



Testimony on behalf of Governor Dannel P. Malloy in SUPPORT of Senate Bill 18 – An Act Concerning a Second Chance Society

Good morning Senator Coleman, Representative Tong, Senator Kissel and Representative Rebimbas. My name is Karen Buffkin and I serve as Governor Dannel P. Malloy's General Counsel. I am here on his behalf, joined by Mike Lawlor, Undersecretary of Criminal Justice Policy and Planning, to testify in strong support of Senate Bill 18 – An Act Concerning a Second Chance Society.

Under the leadership of Governor Malloy, as well as the leadership of many of you sitting in this room today, Connecticut has begun the process of recreating a Second Chance Society. We are moving away from a criminal justice system that has historically invested in permanent punishment and mass incarceration. Those investments led to ballooning prison populations and did nothing to reduce crime in our state or our country. My proposal treats young adults differently from adult offenders to ensure that they receive a chance to be rehabilitated rather than an adult punishment that is very often the first step on a path toward a lifetime of crime and incarceration.

Second Chance 2.0 contains three major provisions: (1) raising the age of juvenile justice jurisdiction, (2) expanding our youthful offender status, and (3) beginning steps to reform our pretrial justice system.

Raise the Age

This bill, if enacted, will raise the age of our juvenile justice system's jurisdiction through age 18 on July 1, 2017, through age 19 on July 1, 2018, and through age 20 on July 1, 2019. This expansion will take place under the oversight and guidance of the same stakeholder group that guided and implemented our last successful raise the age effort in Connecticut. In 2007, Connecticut legislators raised the age of juvenile jurisdiction from age 16 to age 18. Thanks to the work of the Juvenile Justice Policy and Oversight Committee (JJPOC) during the planning and implementation period that followed, the policy was fully implemented in 2012. Since passage of this legislation in 2007, statewide arrests of young people in Connecticut have declined dramatically. Between 2008 and 2014, the number of 15 to 19 year olds arrests in Connecticut fell by 54%. In 2008, 6,624 17-year olds were arrested in Connecticut. That number has declined every year since. In 2014, only 2,627 17-year olds were arrested, an astounding 60% reduction in six years. Similarly, the number of inmates under the age of 18 has dropped from 332 in 2009 to 82 in 2015, a decrease of 75%. As this first cohort of teens affected by our initial raise the age efforts has aged out of their juvenile years, Connecticut has experienced a dramatic reduction in the number of 18-21 year olds in adult prisons. This age cohort has dropped by 54% since 2008, from 2,061 to 960 total inmates. This is almost certainly a direct result of the original Raise the Age reforms enacted during the 2007 and 2008 legislative sessions and implemented in the years that followed

The case for raising the age is clear: it will reduce crime, result in fewer victims and lead to fewer juvenile delinquents turning into adult offenders. Instead of young people being placed on a path to a career of crime, they will have the opportunity to be successful in school and the chance to enter Connecticut's workforce with the skills that employers demand. We know that raising the age will not be

easy and that it will require the effort and knowledge of every stakeholder involved in the system. That is why Governor Malloy has asked the JJPOC to begin the work of preparing for raise the age implementation now.

In the bill before you, the Governor is proposing the creation of a new class called "young adults" within our juvenile justice system. Creation of this new "young adult" group for 18 through 20 year olds will allow us to include these older individuals in the juvenile justice system, but will also allow us the ability to differentiate them from younger juveniles, where appropriate. The Governor has asked that the JJPOC make recommendations regarding what statutory and policy changes might be necessary on this topic, including but not limited to recommendations on the following: housing, transportation and detention of young adults within the juvenile system, rules for interrogation of young adults, mandatory and permissive transfers of young adults from the juvenile system to the adult system, and provision of mental health services for young adults.

We have raised the age of our juvenile justice system's jurisdiction in the past, using the exact same process as the Governor is proposing this year. Despite predictions to the contrary, these changes DID NOT lead to ballooning costs and unwieldy new procedures. Instead, the changes resulted in significantly less crime, a disruption of the school-to-prison pipeline and fewer young people incarcerated. This proposal will require the reallocation of state dollars, but not an increase in resources. It will allow us to close or consolidate locked facilities and shift our precious resources to treatment and services outside of locked facilities instead. And, most importantly, it will reduce crime and make our communities safer.

Youthful Offender

As a complement to raise the age, SB 18 would make 18, 19 and 20-year olds eligible for youthful offender status. By expanding the existing statute to include 18 through 20 year olds, the youthful offender statutes will permit this new group to:

- Be considered a "youthful offender" from the moment of arrest (to keep the accused's name out of the newspaper);
- Remain a "youthful offender" unless and until the accused chooses not to avail themselves of this option or until a court makes a determination to deny use of youthful offender status on a case-by-case basis;
- Be subject to a limited period of incarceration of no more than four years; and
- Have conviction records automatically erased four years after conviction as a youthful offender, provided that the offender completes his or her sentence and does not reoffend.

Youthful offender status already exists in Connecticut's current criminal justice system. Under current law, individuals charged with serious crimes, including previous felonies and repeat or serious juvenile offenses, are not eligible for youthful offender status. These same exclusions would apply to this new group as well. Most importantly, the judge would retain ultimate discretion over the application of this status to individual offenders.

Extending youthful offender status to young adults recognizes that while certain young people do belong in adult court, they should still be afforded protection from lifelong stigma and an incentive and opportunity not to reoffend.

Pretrial Justice Reform

Finally, the Governor's Second Chance Society proposal this year includes two minor provisions for pretrial justice reform. SB 18 proposes to eliminate money bail for anyone charged only with a misdemeanor, except for those individuals that a judge determines could pose an immediate threat to the health or wellbeing of another person (for example, in the case of family violence crimes that are misdemeanors) or that are charged with failure to appear. Bail is designed to ensure that individuals appear in court, but Connecticut's current system is instead being used to house hundreds of low-risk, non-violent individuals simply because they cannot come up with a few hundred dollars to post bond.

Many states have substantially reformed their pretrial release systems, most recently New Mexico and New Jersey. In these states, a broad bi-partisan coalition in legislatures, led by Supreme Court Justices and by Governors, have acted to insure that high-risk violent offenders are not released pre-trial and, at the same time, non-violent low level offenders are not held for weeks and months in jail while their cases are pending in court simply because they are too poor to afford money bail.

Governor Malloy is also proposing that all defendants have the option to post 10% cash and receive that money back after they have resolved their cases and appeared in court. That option exists in Connecticut's rules of court (The Practice Book) but can only be used if a judge authorizes it in a particular case. By writing this into statute, judges will have the power to prohibit the 10% cash option in particular situations, but the general practice will allow for the defendant, and often the defendant's family, to choose which option is best for them. Obviously, the prospect of having the 10% cash amount returned at the end of the case will serve as a powerful incentive for the defendant to make all court appearances. This has been the experience in other states where 10% cash bonds are commonplace. If they fail to appear, they surrender their 10% and the court may pursue them for payment of the full bond amount. The interest on the 10%, as well as any forfeited and recovered money will go towards funding legal aid using the existing IOLTA system.

This provision will not eliminate bail bondsmen. To clarify this, we are offering JFS language to make it clear that defendants will have an option to either use a bail bondsman or make a 10% cash deposit directly to the court. The committee should be in possession of this language which eliminates the notion that this proposal is in any way focused on the bail bond industry.

On January 1, 2016, there were 557 individuals in jail, pre-trial, on bonds of less than \$20,000. This means that these individuals weren't able to come up with the roughly \$200-\$1,400 necessary to get out of jail, and therefore the State picked up the tab for them to be incarcerated, at a cost of approximately \$120 per night, just because they were poor. We know that African-Americans are held pre-trial at almost four times the rate of white Americans. And, we know that pre-trial detention leads to a greater risk of re-arrest before trial and a greater risk of recidivism after sentence completion. In other words, pre-trial detention leads directly to more crime. Governor Malloy's proposals this year will begin to change this backwards system.

Governor Malloy's Second Chance Society proposal this year is in line with national trends, led by Democratic and Republican lawmakers, governors, policy experts and pundits nationwide who know that our historic commitment to permanent punishment and mass incarceration has failed our country. Our raise the age proposal builds on the work of countless advocates, legislative leaders, parents and practitioners who have dedicated themselves to reforming our juvenile justice system for the better. And, our pretrial justice reform proposals come as states around the country are turning their focus to

whether an individual in pretrial detention poses a risk to others, rather than whether that individual has any financial resources, as the basis for detention decisions.

We ask that you support SB 18 this year as we all work together to reduce crime, restore confidence in our criminal justice system and end the scourge of mass incarceration. Thank you.