A child facing serious charges which have the potential to be transferred to adult court should not be permitted to be pressured and coerced into waiving his rights and giving a confession without a parent or guardian present. The United States Supreme Court has recently reiterated that the age of a child is a critical factor in determining whether a statement was given voluntarily or not.⁴ Children

² For instance, the project 'We Are All Criminals' has a recounting of stories by adults who are all having successful careers in which they tell of their juvenile indiscretions and crimes. Available online at: <http://www.weareallcriminals.org/category/teens/>

³ Our supreme court has twice declined to apply the statute to children in adult court, while leaving it to the legislature to fix if it chooses to. Most recently, in *State v. Canady*, 297 Conn. 322 (2010), the court noted that the distinction would deprive some children of these protections.

⁴ *J.D.B. v. North Carolina*, 131 S. Ct. 2394 (2011).

between the ages of 14-18 are usually very acquiescent to authority and eager to please adults. We should not condone a system that has the potential to exploit that naive nature and use it against those children when the stakes are the highest: in adult court.

Section 4 of this bill addresses the shackling of children in court. The CCDLA supports the written testimony submitted by Jill Ruane, Ruane Attorneys and asks this committee to end this barbaric practice.

The CCDLA urges this committee to recognize those same concerns and vote favorably on House Bill 7050.

Respectfully submitted,
Elisa Villa
President

Testimony of Manny F R HB-7050

IN SUPPORT OF HB 7050, AN ACT CONCERNING THE JUVENILE JUSTICE
SYSTEM

Joint Committee on Judiciary

March 30, 2015

Submitted by Manny F.

Dear Representative Tong, Senator Coleman, and Distinguished Members of the Committee on Children: I submit this testimony in support of Section 4 of HB 7050.

I think that being shackled is inhumane. I think shackles should be banned in all countries. It made me feel like a slave or like an animal. Shackles hurt my legs and when people are at court in the holding cells with their lunch, they have to eat with their shackles on. It's nearly impossible. It hurts your arms and legs. I also feel that as long as someone has regular cuffs on, they can't run as fast, and when they fall they can't help themselves up. Shackles made me feel humiliated and feel like a loser. When I was shackled I felt ashamed of myself, because I felt like I was a criminal, and I'm not.

It made my Mom cry and that's what made me feel even worse. When I was wearing those shackles, it hurt me not just physically, but also mentally. Shackles are traumatizing and also painful to most individuals. So as you can see shackles should be banned from all States and Countries. Shackling youth is inhumane, harmful, traumatizing and not relevant. Try eating lunch in shackles, my arms couldn't reach the tray, can't put the straw in milk. Shackles are

unnecessary. As long as the person has on regular handcuffs, the perpetrator is in complete restraint.

Manny F.

Derby

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March 19, 2015

Senator Coleman,
Representative Tong,
Senator Kissel,
Representative Rebimbas and
Distinguished Members of the Judiciary Committee:

Re: Written Testimony of Jill Ruane, Esq. to the Judiciary Committee in Support of Raised Bill 7050, Section 4 – An Act Concerning The Juvenile Justice System

Dear Senator Coleman, Representative Tong, Senator Kissel, Representative Rebimbas and Distinguished Members of the Judiciary Committee: -

I am an attorney who concentrates her practice on the representation of young men and women in the juvenile courts of this state, and I am a member of the Connecticut Criminal Defense Lawyers Association, (CCDLA). CCDLA is a not-for-profit organization of approximately three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

On a daily basis I see the impact the juvenile justice system has on young impressionable youth. Of course, young individuals make mistakes and poor decisions, however, the juvenile justice system should serve to guide and rehabilitate this delicately situated population. Today, I am writing to voice our support of Raised Bill 7050, Section 4.

First: Shackling and restraints can cause physical and psychological harm to children.

Often children appearing in delinquency court are already victims of physical, sexual and/or emotional abuse. Thus, shackling and restraining already-victimized children serves to re-traumatize that child. Additionally, shackling and restraining children is demoralizing and humiliating to the child and his/her family, and can unnecessarily agitate the child. Shackling and restraints counter the rehabilitative goals of the Juvenile Justice System because it induces shame, punishes the youth prior to a guilty finding, and creates mistrust in the juvenile system.

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Wethersfield, CT 06109

Second: Shackling and restraining accused youths indiscriminately sends a message to that child that he/she is guilty, despite the fundamental constitutional principle that one is innocent until proven guilty.

The implementation of CSSD's policy for shackling and restraining accused youth is not being implicated uniformly throughout the juvenile courts in this state. The need for standardized, comprehensive rules for when to shackle or restrain an accused youth must be implemented consistently throughout every Connecticut Juvenile Court.

Third: A Court should conduct a hearing to determine if shackling or restraints should be used on an accused delinquent.

Currently, CSSD Policy uses a detention-wide behavioral management system to determine whether to shackle or restrain a child. This policy has fatal flaws because it allows a child to be shackled or restrained in court for a demerit received in detention, which may have nothing to do with whether there is a necessity to shackle or restrain the child. Moreover, CSSD recently amended its' policy, (effective 4/15/14), to require newly admitted children to be shackled in court until assessed on the behavioral management system. This kind of blanket shackling policy does not take into account whether there is a risk of escape or safety concerns to warrant shackling a newly admitted child. When practicable, a child should get a court hearing with the right to be represented by counsel, in order for the Court to assess if there is a necessity to shackle or restrain a child for delinquency court appearances. This determination should not be left to CSSD to solely regulate and implement indiscriminately.

Fourth: Below are quotes from my juvenile clients regarding his/her shackling/restraint experience. Please note: Statements are included with my client's permission, the parent/guardian's permission and due to confidentiality concerns, anonymously.

"Feels like you are going to jail for something major, like murder, even though it was a little thing." -16 yr. old

"I felt embarrassed for my mother to see me like that. The ankle shackles hurt, I had sores on my ankles from them." -17 yr. old

Thank you for your time and consideration in this matter.

Very Truly Yours,



Jill M. Ruane, Esq.



STATE OF CONNECTICUT
JUDICIAL BRANCH

EXTERNAL AFFAIRS DIVISION

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Testimony of the Honorable Bernadette Conway
Judiciary Committee Public Hearing
March 30, 2015

House Bill 7050, An Act Concerning the Juvenile Justice System

Thank you for the opportunity to provide written testimony, on behalf of the Judicial Branch, on House Bill 7050, An Act Concerning the Juvenile Justice System.

Section 4 of the bill would prohibit any child appearing in court to be physically restrained by the use of shackles, handcuffs or other mechanical restraints prior to being adjudicated as delinquent, unless the judge determines that the use of such restraints is necessary to ensure the safety of the public. The Judicial Branch agrees that shackling juveniles during a court proceeding should occur only when absolutely necessary. In fact, the Judicial Branch has recently developed a policy regarding the use of mechanical restraints in juvenile courtrooms, which will go into effect on April 1, 2015. The policy and the related form are attached to this testimony.

As you will read, the policy presumes that all mechanical restraints will be removed from a juvenile prior to and throughout the juvenile's appearance in juvenile court, unless a judge determines that the juvenile poses an immediate and present physical danger to himself, herself, or others. We have also put into place a mechanism by which we will be able to report to this committee on a yearly basis the number of juveniles who are placed in mechanical restraints, while attending a court proceeding.

We respectfully oppose section 4 of the bill, as it is not necessary. Thank you for the opportunity to provide the Judicial Branch's comments.

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1. **Policy** A presumption exists that all mechanical restraints will be removed from a juvenile prior to and throughout the juvenile's appearance in juvenile court. The use of mechanical restraints in court will only occur pursuant to a judge's order in accordance with this policy. In determining whether a juvenile poses an immediate and present physical danger to himself, herself, or others, consideration will be given to the least restrictive means available to assure courtroom safety; including but not limited to the use of verbal de-escalation techniques, a period of cooling off for the juvenile in a safe and secure non-courtroom setting, and the presence and participation of Juvenile Residential Services and Transportation staff and Judicial Marshal staff throughout the court proceeding.

2. **Definitions**
 - A. **Central Transportation Unit (CTU)** A specialized unit that conducts transportation activities on a statewide basis for each Juvenile Detention Center.
 - B. **Classification and Program Officer** A CSSD employee who is responsible for advanced assessments, treatment plan development, service and program delivery, and case management for juvenile in Detention Centers.
 - C. **Detention Center Transportation Staff** Personnel designated by the Juvenile Detention Superintendent responsible for transporting juveniles.
 - D. **Escape Risk** A juvenile will be classified as an escape risk if he or she has made present threats or present attempts to escape, and/or previously escaped from custody while under a valid order of detention, or is being held as a delinquent fugitive from another state..
 - E. **Full Restraint** The application of a belly chain or handcuffs and leg irons.
 - F. **Juvenile** For the purpose of this policy, juvenile will refer to a child under a valid court order to be confined in a state Juvenile Detention Center.
 - G. **Program and Services Supervisor (PSS)** A CSSD employee responsible for supervising Classification and Program Officers, for assuring that a juvenile's

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mental health needs are met, and that programming is completed.

- H. Restraint Any CSSD issued restraining device (metal or nylon handcuffs, belly chains, and/or leg irons).
- I. Therapeutic Crisis Intervention (TCI) A verbal de-escalation intervention designed to provide immediate emotional and environmental support in a way that reduces stress and risk. It is also an intervention to teach better, more constructive, and effective ways to deal with stress and painful feelings.
- J. Transporting Staff For the purpose of this policy, Juvenile Detention Officers, or Central Transportation Officers assigned to or engaged in transporting clients/juveniles.

3. General Procedures

A. Mechanical Restraint Reporting The Classification and Program Officer will complete the Juvenile Restraint Recommendation (CSSD Attachment A) prior to the transportation of any juvenile attending a court proceeding or requiring any type of transport.

- (1) The Program and Services Supervisor will ensure that the Juvenile Restraint Recommendation form is complete and accurate, and sign the Juvenile Restraint Recommendation.
- (2) The Classification and Program Officer will forward a copy of the Juvenile Restraint Recommendation to the juvenile's public defender or lawyer, the Judicial Marshal, the probation officer, and the clerk's office prior to the juvenile's court hearing.
- (3) A copy of the Juvenile Restraint Recommendation will be given to CTU and/or the transporting officer prior to the transport and court hearing.

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B. Courtroom Escort When at court, any contact with the juvenile will be restricted to authorized persons on official business only. A juvenile being transported to court will wear the detention-issued uniform whenever personal clothing is deemed inappropriate by the Juvenile Detention Superintendent. Personal items, including jewelry, will not be worn or handed to the juvenile until the actual time of their release.

C. Restraint Removal Restraints will be recommended for removal based on the following criteria:

(1) Leg Shackles Juveniles will be placed in leg shackles only when the juvenile is classified as an escape risk for the current juvenile detention admission.

(2) Belly Chains and/or Leg Shackles Juveniles will be placed in belly chains and/or leg shackles during court proceedings when:

a. The juvenile has a pending Murder charge or Class A felony in juvenile or adult court.

b. The juvenile displays immediate and present physical danger to himself, herself, or others.

c. The juvenile has a history of disruptive courtroom behavior that cannot be mitigated by the use of less restrictive means.

D. The Juvenile Restraint Recommendation form will be reviewed by the presiding judge, the juvenile's public defender or lawyer, the probation officer, the Judicial Marshal, the clerk, and the transporting officer prior to the juvenile entering the courtroom.

E. If there is a disagreement regarding the Juvenile Restraint Recommendation form content, all parties will have an opportunity to address the court prior to the juvenile's presence in the courtroom.

F. After hearing from the parties, the judge will determine what, if any, mechanical restraints are appropriate.

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G. Once the Court Action section of the Juvenile Restraint Recommendation form has been completed, a copy of the form will be given to the transporting staff.

H. Any mechanical restraints to be removed will be removed by the transporting officer just prior to entering the courtroom in an area that has been identified as safe and secure. All mechanical restraints will remain on all juveniles while in the juvenile court holding area.

I. Any mechanical restraints that have been removed in accordance with a judge's order will be re-applied by the transporting officer immediately upon completion of the court hearing in an area outside of the courtroom that has been identified as safe and secure.

4. References

- A. American Bar Association, Criminal Justice Section, Report to the House of Delegates, 107A.
- B. Standards for Juvenile Correctional Facilities, (3A-15, 3A-16), 2004, American Correctional Association.

5. Exceptions Any exception to this policy will require prior written approval from the Division's Executive Director.