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**Testimony of
Susan O. Storey, Chief Public Defender
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***Raised Bill No.7216, An Act Concerning Family Impact in the Cases of
Defendants with Dependent Children***

The Office of Chief Public Defender supports passage of our Agency's proposal, ***Raised Bill No. 7216, An Act Concerning Family Impact in the Cases of Defendants with Dependent Children***. Since 2011, the Division of Public Defender Services has had responsibility for client representation in child protection matters in addition to criminal defense. This proposal comes from our Agency's increased understanding of the trauma and harm to minor children that can occur when the primary or single custodial parent of that child is arrested on a criminal matter and is facing a sentence of incarceration. This is an opportune time to consider reforms that promote family integrity and the welfare of children without sacrificing public safety. ***Raised Bill No.7216*** would enhance the capacity of criminal defense counsel to submit for the court's consideration a "family impact" statement. Such study would explain how the parent's absence would impact his or her dependent minor children, and inform the court of any special circumstances that would inflict unintended serious collateral economic or emotional harm on a defendant's dependent minor child or children.

This bill does not remove a judge's discretion to reject or find unpersuasive the information offered by the defense on their client's behalf. Such information, if brought forward in appropriate cases, would be considered in addition to the information included in a probation officer's pre-sentence investigation (PSI), the prosecutor's recommendation, and the victim impact statement. Courts would then be in a better

position to make more reasoned decisions about whether incarcerating the defendant is absolutely necessary or warranted for purposes of punishment, rehabilitation, and protection of society. Such additional information would also be helpful to DOC and the Board of Pardons and Parole in developing the individual inmate plan if the court does impose a sentence of incarceration.

There is growing national awareness that the collateral consequences of conviction and incarceration can cause far greater long term individual and generational hardship for an offender and their family that is greater than the actual sentence of incarceration. While these consequences can be devastating for any family facing the incarceration of a family member, it can be especially acute for families living in poverty and the working poor. Parental incarceration has the ability to financially destabilize families for generations. Approximately 65% of families with an incarcerated member cannot meet basic needs. Research from the Pew Charitable Trust indicates that over half of children born to parents in poverty remain in poverty as adults. (Lopoo and DeLeire, Pursuing the American Dream: Economic Mobility across Generations (Washington, D.C.: The Pew Charitable Trusts, 2012). Studies also indicate that children of color with an imprisoned parent are disproportionately harmed in these areas.

The collateral consequences of incarceration are sources of trauma for children other than the loss of the parent due to incarceration. These consequences are well understood by child welfare attorneys, but not always by criminal court practitioners. These consequences can include: homelessness, academic, behavioral, and health impediments, economic instability, anxiety, depression, post traumatic stress disorder, separation from siblings in foster care, and permanent family separation due to the termination of parental rights. For the past three decades, Connecticut has made great strides in focusing on successful community reentry for incarcerated inmates. But reentry assistance is often too late for successful family reunification. Families of an incarcerated individual quickly become emotionally, physically, and economically fractured, making reentry and reunification extremely difficult or impossible for some inmates.

Connecticut policymakers and child welfare agencies are all currently very much involved in looking for better options to keep families stronger, safer, and together whenever possible. But more than 18,000 children in Connecticut have an incarcerated parent. The 1997 federal Adoption and Safe Families Act, 42 USC 1305, requires states to file a petition to terminate parental rights on behalf of any child who has been abandoned or who has been in foster care for 15 of the most recent 22 months. The law provides exceptions to this requirement in the following cases: 1) at the option of the state, the child is being cared for by a relative, 2) the state has documented a compelling reason for determining that termination of parental rights would not be in the child's best interest, or 3) the state has not provided the child's family with services that the state deems necessary for the safe return of the child to his or her home. Although the Adoption and Safe Families Act does not explicitly require a termination of

parental rights filing against incarcerated parents, the 15 of 22 months provision technically would apply in cases where reunification is delayed beyond 15 months due to a parent's incarceration, even if the parent is receiving services to facilitate reunification. This federal law is especially problematic for single mothers who are incarcerated.

Nationally, the incarceration of women has continued to rise. Connecticut has made great strides in reducing the men's prison population, but the women's prison population has not experienced the same decrease. Many of these women have children and DCF involvement. An informal February 8, 2017, "point in time" study performed by the Connecticut Department of Children and Families indicated that of the 1024 women incarcerated at York CI on that date, 132 women had open DCF cases. Of those 132 cases, 145 children were currently in DCF care. There were 484 additional women who had past DCF involvement. In a review of the 616 women who currently have open cases of who have had past DCF involvement, 213 children were previously in a DCF placement, 229 children were impacted by a termination of parental rights and 146 by a transfer of guardianship.

California and Washington State (FOSA) have enacted legislation creating community diversionary programs and special sentencing alternatives designed to address the unique issues associated with incarcerated parents. Similar legislative proposals are being considered in other states, and more jurisdictions are relying on studies prepared by social workers skilled at investigating and assessing the long-term emotional, financial and legal impact of the incarceration of a parent on his or her family. There is growing recognition that many of the individuals involved in the criminal justice system are parents of minor children, and that punishing the offender with incarceration also punishes their children to society's detriment. We urge Connecticut lawmakers and courts to consider the family impact statement as important information for the court to consider when making sentencing decisions regarding custodial parents with minor children.