

Center for Children's Advocacy

TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY

IN OPPOSITION TO

RAISED BILL NO. 1163 AN ACT CONCERNING ASSAULT OF A SCHOOL EMPLOYEE

This testimony is submitted on behalf of the Center for Children's Advocacy, a private, 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. The Center for Children's Advocacy opposes Bill No. 1163, based on our experience as attorneys working with students of color and disabled youth in Hartford and Fairfield Counties.

1. This bill will perpetuate the disproportionate minority contact (DMC) of students of color and will further discriminate against students with disabilities by elevating the classification of an assault on a school employee to a Serious Juvenile Offense.

- In three separate studies in 1991, 1995 and 2009, Black and Hispanic students in Connecticut were more likely to be brought to a police station than their White counterparts and significantly more likely to be referred to court for serious juvenile offenses.ⁱ
- By designating this particular offense as a serious juvenile offense, minority youth are more likely to be brought to detention than their White counterparts at the time of arrest without the benefit of judicial review.ⁱⁱ

A recent case handled by our office underscores this problem. A twelve-year-old Latina student, whose emotional disability went undiagnosed and unaddressed by the school despite years of academic and behavioral failure, was arrested for assaulting a teacher. This student became frustrated in class and attempted to leave the classroom. At this critical point, the teacher failed to utilize an appropriate therapeutic intervention, and instead chose to physically block her exit from the classroom. This inappropriate action resulted in the student nudging the teacher out of the way, in order to continue walking down the hallway. Under this proposed law, the student's behavior, which was directly in response to her placement in an inappropriate academic setting that failed to respond to her emotional disability, would be classified as a Serious Juvenile Offense. This presents an issue of fundamental fairness: when schools systemically fail to identify students' disabilities, provide a Free Appropriate Public Education (FAPE) pursuant to federal law, or de-escalate crisis situations in therapeutically appropriate ways, students should not be



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charged with **felony offenses** for behaviors that are, at least in part, attributable to the school's inaction or mishandling.

- National studies suggest unequal treatment of schools' disciplinary practices with students of color. For example, Black students with a disability were three times more likely to be suspended from school than White students and constituted almost half of the students suspended overall.ⁱⁱⁱ
- Under the Individuals with Disabilities Act (IDEA), school districts have a legal obligation to identify and refer students for evaluation and planning when they observe, *inter alia*, [a child] who has been suspended, or whose behavior is considered unsatisfactory.^{iv} As proposed, this bill further penalizes disabled students whose "misbehavior" may be the manifestation of their disabilities.

For example, we recently handled the case of an emotionally-disabled five-year-old student of color whose teacher called the police with the assertion that she had been a victim of assault. The five year old had been attempting to take a pencil back from her that she had taken away from him. Thankfully, the responding police officer was able to mediate the conflict without further escalating the situation. In this case, the officer used his discretion wisely and did not arrest this very young student. However, under this bill, if the officer *had* chosen to arrest this child, he could have faced very serious penalties for an alleged "assault."

2. This bill will exacerbate Disproportionate Minority Contact in the juvenile justice system, which leads to poor life outcomes for minority youth.

- Youth with a history of detention are less likely to graduate from high school, more likely to be unemployed as adults, and more likely to be involved in the criminal justice system as adults.^v
- Detention has been shown to exacerbate children's pre-existing mental health problems.^{vi}

We strongly urge you to consider the collateral effects of this proposed legislation on our most vulnerable children and youth. We believe that this legislation sends a conflicting message to school districts as to their obligations under the law and fails to take account of its disproportionate application on minorities and disabled students.

Respectfully submitted,

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ⁱ See Spectrum Associates, *Second Reassessment of Disproportionate Minority Contact* (2004)

ⁱⁱ CONN. GEN. STAT. § 46b-120; §46b-133

ⁱⁱⁱ See Osher, Woodruff & Sims, *Schools Make a Difference: The Overrepresentation of African American Youth in Special Education and the Juvenile Justice System*, in RACIAL INEQUITY IN SPECIAL EDUCATION, at 97-99.

^{iv} CONN. GEN. STAT. § 10-76d(a)(1); CONN. AGENCY REGS. § 10-76d-7; see also 20 U.S.C. §1412(a)(3) (requires that states identify, locate and evaluate students with disabilities).

^v Community Network for Youth, "Fact Sheet," available at

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.

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