

## Center for *Children's* Advocacy

---

University of Connecticut School of Law  
65 Elizabeth Street, Hartford, CT 06105

### TESTIMONY OF CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 5782

March 13, 2006

My name is Ann-Marie DeGraffenreidt. I am an attorney and the Director of the TeamChild Project at the Center for Children's Advocacy. The Center provides holistic legal services for children from low income families in Connecticut through individual representation and systemic advocacy. Our TeamChild Project provides legal advocacy for community based educational and mental health services for children and youth involved in the juvenile justice system. I am here to testify in support of Raised Bill 5782. This legislation increases the age of jurisdiction for delinquency matters from sixteen to eighteen. It provides all adolescents who commit less serious offenses with the opportunity to receive the care and treatment they need to avoid re-offending. This change in the law would continue to allow the State to prosecute the most serious offenders in adult court. Passage of this bill would bring Connecticut in line with the majority of other states and, more importantly, with the definitive science on adolescent brain development.

To obtain information from national experts, the Judiciary Committee sponsored an educational hearing concerning the subject of this bill on February 21, 2006. National experts on adolescent brain development, community safety, and the economics of juvenile justice appeared and discussed why increasing the age of jurisdiction to eighteen was appropriate from their respective areas of expertise. It is still possible to view this hearing on the CT-N website, [http://www.ctn.state.ct.us/show\\_info.asp?mbID=9370](http://www.ctn.state.ct.us/show_info.asp?mbID=9370).

Recently, brain scan data has proven that social scientists and lay people familiar with adolescents are right – an adolescent's brain biologically is not completely developed and therefore, lacks the capacity to reason and make judgments as an adult until the early to mid-twenties.

Even the United States Supreme Court has acknowledged that "a lack of maturity and an underdeveloped sense of responsibility are found in youth more often than adults...These qualities often result in impetuous and ill considered actions and decisions" Roper v. Simmons, 543 U.S. 1, 15 (2005). The Court recognized that "today, our society views juveniles...as categorically less culpable than the average criminal" 543 U.S. 13 (2005)



#### Board of Directors

Kathryn Emmett, Esq., Chair  
Ruth Pulda, Esq., Secretary  
Richard Klaffky, Treasurer  
Miriam Berkman, Esq., MSW  
Brett Dignam, Esq.  
Philip Guzman, Ph.D.  
Elizabeth Morgan  
Eileen Silverstein, Esq.  
Preston Tisdale, Esq.

#### Advisory Board

John Brittain, Esq.  
Wesley Horton, Esq.  
Stephen Wizner, Esq.

#### Executive Director

Martha Stone, Esq.

Currently, Connecticut is one of only three of the fifty states that *automatically* treats all children who are sixteen or older as adults *no matter how minor the offense*. If both medical science and the United States Supreme Court can agree that sixteen and seventeen year olds cannot be held as legally culpable as adults, it is time for Connecticut law to change. Jurisdiction for the prosecution of sixteen and seventeen year olds should start in Superior Court Juvenile Matters.

Most court referrals result from fairly normal adolescent behavior. I will give you an example from one of my clients. Jacky is cognitively limited. Over the course of the summer, she allowed her cousins to use her telephone. Apparently, crank telephone calls were made to a man in the early hours of the morning several times. Because the calls came from Jacky's telephone and she was sixteen, she was arrested and placed in jail until she was arraigned the following day. If Jacky had been fifteen, she would have been issued a summons and required to appear in Superior Court Juvenile Matters. She never would have spent a night in jail with adults, or even detention with other juveniles, for such a minor offense.

This legislature has previously recognized this reduced lack of capacity by repeatedly enacting laws restricting the decision making ability of adolescents. Connecticut currently prohibits a seventeen year old from legally buying cigarettes, alcohol or firearms. Nor can they marry, stop attending high school or join the military without parental permission. We do not allow them to vote, enter into contracts or release confidential records about themselves to others. This reflects our basic knowledge that teenagers are not able to consistently make rational or safe choices.

Raising the age of jurisdiction to include sixteen and seventeen year olds could only have a positive impact on public safety. Connecticut law mandates that all juvenile offenders over the age of fourteen, charged with an A or B felony be transferred to adult court for prosecution. C.G.S. §46b-127 allows for the transfer of any other felony case at the total discretion of the prosecutor. Raising the age would not affect this law. In addition, those sixteen and seventeen year olds who remain in the juvenile system will be subject to significantly higher supervision and oversight than the adult system currently provides. In a delinquency prosecution, a young offender is assigned a probation officer the day he or she comes to court for arraignment. Judges assigned to Juvenile Matters regularly issue orders to defendants, concerning their behavior, during the pretrial phase. The probation officer is available to supervise and provide services upon the order of the court. Children also receive mental health screenings and can be provided with evaluations and referrals for services before being sentenced.

The adult criminal justice system is not the appropriate place to manage young offenders. There are no programs designed to address the needs of adolescents in an age appropriate manner in that forum. The adult criminal system is not designed to address the issues that often cause sixteen and

seventeen year olds to become involved in the criminal process, such as domestic violence issues, homelessness, educational failure, or abuse and neglect. These are issues that are addressed every day in Superior Court Juvenile Matters. Adolescents charged with committing delinquent acts have easier access to age appropriate programming offered by the Department of Children and Families and the Court Support Services Division of the Judicial Branch. In addition, the Juvenile Matters section of Superior Court has direct knowledge of how to secure services for children and youth who are homeless, mentally ill or experiencing school failure.

While Connecticut has struggled with this service gap for sixteen and seventeen year olds prosecuted as adults for many years, that gap continues to exist. Connecticut must do something to assure that these children have access to the same services as other children their age. DCF is the lead mental health agency for children in Connecticut and, as such, oversees the provision of mental health services to all children. In addition, it provides mental health and other services to children who are committed to their care, either as neglected or delinquent, until they reach eighteen years of age. While the existing services would need to be modified and increased, they do provide a framework from which to expand.

Prosecuting sixteen and seventeen year old adolescents as adults inhibits those state agencies already responsible for providing mental health and juvenile justice services to all other adolescents from providing the same services to this population. The Juvenile Justice Delinquency Prevention Act prohibits mixing adolescents in the adult criminal system with those in the juvenile justice system. Therefore, programs and services that could be used for sixteen and seventeen year olds that already exist in the juvenile justice system are off limits for youth prosecuted and convicted in the adult system, *even if they are treated as youthful offenders*. DCF has been working on plans to help these young people but has been hindered because they are classified as adults. Currently, a sixteen or seventeen year old could not be placed in most programs administered by DCF, *even if it is with youth of the same age*, because this federal law prohibits the commingling of offenders labeled as "adult offenders" with those labeled as "juvenile offenders".

Creating the full continuum of appropriate services in the adult system would require funding entirely new and separate programs. It is certainly a more efficient use of state resources to include these young people, who are considered to be children in every other legal sense, with their peers in the juvenile justice system.

Raised Bill 5782 provides a more appropriate venue for the treatment of less serious offenders. Passage of this bill would give sixteen and seventeen year olds the opportunity to receive services that decrease the likelihood of recidivism. Most would agree that we need to provide more services for criminally involved and troubled sixteen and seventeen year olds. In spite of the best efforts of advocates, state agencies and this legislature, we have not

been able to figure out how to do it through modification of the adult criminal statutes. Leaving these adolescents in the adult system will not address the problem of insufficient services. Raising the jurisdictional age for juvenile matters prosecution to include sixteen and seventeen year olds will finally address this problem.

It is time for Connecticut to do what is right and what is consistent with science and the rest of nation - extend juvenile matters jurisdiction to include sixteen and seventeen year olds. It is for these reasons that the Center for Children's Advocacy respectfully requests that this Committee adopt Raised Bill 5782.