



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

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**Testimony of Judge William J. Lavery
Judiciary Committee Public Hearing
March 20, 2006**

**Senate Bill 667, An Act Concerning Determinations of Competency
in Juvenile Matters**

Good afternoon. My name is William Lavery and I am the Chief Court Administrator for the Connecticut Judicial Branch. I appear before you today to testify in support of **Senate Bill 667, An Act Concerning Determinations of Competency in Juvenile Proceedings**, which was submitted by the Branch as part of our legislative package.

This proposal is the final product of a working group that included representatives of the Office of the Chief Public Defender, the Office of the Chief State's Attorney, the Department of Children and Families, and the Department of Mental Health and Addiction Services, with expert assistance from clinicians and doctors.

The purpose of this proposal is to provide a statutory procedure for dealing with children who have been charged with a delinquency offense, but who may not be competent to stand trial. Currently, there is a statute in place (C.G.S. § 54-56d) that deals with this issue on the adult side, but there is nothing that addresses the juvenile side. This proposal would fill that gap.

This proposal deals with two types of scenarios: incompetency because of age, and incompetency because of mental disease or defect. The first issue concerns the

maturity of the child, and the second concerns the mental health of the child. The proposal sets out a rebuttable presumption that a child under the age of nine is not competent, and that a child age nine or over is competent. This cut-off age was arrived at with the assistance of the experts, because from the clinician's point of view, it is a determinative point in the child's life. However, it is not by any means an absolute cut-off -- it's a rebuttable presumption. The examination of the child by mental health professionals may show that a particular child is the exception to this generalization, and the results of the examination would be presented to the court to overcome the presumption.

If it is found that a child is too young to be competent, the next issue that must be addressed is whether or not the child is restorable. In all likelihood, if age is the only issue, the child will be restorable as he or she matures and becomes able to understand the proceedings.

If it is found that a child is not competent because of a mental health issue, the issue of restorability must also be addressed. However, in this scenario, it's not just a question of time, but also a question of treatment. The proposal before you sets out the procedure through which that treatment will be provided, and also addresses the situation where competency cannot be restored within the timeframes set out.

I have attached to my testimony, for the Committee's consideration, a suggested amendment to this proposal to address a couple of minor issues with the language of the bill.

In conclusion, I believe that this proposal will be of substantial benefit to children who have been charged with delinquency offenses, and urge the Committee to act favorably on this proposal.

Proposed Amendment to

S.B. 667, AAC Determination of Competency in Juvenile Matters

1. In line 5, after "prosecuted." insert "adjudicated,".
2. In line 78, delete "(A)" and insert "and counsel for the child".
3. In line 79, insert a period after (immediately" and delete everything thereafter.
4. Delete line 80 in its entirety.