

Center for Children's Advocacy

TESTIMONY OF CENTER FOR CHILDREN'S ADVOCACY TO THE JOINT COMMITTEE ON JUDICIARY IN SUPPORT OF RAISED BILL 1229, AN ACT CONCERNING EVIDENCE AND DETENTION IN JUVENILE MATTERS

April 1, 2011

This testimony is submitted on behalf of the Center for Children's Advocacy in support of Raised Bill 1229 giving committed delinquent youth credit for time served prior to disposition and authorizing DCF to waive the requirement for an evaluation prior to leave or release from commitment when there was an evaluation at a past facility prior to a juvenile's transfer. The Center for Children's Advocacy is a non-profit legal organization for poor children, affiliated with the University of Connecticut School of Law. Through its Juvenile Justice and Truancy Court Prevention Projects, the Center provides individual and systemic legal representation to youth at risk of and in direct contact with the juvenile justice system. The Center for Children's Advocacy supports Raised Bill 1229 for the following reasons:

Section 1 of the Bill:

1. When a minor's liberty is taken away, and the youth is incarcerated for a lengthy period of time, due process requires that the youth receive credit for that time.

A child's liberty interest is taken away when he or she is incarcerated in a detention facility and then subsequently committed to a residential treatment facility or the Connecticut Juvenile Training School. Due process of law requires that a child's liberty cannot be taken away for a period of time beyond what is required for rehabilitation.

The reality, however, is that children in Connecticut are often deprived of their liberty for periods of time beyond what is required for rehabilitation when they are forced to sit in detention awaiting placement, and thereafter have to go to another facility once sentenced, without getting credit for the time spent in detention. In fact, as of March 29, 2011, there were 18 children in Connecticut detention facilities awaiting placement. This means that 18 children were sitting in detention, deprived of their liberty, not getting credit for the time they served, while state officials were searching for a place to put them. This process unfairly penalizes those youth only because there is a lack of residential placement slots, and the state cannot find appropriate placements for these youth in a timely way.

These reforms may not be necessary to protect the children who are in detention awaiting placement for several hours or a few days, but they are necessary to protect the children who sit in detention for weeks or months, as they wait for state officials to find a suitable place for them. If youth are going to be deprived of their liberty in that manner, we must at least give them credit for the time they serve.

2. Statutory safeguards are in place to prevent premature release from commitment.

There are statutory safeguards already in place should DCF feel that the commitment period has not adequately rehabilitated a child. Conn. Gen. Stat. 17a-10 allows DCF to file a motion to extend the commitment of a juvenile if it is in that juvenile's best interest.¹ With regard to the proposed legislation, if the Commissioner feels that the commitment minus the time served prior to disposition has not fully rehabilitated

a child, the Commissioner may seek relief from the court. This ability to seek relief from the court would eliminate any situations in which a child would be released from detention earlier than necessary.

3. The proposed legislation is similar to the statutory schemes found in other States that give credit for time served prior to disposition.

Many states have already passed legislation similar to this bill. The Illinois Appellate Court interpreted the plain meaning of its state statute to entitle juveniles to sentencing credit for time served prior to their commitment to the Department of Corrections. The statute “expressly provides juveniles are entitled to sentencing credit when their dispositions involve a sentencing order of detention.”ⁱⁱ

Similarly, Louisiana statutes provide that “the court shall give a child credit for time spent in secure detention prior to the imposition of disposition.”ⁱⁱⁱ See also, New Jersey, (“a juvenile shall receive credit on the term of a custodial sentence for any time served in detention or court-ordered shelter care between apprehension and disposition.”^{iv})

The North Carolina Appellate Court interpreted its state statute to mean juveniles are “entitled to credit for time served in secure custody prior to [their] dispositional hearing.”^v

Section 2 of the Bill

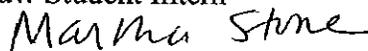
The DCF Commissioner must be able to waive the fitness and security risk evaluation so as not to penalize a youth who transfers from one facility to another.

The DCF Commissioner must be given the option to waive the requirement for a sixty-day evaluation of fitness and security risk for a youth who has been transferred to a new facility if there was a satisfactory evaluation at the previous facility. To do otherwise would unfairly punish a child by delaying leave or release by an additional 60 days simply because he or she was transferred to a new facility. Such a flaw in the system could excessively and arbitrarily commit a child for a significantly longer period of time than is necessary for rehabilitation, in violation of his or her due process rights.

Respectfully Submitted,



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ⁱ CONN. GEN. STAT. ANN. §17a-10 (2006)

ⁱⁱ *In re Jesus R.*, 326 Ill. App. 3d 1070 (2002).

ⁱⁱⁱ LA. CHILD. CODE ANN. art. 898 (2003)

^{iv} N.J. STAT. ANN. § 5:21-3 (2011)

^v *In re D.L.H.*, 198 N.C. App. 286, 287 (2009).