



*Division of Public Defender Services
State of Connecticut*

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**COMMITTEE ON THE JUDICIARY
MARCH 20, 2017**

**TESTIMONY OF CHRISTINE PERRA RAPILLO
DIRECTOR OF DELINQUENCY DEFENSE AND CHILD PROTECTION
OFFICE OF CHIEF PUBLIC DEFENDER**

**RAISED BILL 7045
AN ACT CONCERNING JUVENILE AND YOUNG ADULT JUSTICE**

The Office of Chief Public Defender supports *Raised Bill 7045, An Act Concerning Juvenile and Youth Justice*. This bill puts forward the Governor's proposal to address the needs of emerging adults who engage in criminal activity and makes a number of statutory changes that ensure that Connecticut treats 18-21 year olds charged with a crime in the most effective and developmentally appropriate manner. These changes will enhance public safety by ensuring that these young people have the best chance of maturing into productive citizens.

This group of "emerging adults" has long presented a challenge to the criminal justice system. They enter the system charged with a range of crimes and should be held accountable. However, the brain science research that has formed the basis for groundbreaking U.S. Supreme Court jurisprudence over the last 20 years tell us that brain development continues past age 25. We also know that the adolescent tendency to engage in risky or socially unacceptable behavior declines as young people mature. The adult criminal justice system is not designed to account for this. The trauma of incarceration in the adult correctional system and a permanent criminal record make it almost impossible for most former offenders to achieve success. They encounter barriers to employment or housing and end up in an unhealthy and unproductive cycle. The system designed to punish them ends up doing nothing to improve communities or make the public safer.

Raised Bill 7045 would gradually raise the maximum age of juvenile court jurisdiction to 21. This would begin in July 2018 and increase a year at a time until 2020.



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By phasing in the implementation of the age changes, Raised Bill 7045 allows time for the system to plan for changes needed to accommodate the older population. The bill refers a number of issues to the Juvenile Justice Policy Oversight Committee for study and report to the Legislature. This includes studying how to address emerging adults charge with sexual assault of family violence crimes, how to accommodate 18-21 year olds in pretrial and post adjudication confinement and how to allow public access to juvenile court in a manner consistent with the rehabilitative mission of the juvenile court.

Raised Bill 7045 makes much technical change to the statues governing the juvenile court to include young adults up to age 21. There are several important changes that should be highlighted. Section 4 amends C.G.S. 46b-127, the juvenile transfer law. Part of this proposal would allow the adult court to depart from mandatory minimum requirements when sentencing a young person transferred to the adult court. OCPD fully supports this idea as it is consistent with the line of US Supreme Court cases outlawing the death penalty and mandatory life without parole for young people. The Court has clearly and specifically determined that the age of an offender is relevant to due process under the 8th amendment to the United States Constitution. Young people must be sentenced using a process that ensures consideration of their youth and propensity to rehabilitate.¹ Mandatory minimum sentencing requirements remove the court's ability to account for youth and development when sentencing a young person. Raised Bill 7045 does not decrease accountability for the offender but allows a judge to balance the offense with the age, maturity and potential for successful reintegration in the community. Courts in other states are considering this issue and some have determined that judges have the ability to depart from mandatory minimum sentences for young offenders.² Connecticut should legislate that mandatory minimum sentencing requirements do not apply in cases where the matter was transferred from the juvenile court.

¹ *Miller v Alabama*, ___ U.S. ___, 132 S. Ct. 2455, 2470 L.Ed. 2d 407 (2012); *Graham v. Florida*, 560 U.S. 48, 76, 130 S.Ct. 2011, 176 L.Ed. 2d 825 (2010)

² *State of Washington v. Houston-Sconiers*, No. 92605-1, March 2, 2017.



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The Office of Chief Public Defender has concerns about parts of Section 4 that increase the number of offenses eligible for automatic transfer and lowers the threshold for a discretionary transfer after a hearing. OCPD is concerned that this could result in a dramatic increase in the number of transferred cases, including for youth under 18. In 2015, the statute was changed to grant discretionary transfer hearings to some Class B felonies. The charges are all still able to be transferred but there must be a hearing where the judge considers the best interest of the youth. The Office of Chief Public Defender believe that all Class B felonies should be receive transfer hearings and that automatic transfer should be reserved for only the most egregious crimes.

Section 4 also changes the standard for discretionary transfer hearings. Under current law, the court must find that a transfer is in the best interest of the child and the community. The proposal would change this to allow transfer in the interest of public safety. OCPD believes that the current language should be maintained as it allows more consideration of a youth's circumstances, age and ability to rehabilitate.

Finally, Section 31 of Raised Bill 7045 would make 18-21 year olds charged with a crime eligible for "Youthful Offender" status under C.G.S. 54-76 beginning in October, 2017. Youthful Offender is a long standing statutory provision that allows the adult criminal court to hold young offenders accountable while providing age appropriate treatment and protection from the long term impact of a criminal record. Courts can sentence a young person to incarceration but the sentence is capped at 4 years. The case record is protected from public disclosure and able to be erased if the offender successfully completes his or her sentence. The Office of Chief Public Defender fully supports this part of the proposal but suggests that the language be changed to make youth aged 15 and above to be eligible for Youthful Offender status. C.G.S 46b-127 allow for transfer of children as young as 15 and the currently proposed language only includes youth age 16 and above.