



**STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES**

Public Hearing Testimony

Judiciary Committee

March 30, 2015



**H.B. BILL NO. 7042 AN ACT CONCERNING THE PLACEMENT OF CHILDREN BY THE
COMMISSIONER OF CHILDREN AND FAMILIES**

The Department of Children and Families (DCF) **opposes** H.B. No. 7042, An Act Concerning the Placement of Children by the Commissioner of Children and Families.

This legislation amends section 17a-12 of the General Statutes to remove a rarely used, although necessary, dispositional tool currently available to the Department. The current statute allows the Department to make a request to the Superior Court for the transfer of a delinquent youth, aged fourteen or older, to the custody of the Department of Correction when such youth is a danger to himself or herself or others or cannot be safely held at any facility available to DCF. DCF believes that this transfer option should be maintained. DCF makes such requests only in extremely rare circumstances and only when a thorough review of other placement alternatives have been exhausted. We are only aware of two instances in which this statute has been invoked over the past four decades.

When DCF considers making such a transfer request, safety is of paramount concern. This applies to the safety of the youth involved as well as to the safety of other youths for which the Department has responsibility and the safety of the public.

In a case in which DCF seeks transfer of a youth to the Department of Correction, the current section 17a-12 of the General Statutes requires the DCF Commissioner to first make a determination that such transfer is in the youth's best interest and then requires the Commissioner to seek a judicial determination on the transfer in Superior Court. This requires a full evidentiary hearing at which DCF has the burden of proof and at which the child's attorney may cross examine DCF witnesses, call his or her own witnesses and offer documentary evidence.

The full panoply of due process protections are observed. If, at the conclusion of the trial, the court determines that the statutory criteria have been met and orders the transfer, the Court must review the transfer decision every six months to determine whether or not the transfer should be continued or terminated.

The Department strongly cautions that the elimination of this tool could lead to a youth being treated as an adult criminal and placed in the custody of the Department of Correction without the review protection of the current statute. In other words, if a youth is so dangerous and has engaged in such violent and criminal behavior that there is no safe placement for him or her available to DCF, the inability to safely treat the youth as a juvenile could, if the charge is transferable, result in a recommendation that the case be transferred to the adult criminal court. Under those circumstances, once that transfer has occurred (and there is no discretionary transfer back) the youth gets an adult criminal record and may be sentenced to a period of incarceration anyway.

Ironically, many of the advocates promoting the current bill argue that juveniles should never be incarcerated in an adult facility. This bill does not prevent that; it merely removes the option to transfer a violent youth to the Department of Correction temporarily as a treatment option without an adult conviction and with ongoing juvenile court oversight.

Obviously, this legislation raises a significant public policy question for consideration by the Judiciary Committee. We completely agree with the advocate community that this statute should only be used in the rarest of cases. It is important to note, however, that the first use of this statute in 2000 was upheld by the Connecticut Supreme Court¹. There is also an appeal pending regarding the second use of this statute². The decisions in each of these cases provide excellent background to the statute and provide insight into the types of cases for which the application of the existing section 17a-12 of the General Statutes is appropriate.

¹ *In re Steven M.*, 264 Conn. 747 (2003)

² *In re Angel R.*, (2014).