State of Connecticut

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Testimony of
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Raised Bill No.1227
An Act Concerning the Prevention of Urban Youth Delinquency and Violence and the Criminal Liability of Parents or Guardians of Children who Illegally Possess Firearms

Judiciary Committee Public Hearing
April 1, 2011

Although the Office of Chief Public Defender is not taking a position on the substantive aspects of this bill, this Office wishes to alert the Committee regarding its concerns related to **Section 2.**

Section 2 creates criminal liability for parents or legal guardians of minor children who illegally possess firearms. Such liability arises when a parent or legal guardian knows that a minor child possesses, and is legally ineligible to possess, a firearm and then fails to cause that child to relinquish such firearm.

This Office is concerned that recent court decisions create a real possibility that in some cases a BB gun or air pistol may be considered a firearm for purposes of this statute. Recently, in *State v. Lawrence Grant, 294 Conn. 151 (2009),* the Connecticut Supreme Court concluded that "a BB gun does not fall outside the definitional purview of *section 53a-3(19)* merely because it operates without gunpowder." This conclusion has serious implications regarding how this raised bill will be enforced and violators prosecuted. *Section 53a-3(19)* provides the statutory definition of "firearm" that would in all likelihood be applied when interpreting the language in Section 2 of this raised bill. It is therefore conceivable that parents and legal guardians could face criminal prosecutions arising from the possession of BB guns or air pistols by their minor children.

The Office of Chief Public Defender believes that parents and legal guardians are entitled, at a minimum, to clear warning and notice of the potential criminal liabilities they are exposed to if this bill becomes law. Current law already requires that retail dealers of pistols and revolvers provide notice to purchasers regarding the criminal consequences of illegal storage of firearms. This Office believes that *C.G.S. §29-37b* should be amended to require that retail sellers provide such warnings to parents and legal guardians of minor children with respect to the new criminal liability created by this raised bill as is relates to BB guns and air pistols.

The Committee should also note that, with a few exceptions, the current law, found in both *C.G.S. §53-206, Carrying of a dangerous weapon*, and *C.G.S. §29-38, Weapons in Vehicles*, make possession of a BB gun a felony punishable by up to three and five years in jail respectively. Even absent the new proposed legislation, this Office believes that warning language regarding the possible criminal sanctions related to possession of BB guns should be added to and required by the general statutes.

For the reasons stated above the Office of Chief Public Defender urges the Committee to amend this raised bill to include a warning as discussed above.