State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN OPPOSITION TO:

H.B. No. 5040 AN ACT CONCERNING ADJUDICATION OF CERTAIN YOUNG ADULTS IN JUVENILE COURT.

H.B. No. 5041 AN ACT CONCERNING THE TRANSFER OF JUVENILE SERVICES FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE COURT SUPPORT SERVICES DIVISION OF THE JUDICIAL BRANCH.

H.B. No. 5042 AN ACT CONCERNING PROSECUTION OF LOW-RISK YOUNG OFFENDERS IN ADULT COURT.

JOINT COMMITTEE ON JUDICIARY
March 16, 2018
March 21, 2018

The Division of Criminal Justice cannot support these bills as currently written and would respectfully recommend the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for appropriate legislation to address the serious issues that have arisen as the State of Connecticut has sought to implement "Raise the Age" legislation. The Division would note that the most important of these concerns are addressed in S.B. No. 187, An Act Concerning the Transfer of a Child Charged with Certain Offenses to the Criminal Docket and the Grounds for Detention of an Arrested Children," which was heard in the Joint Committee on Children on February 27, 2018.

The three bills before the Judiciary Committee today represent a continuation of the "Raise the Age" effort and would further expand the jurisdiction of the Superior Court for Juvenile Matters to older individuals and seek to implement the closing of the Connecticut Juvenile Training School. The Division of Criminal Justice has serious reservations on both counts. First, there is a critical need to "fine-tune" the legislation enacted in recent years to give the courts greater latitude to better protect the public and public safety and the children themselves who commit serious criminal offenses. Second, the state must determine before eliminating CJTS where those juveniles who commit the most serious offenses but who are not transferred to the adult system can be securely detained for both their own good and the sake of public safety while they receive the treatment services ordered by the court.

In addition to addressing the question of where these most serious offenders will be housed for treatment, the Division of Criminal Justice respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT to give the courts greater latitude in determining which cases should be transferred to the adult court and the circumstances under which a juvenile may be held in detention, both for his or her own safety and the safety of the community.

Specifically, and as proposed in S.B. No. 187, we would recommend legislation that authorizes the transfer of serious Class B felony offenses committed by a juvenile to the adult court. This is where judges can deal with those cases in a manner consistent with the severity of the conduct. This should include the automatic transfer of such serious and violent crimes as Manslaughter in the First Degree, Robbery in the First Degree resulting in a serious injury and Burglary involving use of a weapon or resulting in serious injury. Currently these cases cannot be transferred to the adult docket unless the court finds such a transfer is in the best interest of the child, which is nearly an impossible standard to meet and one that does not allow to court to give any consideration for the protection of the public safety.

A second major component that must be addressed is the restoration of some of the previous criteria giving the court greater discretion to place a juvenile in detention following an arrest. This is critical not only to protect the public safety but also the safety of the juvenile himself or herself. As drafted in S.B. No. 187, the grounds for detention would again include a "strong probability" juveniles will commit or attempt to commit crimes injurious to themselves and probable cause to believe that allowing the juveniles to be sent home poses a threat to the juveniles themselves. In addition, as drafted in S.B. No. 187, the return to detention would be allowed if the court finds that a juvenile has violated one or more of the court imposed conditions of release from detention.

This last point is significant because it puts some force behind the court's efforts to address the juvenile's conduct and needs and establishes consequences for failure to comply with the court's directives. Again, to reiterate, the issue is the protection of both the public and public safety and the juvenile himself or herself. Much of the debate concerning "Raise the Age" has focused on the question of brain development and the inability of young people to make the right or best decision in every circumstance. Thus, if a young person is not capable of making these decisions, it logically follows that someone – in these cases, the court – should stand in and take the action best for the juvenile and society as a whole. In many cases, the juvenile detention centers are the only existing and available facilities that can provide immediate protection for the public and the child – many times from himself or herself and their own dangerous conduct – and the assessment of the child's needs. A frequent argument is that detention is not a suitable "treatment" facility and that "we shouldn't incarcerate children just to protect them." It is important to note that we are not suggesting that the detention centers be a substitute for appropriate treatment but only that there be a suitable secure facility immediately available at the time of an arrest to hold the child to protect them and the public until the child can be seen by the judge the next business day.

The revisions herein recommended would result in only a very small percentage of juvenile cases being transferred to the adult docket, and even as recommended, some of those could be returned to juvenile court. Thanks to legislation passed by this body only a few years ago, any

court sentencing one of these individuals would be required to consider the hallmark features of adolescence and scientific and psychological evidence of the difference in brain development between the child and an adult. If these individuals were convicted as adults, they would not be housed with general prison population but, rather, would be housed at the Manson Youth Institution, a facility housing inmates under the age of 21, where programs and services tailored to their age and needs are already in place. Again, only youths who committed the most serious offenses would be eligible for treatment as adults.

Recent incidents have demonstrated a clear and convincing need for the reforms envisioned in S.B. No. 187. These incidents underscore the grave danger presented to the general public and public safety by actions of a very small number of young people who are engaging in very dangerous activity and committing very serious crimes. This past summer I authored a newspaper op-ed in which I quoted from a police report where a juvenile laughed off his concerns about his conduct and being placed in detention. It is quite disturbing to report to you today that this same juvenile, after spending time at CJTS, was released and again arrested last week following yet another police chase in a stolen vehicle. There have been an alarming number of incidents where young people are stealing motor vehicles and then engaging the police in reckless pursuit resulting in serious injury or even death to the young offenders themselves and to innocent bystanders. In many instances, the police are unable to even place these offenders in detention to prevent them from going out again and stealing another vehicle and doing the same thing all over again.

The Division of Criminal Justice by no means seeks to turn back the clock and undo all of the positive steps taken since the "Raise the Age" initiative began in Connecticut. However, it is critical that a reasoned and thought-out approach be undertaken to address the very valid concerns that have arisen since the laws governing juvenile transfer and detention were changed. As with any change of the scope of "Raise the Age," there will be real problems and real concerns that arise and that must be addressed. Some "fine-tuning" is necessary if the "Raise the Age" initiative is to be truly successful and to serve the interests of the public, public safety and the young people involved.

In conclusion, the Division cannot support H.B. No. 5040, H.B. No. 5041 or H.B. No. 5042 as currently drafted and would respectfully recommend a JOINT FAVORABLE SUBSTITUTE REPORT to address the critical concerns that have arisen. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.