



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN OPPOSITION TO:

H.B. No. 7025 (RAISED) AN ACT CONCERNING THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG, AND WHILE A CHILD IS IN THE MOTOR VEHICLE

JOINT COMMITTEE ON JUDICIARY

March 20, 2015

The Division of Criminal Justice opposes H.B. No. 7025, An Act Concerning the Operation of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug and While a Child is in the Motor Vehicle, and would respectfully recommend the Committee take NO ACTION on this bill. While the Division certainly appreciates the intent of this legislation, the practical result of its enactment would be to lessen the effective penalties available for certain operating under the influence (OUI) offenses.

H.B. No. 7025 establishes a statutory scheme that would create two separate forms of driving while intoxicated – one with a child in the vehicle, and one without. Because there are two separate offenses, a person who is convicted of OUI without a child in the vehicle and then subsequently charged with OUI with a child in the vehicle would be treated as a first offender the second time around since it would be a separate crime. To combat that problem, prosecutors would likely seek to prosecute the offender as a “regular” OUI offender, thereby defeating the purpose of having a child endangerment provision in the first place.

The Division also opposes the changes proposed in H.B. 7025 because the current OUI statute, General Statutes Section 14-227a, is already a complex and intricate statute to prosecute and adding additional provisions to it will only complicate matters. More importantly, despite the broader range of proposed penalties, the practical effect of enacting H.B. No. 7025 will be to *lessen* the penalties for OUI in cases which are arguably more serious. Under the existing law, a second offender is exposed to a 120-day non-suspendable period of incarceration, whereas the child endangerment scheme proposed in H.B. No. 7025 contemplates only a 30-day non-suspendable period. Likewise, a third-time offender under existing law faces a one-year non-suspendable period, whereas the child endangerment provision in H.B. No. 7025 provides for only 180 days.

While the bill may propose longer maximum possible penalties, experience shows that maximum sentences are rarely imposed due to the frequent use of plea agreements to resolve criminal cases. And, even when cases do go to trial and result in conviction, courts rarely exercise their discretion and impose maximum penalties. The consequence of these practical realities would no doubt discourage the use of the child endangerment provision, thereby defeating the purpose of enacting it.

Finally, to reiterate the position the Division has taken on this issue in past sessions, Connecticut currently has statutory provisions, Risk of Injury and Reckless Endangerment, found in Sections 53-21, 53a-63 and 53a-64 of the General Statutes, which address the conduct targeted in H.B. No. 7025. Section 53-21, in particular, penalizes, as a class C felony, any person who “wilfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered.” Operating a motor vehicle with a child in it while the operator is impaired by alcohol or drugs is already clearly prohibited by this section and motorists who violate 53-21 are exposed to arrest and prosecution for Risk of Injury. It is a serious felony with significant penalties of up to ten years in prison.

For these reasons, the Division of Criminal Justice respectfully recommends the Committee take NO ACTION on H.B. No. 7025. We would like to thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information or answer any questions that you might have.