CONNECTICUT JUVENILE JUSTICE ALLIANCE

TESTIMONY OF THE CONNECTICUT JUVENILE JUSTICE ALLIANCE FOR THE JUDICIARY COMMITTEE
March 23, 2012
IN FAVOR OF
RAISED BILL 417, AN ACT CONCERNING JUVENILE MATTERS AND PERMANENT GUARIDANSHIPS.
and
HB 5546 AN ACT CONCERNING SENTENCE MODIFICATION FOR JUVENILES

Senator Coleman, Representative Fox and members of the Judiciary Committee: My name is Abby Anderson; I am the executive director of the Connecticut Juvenile Justice Alliance. The Alliance is a statewide, nonprofit organization working to reduce the number of children and youth entering the juvenile and criminal justice system, and advocating a safe, effective and fair system for those involved.

The Alliance is in favor of SB 417, An Act Concerning Juvenile Matters and Permanent Guardianships, especially section 15, which deals with the transfer of cases from the juvenile to adult courts. First, this proposal makes Class B felonies discretionary rather than mandatory transfers for those aged 14 and older. In effect, this change in the statute will simply put into law something that is already happening in practice. While B Felonies are technically automatic transfers to the adult court, all involved, including the prosecutors, often believe that the best outcome for public safety and the youth will be met if the youth remains in the juvenile justice system, which has more appropriate and effective programs and services than are available in the adult system. Currently, less than half of those charged with a Class B felony are actually transferred to the adult court.

This change is also in line with the Connecticut and national trend to keep as many youth as possible out of the adult system as research continues to show better public safety outcomes when youth are NOT tried as adults.

The second part of this section places transfer hearings in the juvenile court. State statute currently does not provide a hearing before a child charged with a felony is moved from juvenile to adult court. Last year, the Connecticut Supreme Court in State v. Fernandes, found that this procedure violated a child's constitutional right to due process of law and ordered that hearings must be held before a child can be deprived of the protections granted by the juvenile court. However, the decision left these hearings in adult court. Currently, the cases are moved from juvenile court without a hearing and the burden is on the adult court judge, who often lacks any knowledge of the services and procedures available at the juvenile court to determine if a case should go back to juvenile court. We believe that it makes no sense to find that a child has a constitutional right to a hearing before being deprived of his juvenile status but to take that juvenile status away before he is able to argue to maintain it. Discretionary transfer hearings should be held in juvenile court. Juvenile judges are specially trained. They have a clear understanding of the way adolescent brain development now plays a role in the ways we hold youth accountable for their crimes and the array of programs and services available in the juvenile system that may better meet the needs of public safety and the youth than those available through the adult courts.

Finally, this proposal sets out criteria for the court to use in determining whether a case is appropriate for transfer to the adult court. This includes considering the age and criminal history of the accused, the seriousness of the crime, any mental health or developmental issues the accused

may have and the treatment options that are available in the two courts. These criteria are necessary to ensure consistency across the courts and equal justice for all accused.

Similarly, the Alliance is in favor of HB 5546, An Act Concerning Sentence Modification for Juveniles, which would require the Connecticut Sentencing Commission to study and make recommendations regarding sentence modification for individuals who are serving very long terms for crimes committed before they were 18 years of age. There is currently no automatic mechanism in Connecticut for review of a juvenile sentence after 10, 20, or even 50 years to determine if that sentence remains appropriate. We believe it is ethically, morally and fiscally wrong to lock children up and "throw away the key."

Science now has proof that a teenager's brain is still developing until the age of 25; those who commit crimes as juveniles are very different from adults. We believe children should be held accountable for their actions, and we also understand that their brains are not nearly finished growing. Indeed, new state policy reflects this knowledge, with the successful reform to "Raise the Age" of juvenile jurisdiction from 16 to 18.

As you know, children as young as 14 are automatically tried as adults in Connecticut for certain crimes, and can serve the maximum term of life without the possibility of parole. A number of children are serving lengthy sentences for the charge category felony murder, even if they did not personally kill someone. The charge requires only that the juvenile be engaged in a felony (most often a robbery), that someone died as a result (even by accident), and that the juvenile knows that one of his co-felons was carrying a dangerous weapon. Because children tend to discount consequences and act in groups or with older adults, a 14-year-old serving as a "lookout" for some else's drug-deal-gone-bad, a 16-year-old serving as a driver for someone else's robbery of a grocery store, or a younger backseat companion in a drive-by shooting can receive just as much prison time as the older person who planned the crime and pulled the trigger.

Brain science tells us that children have a greater capacity for change than adults. Even if a child commits a very bad act, it does not mean he or she has a permanently bad character and is incapable of rehabilitation. This was confirmed by the U.S. Supreme Court, in Graham v. Florida. Connecticut law currently gives up on some children and denies them a second chance. The burden has fallen disproportionately on minorities: 90% of individuals serving sentences of 10 years or more for crimes committed under age 18 are African American or Hispanic.

Public safety would not be jeopardized because a second look would not guarantee release. Release would be possible only if, after thorough review, it is established that an individual has truly rehabilitated. Thank you for your time and attention.