

**STATE OF CONNECTICUT
OFFICE OF THE CHILD ADVOCATE
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**Testimony of Sarah Eagan, Child Advocate, State of Connecticut
In Support of Raised Bills 7042 and 7050**

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Senator Coleman, Representative Tong, Senator Doyle, Representative Fox and esteemed members of the Judiciary Committee, the Office of the Child Advocate appreciates the opportunity to offer this testimony today in support of Senate Bills 7042 and 7050.

The mandate of the Office of the Child Advocate (OCA) includes evaluating the delivery of state funded services to children and advocating for policies and practices that promote children's well-being and safety.

Raised Bill 7042, An Act Concerning the Placement of Children by the Commissioner of the Department of Children and Families.

The Office of the Child Advocate strongly supports Raised Bill 7042, **An Act Concerning the Placement of Children by the Commissioner of the Department of Children and Families.** This proposal would amend C.G.S. § 17a-12 which would prevent the Department of Children and Families from transferring a child—yet un-convicted of an adult crime or even charged with a transferrable adult offense—to the Department of Corrections.

The only youth who may be placed in an adult prison should be those youth who have committed a serious crime such that jurisdiction over adjudication and disposition related to that crime have been transferred to the adult court.

It is vital to note that DCF has broad statutory obligations under C.G.S. § § 17a-13 and 46ba-121 et seq. to serve all children under their care, including those children and youth who have been subjected to abuse and neglect as well as children and youth with disabling mental health disorders.

DCF is statutorily required to operate a continuum of supports for such children, including those children who as a result of mistreatment at the hands of adults now present with significant psychiatric or behavioral health disorders (C.G.S. § 17a-3).

This past year saw the use of Section 17a-12 to transfer Jane Doe, a transgender youth living under the care and custody of DCF, to the Department of Corrections. Jane Doe had not been charged with an adult offense or convicted of an adult crime. She had recently been committed to DCF custody for delinquency reasons but had been living under DCF's guardianship for several years as a result of her history of significant victimization, physical abuse and neglect. Jane, like many other youth who have experienced terrible traumas, presented with significant treatment needs.

As a result of Jane Doe's aggressive behavior at an out-of-state treatment facility, DCF sought, within *mere days* of learning of Jane's behavior, to seek a transfer of Jane to adult prison.

Current law did not require that DCF present a court with any clinical, mental health findings or expert consultation to support this transfer nor did current law require that a court find that such transfer serves the best interests of the child.

The proposed change outlined in this bill brings the law in line with DCF's statutory obligation to ensure the safety and welfare of the children in their care and, for children who are committed to DCF's guardianship (as Jane was), to take all actions necessary to promote children's best interests and welfare. (Conn. Gen. Stat. § § 46b-121, 129).

Raised Bill 7050: An Act Concerning the Juvenile Justice System

Raised Bill 7050 Sharply Limits the Circumstances in which a Child or Youth May be Mechanically Shackled in Juvenile Court.

Section 4 of 7050 would ensure that youth, prior to adjudication, are not shackled unless a court finds that such shackling is necessary due to the youth presenting a public safety risk.

The American Bar Association (2015) issued a strong statement against routine shackling of juveniles.

The American Bar Association Criminal Justice Division, in a resolution dated February 2015, recommended that states establish a *presumption against the use of shackles in the courtroom, and that such shackles be used only when mechanical restraint is determined, after a hearing, to be the least restrictive means to ensure the public safety.*¹

Current Connecticut Judicial Branch Policies Now Oppose Routine Shackling of Juveniles

¹ American Bar Association, Criminal Justice Division, House of Delegates, Resolution 107A, passed February 9, 2015, found at: http://www.americanbar.org/news/reporter_resources/midyear-meeting-2015/house-of-delegates-resolutions/107a.html.

A recently issued policy by the Judicial Department Court Support Services Division now provides for a presumption against shackling and gives youth the right to be heard in such matters.

Codifying such policy into law will serve the state and youth by ensuring that best practices are applied evenly throughout the state, that due process is afforded all juveniles, and that the law reflects the modern presumption against mechanical restraint.

This provision brings CT in line with other states such as New Hampshire, Pennsylvania, New York, Florida, North Carolina and South Carolina that have moved to limit shackling of youth in the court room.

Moreover, this important juvenile justice reform is consistent with recommendations from the nation's leading experts in juvenile justice treatment reforms. In a 2014 attestation, Dr. Julian Ford, a Connecticut-based clinical psychologist and expert in working with traumatized children and youth in the juvenile justice system, strongly recommended against indiscriminate shackling of juveniles. The routine mechanical restraint of youth, according to Dr. Ford, can cause severe reactions for youth and undermine the goals of the juvenile court system—namely to rehabilitate youth and assist them with improving their own behavior.

OCA Strongly Supports Additional Provisions of Raised Bill 7050 that Strengthen the Raise the Age Reforms.

OCA strongly supports Raised Bill 7050 which would accomplish the following:

1. Increase the age for transferring youth to adult court from 14 to 15;
2. Permit court authority to hear the appropriateness of transferring minors charged with C, D, and now B felonies.
3. Raise the age at which a child's admission or alleged confession must be made in the presence of a parent or guardian from 16 to 18.
4. Appropriately define the role of the legislature's Juvenile Justice Policy Oversight Committee to ensure effective and transparent strategic planning and investment in continued juvenile justice reforms.

Taken as a whole, the reforms articulated in Raised Bill 7050 are consistent with juvenile justice and criminal justice reforms sweeping the country—to ensure the state's statutory framework reflects the neuroscience of adolescent brain development, and that offending youth are addressed whenever possible in the juvenile justice system so as to increase prospects for improved public safety and individual rehabilitation.

Numerous studies confirm the expense and frequent futility of housing juvenile offenders in the adult criminal justice system.² Recidivism rates for youth incarcerated in adult prison are

² Studies have shown no positive impact of incarcerating juveniles in adult prison, even where serious crimes were committed. Singer, Simon I., and David McDowall. 1988. "Criminalizing Delinquency: The Deterrent Effects of the New York Juvenile Offender Law." *Law and Society Review* 22:521-35; cited in "Bishop, Donna, "Juvenile Offenders in the Adult Criminal System,"

extremely high around the country, compelling the question of how well such practices improve the public safety. Connecticut is a leader on criminal justice and juvenile justice reform and has seen a dramatic reduction in the number of incarcerated minors and young adults over the last decade. Connecticut's crime rates are now at a historic low, with arrests and violent crime rates down throughout the state. These statistics confirm the success of Connecticut's progressive reforms in the area of juvenile and criminal justice. Raised bill 7050 continues this important reform work without compromising the state's ability to ensure individuals who commit serious crimes are held accountable for their actions.

**** Respectfully, OCA proposes adding language to 7050 that would regulate the use of restraint and seclusion in juvenile justice and other child-serving facilities, and that would convert the advisory committee for the state-operated Connecticut Juvenile Training School into a legislative appointed body.**

OCA continues to see urgent need for improved conditions of confinement and outcomes for juvenile justice-committed and incarcerated youth and for continuous quality improvement and reporting regarding all state-operated facilities.

In 2014 OCA re-opened an investigation into conditions of confinement at the Connecticut Juvenile Training School and Pueblo Girls' Program, in part due to a number of citizen complaints that had been registered with this Office. OCA subsequently developed the following concerns:

- Over-reliance on restraint and restrictive sanctions to manage certain children and youth, including lengthy seclusions, physical and mechanical restraints and handcuffs for girls and boys.
- Lack of appropriate trauma-informed interventions for youth entering the facility with known and extensive histories of abuse, neglect, trauma and complex mental health disorders.
- Over a dozen examples of suicidal behavior in the girls' and boys' facilities collectively over the last 8 months.
- Arrest of girls' and boys' in these facilities for conduct that may arise out of their mental health disorders.
- Unreliable framework for measuring and reporting regarding conditions of confinement.

The state, through the Department of Children and Families, has taken some steps in recent months with the goal of improving conditions for youth at CJTS and Pueblo. The Department

27 Crime and Justice 81 (2000); Fagan, Jeffrey, 1996. "The Comparative Advantage of Juvenile versus Criminal Court Sanctions on Recidivism among Adolescent Felony Offenders." *Law and Policy* 18:77-112; cited in "Bishop, Donna, "Juvenile Offenders in the Adult Criminal System," 27 Crime and Justice 81 (2000); Winner, L., Lanza-Kaduce, L., Bishop, D., and Frazier, C. 1997. The transfer of juveniles to criminal court: Reexamining recidivism over the long term. *Crime and Delinquency* 43(4): 548-563 (see source: Frontline/PBS, *Does Treating Kids Like Adults Make a Difference*, found on the web at <http://www.pbs.org/wgbh/pages/frontline/shows/juvenile/stats/kidlikeadults.html>)

has recently contracted with a clinical consultant to evaluate the facilities, sent certain staff to training regarding techniques to reduce restraint and seclusion, and the Department is collaborating with the University of New Haven Youth Justice Institute to examine conditions of confinement at CJTS and Pueblo.

These are positive steps that can assist with state with improving these facilities moving forward.

*****Any state-funded, child-serving facility or program, whether a therapeutic or juvenile justice program, must be able to provide trauma-informed rehabilitative and mental health supports, and must be able to evaluate and report how well it is addressing youths' need for assessment, stabilization, treatment, rehabilitation, education and discharge to community care.**

Language may be added to Raised Bill 7050 that codifies the need for reforms in the use of restrictive measures in state-run and state-contracted facilities and that ensures increased transparency for a historically opaque system. Such transparency will support, rather than obstruct, a framework for collaborative and strategic reforms in the area of juvenile incarceration and juvenile justice diversion.

Thank you in advance for your time and consideration.

Respectfully submitted,

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