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TESTIMONY OF CHRISTINE RAPILLO EXECUTIVE ASSISTANT PUBLIC DEFENDER OFFICE OF CHIEF PUBLIC DEFENDER

JUDICIARY COMMITTEE PUBLIC HEARING MARCH 13, 2006

H.B. No. 5782

An Act Concerning the Age of a Child for Purposes of Jurisdiction in Delinquency Matters and Proceedings

I am Christine Rapillo and I am the Director of Juvenile Delinquency Defense for the Office of the Chief Public Defender. I submit this testimony on behalf of the Office of Chief Public Defender in strong support of *Raised Bill No. 5782, An Act Concerning the Age of a Child for Purposes of Jurisdiction in Delinquency Matters and Proceedings*. This legislation would phase in a change of the age for automatic prosecution as an adult from sixteen to eighteen years of age. It would allow young offenders to receive the care and treatment they need to avoid re-offending while continuing to allow the State to prosecute the most serious offenders in adult court. Passage of this bill would bring Connecticut law in line with the national norm and with the current science on adolescent brain development. It is simply, the right thing to do.

For many years, scientists have argued that the adolescent brain is different from the developed adult brain. Studies have shown that adolescents lack the ability to fully understand the consequences of their actions. Brain scan data shows that a person's brain lacks the full biological capacity to reason and make judgments until the early twenties. While this modern research on the adolescent brain provides useful scientific data, it simply confirms what our common sense has always told us. This legislature is consistently asked to pass laws restricting the decision making ability of these youngsters. Currently in the state of Connecticut a seventeen year old cannot legally buy cigarettes, alcohol or firearms. They cannot marry or join the military without parental permission. We do not allow them to vote or enter into contracts. This reflects our basic knowledge that teenagers are not able to consistently make rational, safe choices. Even the United States Supreme Court has acknowledged "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 applied the brain science to arguments over the juvenile death

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penalty and recognized that “today, our society views juveniles...as categorically less culpable than the average criminal”. Simmons at 13. It makes sense, given the clear national trend that Connecticut now take this step.

Currently, Connecticut is one of only three states nationwide that *automatically* treats all children over the age of fifteen as adults *no matter how minor the offense*. If both medical science and the United States Supreme Court can agree that 16 and 17 year olds should not be held as legally culpable as adults it is time for Connecticut law to reflect this trend. Jurisdiction for criminal prosecution of 16 and 17 year olds should start in the juvenile court. Most of these court referrals result from fairly normal adolescent risk taking. 2002 statistics show that 76% of the crimes committed by 16 and 17 year olds in Connecticut are considered “non-index” or non violent crimes by the FBI. Yet we prosecute these young people in adult court and subject them to the possibility of adult jail time and an adult criminal record.

The adult criminal justice system is not the appropriate place to manage young offenders. There are no programs designed to deal with young offenders in an age appropriate manner. The adult criminal courts are unable to deal with the issues that often cause offending in 16 and 17 years olds such as domestic issues, homelessness educational failure and neglect. These are issues that occur every day in the juvenile courts. Juveniles have easier access to programming offered by the Department of Children and Families and the juvenile court has direct knowledge of how to secure services for homeless or mentally ill youth. Connecticut has struggled with the service gap for 16 and 17 year olds for many years. We will need to do something to begin servicing these children. Programs and services that could be used for 16 and 17 year olds already exist in the juvenile system. DCF provides mental health and other services to children who are committed to their care up to age 18. While these services would need to be modified and increased, they do provide a framework from which to expand. 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 because federal law prohibits the commingling of offenders labeled as adults with those labeled juveniles. Creating appropriate services in the adult system would require funding entirely new 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, in the juvenile system.

Adopting this proposal will finally allow this legislature to solve the problem of 16 and 17 year olds who commit status offenses like truancy and running away. If the age is increased, these young people will be included in the Family with Service Needs category and can receive all the services and sanctions that the current FWSN laws allow. These beyond control youth will be able to benefit from the specialized services that must be created over the next year, as we implement the decriminalization of the FWSN violations.

Raising the age of jurisdiction to 18 would not impact 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. Dangerous individuals and those committing serious offenses would continue to be treated as adults. Sixteen and seventeen year olds who remain in the juvenile

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system will be subject to significantly higher supervision and oversight than the adult system currently provides.

In a juvenile court prosecution, a young offender is assigned a probation officer the day he or she comes to court for arraignment. Juvenile court judges regularly issue orders to defendants during the pretrial phase. The probation officer is available to supervise and provide services upon the order of the court. Children in juvenile detention facilities receive mental health screenings and evaluations upon admission and can be provided with evaluations and referrals for services before being sentenced.

Current laws are sufficient to protect society from the few dangerous youth that exists. What this proposal does is provide a more appropriate venue for the treatment of less serious offenders. Passage of this bill would give 16 and 17 year olds the opportunity to receive services that will increase the likelihood that they will not re-offend. Most would agree that we need to provide more services for criminally involved and troubled 16 and 17 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. Continuing to modify the adult statutes dealing with 16 and 17 year olds will not address the problem of insufficient services. Raising the jurisdictional age for adult court prosecution to 18 will address this problem in the most efficient way. The United States Supreme Court has indicated that developmental immaturity makes 16 and 17 year olds less legally culpable than adults. It is time for Connecticut to come in line with the science and the nation and to extend juvenile jurisdiction to 16 and 17 year olds.

The Office of the Chief Public Defender respectfully requests that this Committee pass Raised Bill 5782.