



CCDLA
"READY IN THE DEFENSE OF LIBERTY"
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Connecticut Criminal Defense
Lawyers Association
P.O. Box 1766
Waterbury, CT 07621
(860) 283-5070 telephone/facsimile
www.ccdla.com

April 1, 2013

Hon. Eric D. Coleman, Co-Chair
Hon. Gerald M. Fox, Co-Chair
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: Raised Bills 6660 and 6642

Dear Chairmen Coleman and Fox:

CCDLA is a not-for-profit organization of more than three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

CCDLA supports Raised Bills 6660 and 6642.

With respect to Raised Bill 6660, AN ACT CONCERNING FAMILY IMPACT STATEMENTS, currently courts are permitted to consider at sentencing the impact that incarceration of a defendant will have on his family and children; however, they are under no obligation to do so. Raised Bill 6660, obligates courts to consider, in circumstances where the defendant is the parent or guardian of a minor child and has physical custody of the minor child, the impact on the financial needs of the child and other family members, the relationship between the defendant and the child, the availability of community and family support for the child, the defendant's employment history and available employment opportunities, programs available to rehabilitate the defendant if the defendant is not sentenced to a term of imprisonment, the seriousness of the offense and the defendant's criminal history.

In rendering punishment, courts are required to consider the impact of the defendant's crime on the victim, as well as on society in general (implicit in the court's imposition of a sentence are the following objectives, most of which are intended to benefit society: general and specific deterrence, protection from future crimes of the defendant, retribution or punishment, and rehabilitation). Significantly, Connecticut courts have never been required to consider the impact of incarceration on the family of the defendant.

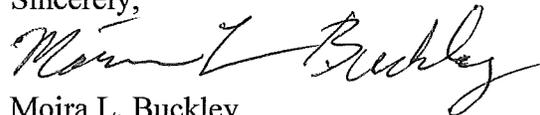
In federal court, when a defendant raises “extraordinary family circumstances” as a ground for a “downward departure” from the federal Sentencing Guidelines, the sentencing court must consider the claim before pronouncing sentence. Additionally, pursuant to 18 U.S.C. § 3553, federal judges must consider the nature and characteristics of defendants, which more often than not encompass their family circumstances. Various states are beginning to accept and incorporate family impact statements into their sentencing schemes. According to a recent publication by the Osborne Association, several jurisdictions consider Family Impact Statements in some capacity: San Francisco’s Probation Department adopted FIS into its Pre-Sentencing Investigation reports in 2009; California Senate Concurrent Resolution 20 was adopted in 2009 and encourages county-level adoption of family impact statements; Arkansas Voices for the Children Left Behind submits Family Impact Statements for review in sentencing hearings in a limited number of cases; Oklahoma state law requires judges to ask if a convicted and sentenced individual is a single custodial parent and to inquire about child care arrangements; Family Impact Statements are used to a limited extent in Tennessee; at least two departments of probation in New York are considering integrating FIS into their pre-sentence investigation reports.

The impact of incarceration on vulnerable and dependent children must not be ignored as a collateral consequence of the sentencing process. Requiring courts to consider the Family Impact Statement and impose sentences based in part on that statement is consistent with the usual objectives of sentencing, and it does not excuse or minimize criminal conduct. Studies demonstrate that children of incarcerated parents are likely to suffer short and long term deleterious consequences as a result of a parent’s incarceration. A court’s consideration of the impact that a parent’s incarceration will have on a child promotes sentencing objectives: rehabilitation of the defendant - studies demonstrate that close ties with family assist in reducing recidivism, and long term deterrence - a court’s effort to consider and protect the child by reducing the disruption and trauma that the parent’s incarceration will have on the child, may render it less likely that the child will engage in criminal conduct in the future.

With respect to Raised Bill 6642, AN ACT ESTABLISHING A CHILD NURSERY FACILITY AT THE CONNECTICUT CORRECTIONAL INSTITUTION, NIAN TIC, CCDLA supports the passage of this bill and adopts the testimony submitted by the Connecticut Office of the Public Defender.

Please contact me if you have any questions regarding our position on these bills. Thank you.

Sincerely,



Moira L. Buckley
President – CCDLA
(860) 724-1325