



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Deborah Del Prete Sullivan, Legal Counsel

Judiciary Committee - April 1, 2019

H. B. 7342

An Act Concerning a Mandatory Minimum Sentence For Injury or Risk of Injury of a Child

The Office of Chief Public Defender opposes *H.B. 7342, An Act Concerning a Mandatory Minimum Sentence for Injury or Risk of Injury of a Child* and asks that no action be taken as the bill is not necessary. The current statute already carries a substantial penalty of incarceration that can be imposed by the court. This bill eliminates the court's discretion at sentencing and requires the court to sentence a person to a mandatory minimum term of prison of 30 days. While some may believe that this term is not substantial, even such a period of time as 30 days incarceration can work a hardship on a family and the defendant and result in the loss of employment and housing.

Currently persons convicted of this offense can already be sentenced to a term of incarceration in prison of up to **10 years** for a class C felony, if a person places a child under the age of 16 in danger, the health injured or where the morals of a child might be impaired or for transferring legal custody of a child under 16 for money. (See subsection (a) (1) and (a) (3) of C.G.S. §53-21.) If convicted pursuant to subsection (a) (2) of 53-21, a class B felony, a person can be sentenced to up to **20 years** incarceration and if the child is under the age of 13 years, a sentence up to **20 years including a mandatory minimum sentence of 5 years..**

Because a mandatory minimum sentence cannot be suspended, the court, as the neutral arbiter, has absolutely no discretion over a criminal proceeding in sentencing a person. The court cannot consider all of the facts of the case and any mitigating information pertaining to the defendant. Such mitigating information which cannot be presented in cases where there is a

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mandatory minimum sentence includes but is not limited to a person's employment history, work in the community, family support, family impact, education and even whether the person is a first time offender.

And there are no exceptions to this. The court would be required to impose the mandatory minimum sentence on anyone, regardless of whether the person is under 18 years of age or if their mental capacity was significantly impaired but not so impaired as to constitute a defense.

Prosecutors have substantial power to charge persons with offenses in this state. With that power, they have the discretion to charge a person with an offense which carries a mandatory minimum sentence of incarceration. The threat of mandatory minimum sentences act coercively and induce persons to plead to the commission of an offense, even a crime of a lesser degree, just to avoid a mandatory sentence. As a result, many persons plead guilty instead of going to trial where they risk being found guilty and being sentenced to a mandatory minimum. Plea bargains will continue, without consideration of the individual, and what has been referred to in the past as "assembly line justice", will be perpetuated.

Therefore, consistent with the prior testimony of this office in years past, this office opposes mandatory minimums and requests that this Committee reject this proposal.