

# Center for *Children's* Advocacy

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

## TESTIMONY OF MARTHA STONE ON BEHALF OF THE CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 6634 *AN ACT CONCERNING CHILD WELFARE AND DETENTION IN THE JUVENILE JUSTICE SYSTEM AND ERASURE OF JUVENILE RECORDS*

April 1, 2011

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit legal organization affiliated with the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy. Through our TeamChild Juvenile Justice Project, the Center represents children in securing appropriate educational programming and addressing systemic barriers which prevent them from obtaining appropriate community based treatment alternatives.

We strongly support Raised Bill No. 6634, An Act Concerning Child Welfare and Detention in the Juvenile Justice System and Erasure of Juvenile Records, and **urge its amendment to address school-based arrests. Raised Bill No. 6634 will help Connecticut reduce discrimination based on race and ethnicity in the juvenile justice system**, also known as disproportionate minority contact (DMC) by:

1. Requiring a court order before a child can be admitted to detention, a practice that has been specifically shown to eliminate discrimination at the point of detention admission.<sup>1</sup>
2. Requiring state agencies to report plans to reduce discrimination in the juvenile justice and child welfare systems.
3. Reducing the long-term impact of juvenile justice involvement through automatic erasure of juvenile records for non-serious juvenile offenses after certain conditions are met.
4. Ensuring that kids are kept in Connecticut whenever possible, rather than sent out of state.

In Connecticut's juvenile justice system, **discrimination based on race and ethnicity is historically persistent and well-documented.** Connecticut's Juvenile Justice Advisory Committee (JJAC) contracted no less than three studies which were published in 1995, 2001 and 2009, all of which reflected this discrimination at a number of points throughout the juvenile justice system.<sup>2</sup> For example, the 2009 study found that **police were almost**

<sup>1</sup> DORINDA M. RICHELLETTI, ELIOT C. HARTSTONE & KERRI L. MURPHY, A SECOND REASSESSMENT OF DISPROPORTIONATE MINORITY CONTACT IN CONNECTICUT'S JUVENILE JUSTICE SYSTEM 51 (May 15, 2009); requiring a court order before admitting a child to detention was a specific recommendation of Connecticut's Juvenile Justice Advisory Committee, included in this report at 51.

<sup>2</sup> See *Connecticut's DMC Studies*, at <http://www.ct.gov/opm/cwp/view.asp?A=2974&O=383632#DMCStudies>. In addition to the arresting officer's decision to send a child to detention, other points where DMC exists include: (1) for non-SJO



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twice as likely to send Black and Hispanic children charged with a serious juvenile offense to a detention center as their White peers.<sup>3</sup> These studies also showed that DMC could not be explained by differences in delinquent behavior across racial and ethnic groups.<sup>4</sup> Data recently provided by the Court Support Services Division for July 1, 2009 through December 31, 2010 suggests that this disparity has persisted even since the last JJAC report was published. See attached.

Connecticut must work to eliminate this discrimination because it is uncontroverted that incarceration in the juvenile justice system results in worse life outcomes for minority youth.<sup>5</sup> Youth with a history of detention are:

- **less likely to graduate from high school:** Juvenile detention interrupts youths' education, making it more difficult for youth to receive necessary educational services and making it more likely that youth will drop out of school;<sup>6</sup>
- **more likely to be unemployed as adults:** Youth who have been detained experience an average reduction of over 25% in their potential work time over the decade following their detention;<sup>7</sup>
- **more likely to have repeat involvement with juvenile or criminal justice systems:** Detention has been shown to be the most significant factor in increasing the likelihood that a child will recidivate;<sup>8</sup> and
- **more likely to have depression and suicidal ideations:** Detention has been shown to exacerbate children's pre-existing mental health problems.<sup>9</sup>

**The over-representation of youth of color in the child welfare system also leads to worse life outcomes** since children who have been involved in the child welfare system are more likely to become involved in the juvenile justice system.<sup>10</sup> At every level of Connecticut's child welfare system, minority youth are over-represented, both statewide and within each area office,<sup>11</sup> a problem which is underreported and without the public attention it deserves.

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felonies and misdemeanors, the decision whether to refer a child to court; (2) for non-SJO felonies and misdemeanors, the decision to place a child in secure holding; (3) the decision whether to release a child from detention prior to case disposition; (4) the decision whether to transfer a child to adult court; (5) for children committed to DCF, the decision to place that child in secure or non-secure DCF facilities. RICHELLE, *supra* note 1.

<sup>3</sup> *Id.* at 29.

<sup>4</sup> *Id.* at 30, 6-7.

<sup>5</sup> Community Network for Youth, "Fact Sheet," available at

[http://www.cjny.org/index.php?option=com\\_content&view=article&id=6&Itemid=14](http://www.cjny.org/index.php?option=com_content&view=article&id=6&Itemid=14); see also Anthony Petrosino et al., *Formal System Processing of Juveniles: Effects on Delinquency*, CAMPBELL SYSTEMATIC REVIEWS (2010); Uberto Gatti et al., *Iatrogenic Effect of Juvenile Justice*, J. OF CHILD PSYCHOLOGY AND PSYCHIATRY 50:8 (2009), 991, 996.

<sup>6</sup> Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* 9 (2006), available at <http://www.justicepolicy.org/content-hmID=1811&smID=1581&ssmID=25.htm>.

One study showed that youth who had been detained had a 15% four-year graduation rate. *Id.*

<sup>7</sup> *Id.* at 10.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 8-9.

<sup>10</sup> JESSICA SHORT & CHRISTY SHARP, DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE JUSTICE SYSTEM 28 (2005).

<sup>11</sup> Letter from Heidi McIntosh, Deputy Commissioner, Connecticut Department of Children and Families, to Martha Stone, Executive Director, Center for Children's Advocacy, Inc. 1 (Aug. 13, 2009) (see attached)

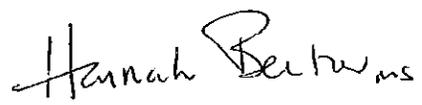
Raised Bill No. 6634 contains proven, low-or-no-cost strategies to help Connecticut reduce this discrimination in a number of ways. **Section One** of Raised Bill No. 6634 expands a reform that has already been shown to work, requiring a court order before admission to detention of all juveniles, not just non serious juvenile offenders. Since the number of youth in this category is relatively small (only 300 youth a year), this is a no-cost solution with little burden on the judicial system. **Sections Two and Three** will reduce the long-term impact of juvenile justice involvement through automatic erasure of some juvenile records. **Sections Four and Five** ensure youth are returned to their home communities in a timely manner and reduces the massive cost of out-of-state placement by requiring that youth are kept in Connecticut whenever possible. Unfortunately, the trend for out of state placements has increased over the last month, rather than decreased as promised by the state. As of March 1, 2011, there were approximately 367 youth out of state compared to 357 the previous month. **Section Six** ensures that state agencies are focusing their efforts to reduce discrimination in both the child welfare and juvenile justice system, analyze the interrelationship of discrimination in both systems, and remain accountable for that reduction.

We suggest that Raised Bill No. 6634 **should be strengthened by amending it to require public access to school-based arrest data**. These arrests are often the first contact with the juvenile justice system for youth of color. This data is collected by the State Department of Education but not reported publicly. By making it available, it will help stakeholders target strategies to reduce these arrests and keep youth in school and out of the juvenile justice system. We have attached proposed language for this amendment to our testimony and would welcome the opportunity to discuss this further. (See attachment)

By reducing discrimination based on race and ethnicity in the juvenile justice and child welfare systems, Raised Bill No. 6634 will help achieve better life outcomes for Connecticut's youth. Addressing school-based arrests, which are often the gateway to the juvenile justice system, will strengthen the impact of this bill. For the foregoing reasons, we urge the committee to pass Raised Bill No. 6634 along with the proposed amendment.

Respectfully submitted,

  
Martha Stone, J.D.  
Executive Director

  
Hannah Benton, J.D.  
Staff Attorney  
TeamChild Juvenile Justice Project

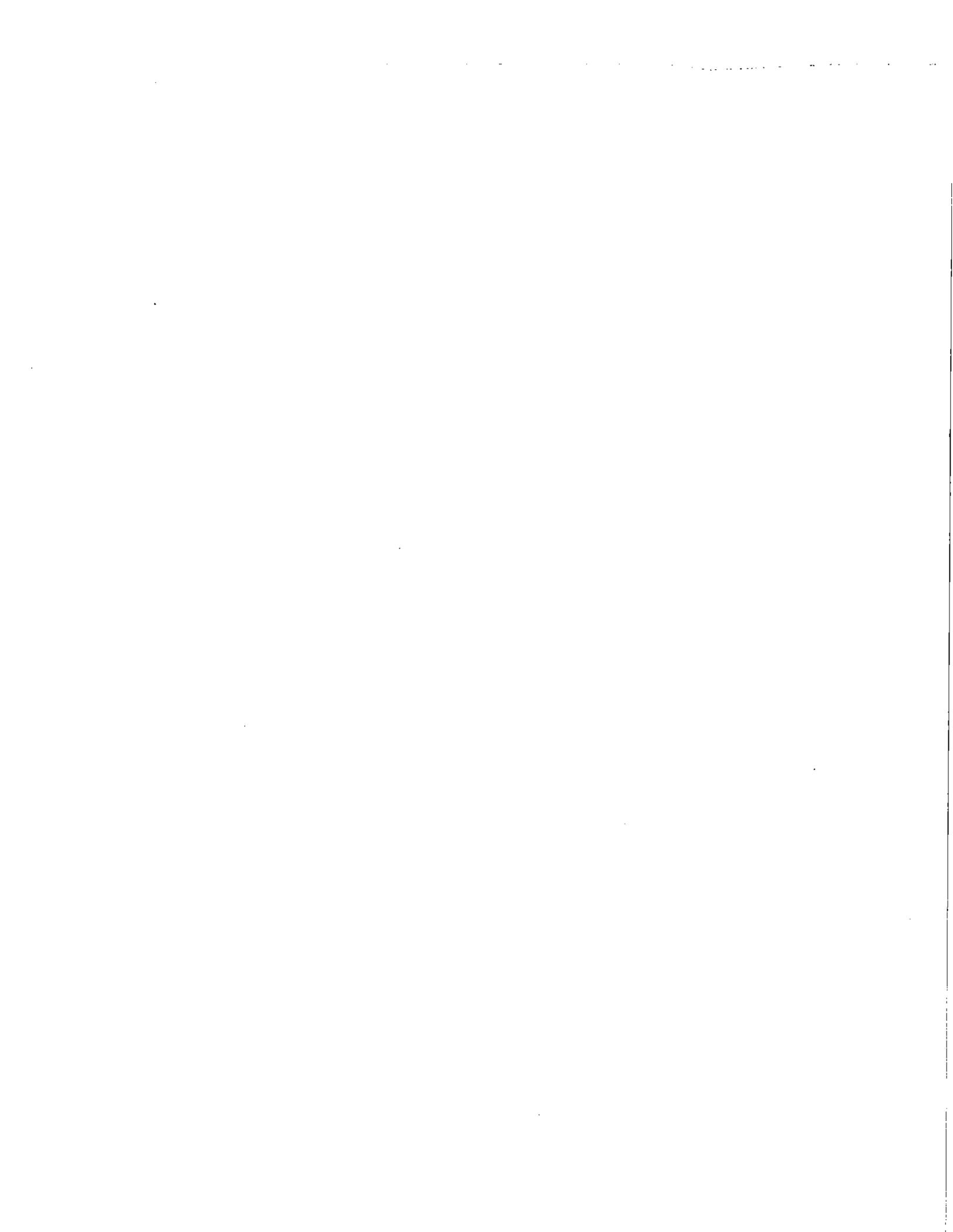


Distinct Juveniles Admitted to Detention By Race and Authorization Code July 2009 through June 2010

Race	Detention Authorization						Race Total	Race %	
	Order to Detain	Out of State Warrant	Order of Detention	Other	Juvenile Serious Offense	Take in Custody			Warrant
American Indian/Alaskan Native	0	0	0	0	1	0	1	2	0.1%
Asian/Pacific Islander	1	0	4	0	1	2	1	9	0.6%
Black	17	0	267	11	178	163	146	782	48.5%
Hispanic	11	0	175	2	74	98	55	415	25.7%
White	24	2	137	4	38	80	73	358	22.2%
Missing	1	1	14	0	12	4	16	48	3.0%
Authorization Total	54	3	597	17	304	347	292	1614	100.0%
Authorization %	3.3%	0.2%	37.0%	1.1%	18.8%	21.5%	18.1%	100.0%	

Distinct Juveniles Admitted to Detention By Race and Authorization Code July 2010 through December 2010

Race	Detention Authorization						Race Total	Race %	
	Order to Detain	Out of State Warrant	Order of Detention	Other	Juvenile Serious Offense	Take in Custody			Warrant
American Indian/Alaskan Native	0	0	0	0	0	0	0	0	0.0%
Asian/Pacific Islander	0	0	2	0	0	0	0	2	0.2%
Black	15	1	151	6	93	131	67	464	43.2%
Hispanic	4	0	129	0	47	89	30	299	27.9%
White	15	0	123	1	21	70	39	269	25.1%
Missing	3	0	13	0	13	6	4	39	3.6%
Authorization Total	37	1	418	7	174	296	140	1073	100.0%
Authorization %	3.4%	0.1%	39.0%	0.7%	16.2%	27.6%	13.0%	100.0%	





DEPARTMENT of CHILDREN and FAMILIES  
*Making a Difference for Children, Families and Communities*



Susan I. Hamilton, M.S.W., J.D.  
Commissioner

M. Jodi Rell  
Governor

August 13, 2009

UConn School of Law  
c/o Martha Stone, Executive Director  
65 Elizabeth Street  
Hartford, CT 06105

Dear Atty. Stone,

In response to your recent inquiry, we are forwarding a disproportionality analysis ("*State Fiscal Year (SFY) 08 Disproportionality Across the Connecticut Child Protection System by CT DCF Area Office*") completed by the Office for Research and Evaluation in February 2009 that shows the race/ethnicity distribution of cross-sectional slices of child welfare populations based on the child welfare decision stages. Disproportionality reflects the difference between the race/ethnic makeup of the general population of a specific geographic area (e.g. a state) and a served population (e.g. child welfare population of a state). This phenomenon is also referred to as over-(under) representation.

\* This analysis shows that children of color in Connecticut are disproportionately represented in the child welfare system relative to their presence in the general population of children. This is true at the statewide level and for each of DCF's Area Offices, although the degree of disproportionality differs, reflecting in part well-known patterns of racial segregation in Connecticut.

It is important to appreciate that these empirical patterns do not reveal the processes (or "forces") that produced them. In other words, this analysis describes these patterns but does not explain them. Hence, this analysis should be understood as descriptive, not explanatory.

As you may know, the field of child welfare has in the past several years begun to focus on racial disproportionality in child welfare. Developing and disseminating approaches to measure and summarize these empirical patterns by adopting approaches originating in the fields of epidemiology and demography (e.g. rates, relative risk ratios) has been the field's and Connecticut DCF's first step.

Finally, it is important to provide guidance as to whether and when it is appropriate to conduct additional "risk set" analysis using these data.

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With the exception of the first bar in the graph which shows the race distribution of the Connecticut child population, each bar that follows shows a type of child welfare population, meaning the distribution by race of children subject to the particular child welfare event. The bars represent a "path" in that each successive bar represents a deepening of involvement with the child welfare system. In other words, the "accepted referral/report" bar refers to the process of deciding to investigate a report received by the designated child welfare official; the determination of whether such a report meets grounds for substantiation follows the decision to undertake an investigation.

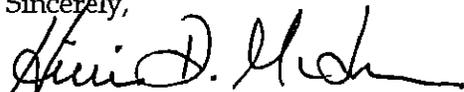
However, progress into the child welfare system is not only organized according to this linear path. Not all children who are removed from home are identified according to this path of report, investigation, and disposition of allegation. This can occur when information and concerns other than those identified in the precipitating report may come to light during the course of the investigation. For example, while investigating a report concerning a specific child, other children at risk may come to light. There may never be a report on these other children, and yet a judge may determine that their safety requires removal from the home. This is but one example of how the "path" into child protective services may be one other than shown in the analysis that follows.

Analytically, this means that children may "enter" the bars shown on this graph through paths other than having experienced the event represented in the preceding bar in the graph. The successive populations are not always subsets of one another (although in some cases they are). For example, not all of the children who "entered DCF care" were referred and substantiated as victims of maltreatment. This fact then identifies analytic opportunities and analytic constraints. A valid analytic opportunity is the comparison of the race distribution represented in each child welfare event bar to the overall child population. This comparison reveals the extent to which the population of children experiencing that event is similar (or not) to the population of children in the general community with respect to race. Additionally, except where the bars are true subsets, it is inappropriate to think of the preceding bar as a risk set from which the event of interest occurs.

I should also note that for purposes of this analysis, "Hispanic" is treated as a race category and persons who are of Hispanic Origin are reported as "Hispanic" regardless of any other race category they may also report. This "consolidation" of the separate concepts of race and Hispanic ethnicity is necessary in order to meet statistical analytic principles.

I am looking forward to future conversations regarding the data, our analysis, and system improvements.

Sincerely,



Heidi D. McIntosh  
Deputy Commissioner

yd/HDM

## PROPOSED AMENDMENT TO ADDRESS PUBLIC ACCESS TO INFORMATION REGARDING SCHOOL BASED ARRESTS

Section 1. Section 10-10a, subsection e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(e) The system database of student information shall not be considered a public record for the purposes of section 1-210, **except that members of the public may request and obtain aggregate data for schools and school districts provided such data is disclosed in accordance with the provisions of section 1-210.** Nothing in this section shall be construed to limit the ability of a full-time permanent employee of a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and that is organized and operated for educational purposes, to obtain information in accordance with the provisions of subsection (h) of this section.

Section 2. Section 10-220, subsection c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(c) Annually, each local and regional board of education shall submit to the Commissioner of Education a strategic school profile report for each school under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each November first. The profile report shall provide information on measures of (1) student needs, (2) school resources, including technological resources and utilization of such resources and infrastructure, (3) student and school performance, including truancy **and discipline**, (4) the number of students enrolled in an adult high school credit diploma program, pursuant to section 10-69, operated by a local or regional board of education or a regional educational service center, (5) equitable allocation of resources among its schools, (6) reduction of racial, ethnic and economic isolation, and (7) special education. For purposes of this subsection, measures of special education include (A) special education identification rates by disability, (B) rates at which special education students are exempted from mastery testing pursuant to section 10-14q, (C) expenditures for special education, including such expenditures as a percentage of total expenditures, (D) achievement data for special education students, (E) rates at which students identified as requiring special education are no longer identified as requiring special education, (F) the availability of supplemental educational services for students lacking basic educational skills, (G) the amount of special education student instructional time with nondisabled peers, (H) the number of students placed out-of-district, and (I) the actions taken by the school district to improve special education programs, as indicated by analyses of the local data provided in subparagraphs (A) to (H), inclusive, of this subdivision. The superintendent shall include in the narrative portion of the report information about parental involvement and if the district has taken measures to improve parental involvement, including, but not limited to, employment of methods to engage parents in the planning and improvement of school programs and methods to increase support to parents working at home with their children on learning activities. For purposes of this subsection, measures of truancy include the type of data that is required to be collected by the Department of Education regarding attendance and

unexcused absences in order for the department to comply with federal reporting requirements. Such truancy data shall be considered a public record for purposes of chapter 14. **For purposes of this subsection, measures of discipline include the data that the Department of Education collects to comply with federal reporting requirements regarding in-school suspensions, out-of-school suspensions, expulsions and arrests of students on school property during the school day or at a school-sponsored activity conducted on or off school property.**

Section 3. Section 10-220, subsection c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(c) Annually, each local and regional board of education shall submit to the Commissioner of Education a strategic school profile report for each school under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each November first. The profile report shall provide information on measures of (1) student needs, (2) school resources, including technological resources and utilization of such resources and infrastructure, (3) student and school performance, including truancy **and discipline**, (4) the number of students enrolled in an adult high school credit diploma program, pursuant to section 10-69, operated by a local or regional board of education or a regional educational service center, (5) equitable allocation of resources among its schools, (6) reduction of racial, ethnic and economic isolation, [and] (7) special education, **and (8) school-based arrests**. For purposes of this subsection, measures of special education include (A) special education identification rates by disability, (B) rates at which special education students are exempted from mastery testing pursuant to section 10-14q, (C) expenditures for special education, including such expenditures as a percentage of total expenditures, (D) achievement data for special education students, (E) rates at which students identified as requiring special education are no longer identified as requiring special education, (F) the availability of supplemental educational services for students lacking basic educational skills, (G) the amount of special education student instructional time with nondisabled peers, (H) the number of students placed out-of-district, and (I) the actions taken by the school district to improve special education programs, as indicated by analyses of the local data provided in subparagraphs (A) to (H), inclusive, of this subdivision. The superintendent shall include in the narrative portion of the report information about parental involvement and if the district has taken measures to improve parental involvement, including, but not limited to, employment of methods to engage parents in the planning and improvement of school programs and methods to increase support to parents working at home with their children on learning activities. For purposes of this subsection, measures of truancy include the type of data that is required to be collected by the Department of Education regarding attendance and unexcused absences in order for the department to comply with federal reporting requirements. Such truancy data shall be considered a public record for purposes of chapter 14. **For purposes of this subsection, measures of discipline include the data that the Department of Education collects to comply with federal reporting requirements regarding in-school suspensions, out-of-school suspensions, expulsions and school-based arrests. For purposes of this subsection, "school-based arrest" means an arrest of a student on school property during the school day, or an arrest of a student at a school-sponsored activity conducted on or off school property. For purposes of this**

**subsection, measures of school-based arrests include the number of arrests made annually at each school and in each school district; such measures shall be disaggregated by race/ethnicity, gender, age, whether the student is receiving special education services, whether the student is an English Language Learner and the offenses for which the arrests were made, except that any such category that includes one to five students shall be reported as a symbol.**

Section 4. Section 10-220, subsection a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(a) Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state as defined in section 10-4a and provide such other educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district in accordance with provisions of the general statutes and shall give all the children of the school district as nearly equal advantages as may be practicable; shall provide an appropriate learning environment for its students which includes (1) adequate instructional books, supplies, materials, equipment, staffing, facilities and technology, (2) equitable allocation of resources among its schools, (3) proper maintenance of facilities, and (4) a safe school setting; shall have charge of the schools of its respective school district; shall make a continuing study of the need for school facilities and of a long-term school building program and from time to time make recommendations based on such study to the town; shall adopt and implement an indoor air quality program that provides for ongoing maintenance and facility reviews necessary for the maintenance and improvement of the indoor air quality of its facilities; shall adopt and implement a green cleaning program, pursuant to section 10-231g, that provides for the procurement and use of environmentally preferable cleaning products in school buildings and facilities; shall report biennially to the Commissioner of Education on the condition of its facilities and the action taken to implement its long-term school building program, indoor air quality program and green cleaning program, which report the Commissioner of Education shall use to prepare a biennial report that said commissioner shall submit in accordance with section 11-4a to the joint standing committee of the General Assembly having cognizance of matters relating to education; shall advise the Commissioner of Education of the relationship between any individual school building project pursuant to chapter 173 and such long-term school building program; shall have the care, maintenance and operation of buildings, lands, apparatus and other property used for school purposes and at all times shall insure all such buildings and all capital equipment contained therein against loss in an amount not less than eighty per cent of replacement cost; shall determine the number, age and qualifications of the pupils to be admitted into each school; shall develop and implement a written plan for minority staff recruitment for purposes of subdivision (3) of section 10-4a; shall employ and dismiss the teachers of the schools of such district subject to the provisions of sections 10-151 and 10-158a; shall designate the schools which shall be attended by the various children within the school district; shall make such provisions as will enable each child of school age residing in the district to attend some public day school for the period required by law and provide for the transportation of children wherever transportation is reasonable and desirable, and for such purpose may make contracts covering periods of not more than five years; **shall adopt and implement a policy regarding the role and responsibilities of any sworn officers of local police department or the**

Division of State Police within the Department of Public Safety who have been assigned to any school in accordance with an agreement between the chief of the appropriate law enforcement agency or the Commissioner of Public Safety and the local or regional board of education; may place in an alternative school program or other suitable educational program a pupil enrolling in school who is nineteen years of age or older and cannot acquire a sufficient number of credits for graduation by age twenty-one; may arrange with the board of education of an adjacent town for the instruction therein of such children as can attend school in such adjacent town more conveniently; shall cause each child five years of age and over and under eighteen years of age who is not a high school graduate and is living in the school district to attend school in accordance with the provisions of section 10-184, and shall perform all acts required of it by the town or necessary to carry into effect the powers and duties imposed by law.

Section 5. Section 46b-121i, subsection b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2013*):

(b) In developing its programs, the Judicial Department shall:

(1) Develop risk and assessment instruments for use in determining the need for detention or other placement at the time a juvenile enters the system;

(2) Develop a case classification process to include the establishment of classification program levels and case management standards for each program level. A program level is based on the needs of the juvenile, his potential to be dangerous and his risk of offending further;

(3) Develop a purchase-of-care system, which will facilitate the development of a state-wide community-based continuum of care, with the involvement of the private sector and the local public sector. Care services may be purchased from private providers to provide a wider diversity of services. This system shall include accessing Title IV-E funds of the federal Social Security Act, as amended, new Medicaid funds and other funding sources to support eligible community-based services. Such services developed and purchased shall include, but not be limited to, evaluation services which shall be available on a geographically accessible basis across the state;

**(4) Develop a data tracking system which will allow for annual reports to the General Assembly regarding the number of juveniles referred to court due to arrests on school property during the school day or at a school-sponsored activity conducted on or off school property, which shall be disaggregated where practicable by school, school district, race/ethnicity, gender, age, disability status, primary spoken language of juvenile, and the offenses for which the arrests were made, except that any such category that includes one to five students shall be reported as a symbol.**