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Judiciary Committee--Testimony of the Office of the Child Advocate--March 16, 2018

Senator Doyle, Senator Kissel, Representative Tong, Representative Rebimbas, and distinguished members of the Judiciary Committee, this testimony is submitted by Attorney Sarah Eagan, the Child Advocate for the State of Connecticut. The primary statutory obligations of the Office of the Child Advocate (OCA) include investigation, evaluation and reporting regarding the efficacy of publicly-funded services for vulnerable children. OCA also responds to daily calls for help regarding children with specialized needs or who live in state care or under state supervision. OCA meets regularly with lawmakers, policy-makers and other stakeholders to review and advocate for policies and practices that will promote children's well-being and safety.

S.B. No. 466 (RAISED) AN ACT CONCERNING DUAL ARRESTS AND THE TRAINING REQUIRED OF LAW ENFORCEMENT PERSONNEL WITH RESPECT TO DOMESTIC VIOLENCE.

The OCA supports Raised Bill 466 which seeks to reduce the number of dual arrests that occur in domestic violence cases and enhance domestic violence training offered to state and local law enforcement agencies. Each year the OCA reviews child abuse and neglect cases where family violence is an identified concern. The practice of dual arrests exacerbates trauma for children, reduces the safety of the victim, and complicates the role of the child welfare agency and the court in their efforts to support the victim and family.

Dual Arrests occurs when both the victim and his or her abuser are arrested at the scene of a domestic violence incident.

- Connecticut's dual arrest rate is 20%, more than twice the national average of 7%, for incidents that involve intimate partner violence.
- According to data collected by the Connecticut Coalition Against Domestic Violence, 87 of the state's 106 law enforcement entities have a dual arrest rate that is double or more than double the national average, a trend which cuts across diverse socio-economic communities in the state.

Dual arrests have significant consequences for victims and families. Most significantly dual arrests decrease victim safety by reducing the likelihood that a victim will call police in the future for help;

and dual arrests impose significant trauma on children who may be present during violent incidents and be forced to watch the arrest of the parent-victim and who may be left without a guardian.

SB 466 seeks to address the problems created by unfortunate dual arrests. The bill specifically provides that “when complaints of family violence are made by two or more opposing persons, a peace officer is *not required to arrest both persons*,” but rather the peace officer “shall evaluate each complaint separately to determine which person is the dominant aggressor,” considering “the need to protect victims of domestic violence, whether one person acted in defense of self or a third person... and any history of family violence between such persons.... The peace officer shall arrest the person whom the officer believes to be the *dominant aggressor*.”

The language of SB 466, a “dominant aggressor” proposal, is similar to laws that exist in more than 25 states, and dominant aggressor laws are identified nationally as a solution to the problems created by dual arrest practices.

Several prominent national organizations discourage dual arrest practices and call for the identification of the dominant aggressor by law enforcement:

- International Association of Police
- Battered Women’s Justice Project
- National Clearinghouse for the Defense of Battered Women
- National District Attorneys Association, Women Prosecutors Section
- National Council of Juvenile and Family Court Judges.

S.B. No. 479 (RAISED) AN ACT CONCERNING IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR PERSONS PROVIDING MEDICAL ASSISTANCE OR INTERVENTION IN A CHILD ABUSE OR NEGLECT CASE.

The OCA supports Raised Bill 479, which would help protect children from child abuse and neglect by ensuring that individuals who provide professional medical intervention in child abuse and neglect cases shall be immune from civil or criminal liability.

The federal Child Abuse Prevention and Treatment Act requires that states establish provisions for immunity from liability for individuals who make good-faith reports of suspected or known instances of child abuse and neglect. In addition to immunity from liability for individuals who made reports of suspected child abuse and neglect, many states provide additional immunity for individuals who participate in a child protection proceeding, or who assist with or participate in an investigation of child maltreatment.¹ Many states also provide for the type of immunity called for in this bill, which

¹ According to the Department of Health and Human Services Children’s Bureau, 36 states provide immunity to a reporter who participates in any judicial proceedings that may arise from suspected or documented child maltreatment. 26 States provide immunity to a reporter for assisting with or participating in an investigation of allegations of maltreatment. U.S. Department of Health and Human Services, Children’s Bureau *Immunity for Reporters of Child Abuse and Neglect*, (law current through 2015); available on the web: <https://www.childwelfare.gov/pubPDFs/immunity.pdf>

includes immunity for actions taken by medical professionals in connection with responding to a concern or report of suspected child abuse or neglect, which actions may include: taking photographs/x-rays; taking a child into protective custody; disclosing medical information relevant to the case; or performing a medical exam on the child victim.²

Currently Connecticut law, Conn. Gen. Stat. § 17a-101f provides a physician has the right to conduct diagnostic tests and necessary medical care, even without the consent of a child's parent or guardian, where a child is a suspected victim of child abuse or neglect, and the physician has made reasonable attempts to communicate with and obtain consent from the parent. The law further permits the physician to take photographs "of the area of trauma visible on a child who is the subject of such report without the consent of such child's parents or guardian." Senate Bill 479 supports the right of the physician to deliver such evaluation and treatment to victims of child abuse and neglect by ensuring that the medical professional is immune from civil and criminal liability arising from the performance of these duties.

Medical professionals are critical partners in the fight against child abuse and neglect; ensuring their ability to evaluate and provide necessary care for child victims is critical to the child safety net in Connecticut.

TESTIMONY IN SUPPORT OF--

HB 5040: AN ACT CONCERNING ADJUDICATION OF CERTAIN YOUNG ADULTS IN JUVENILE COURT and HB 5042: AN ACT CONCERNING PROSECUTION OF LOW-RISK YOUNG OFFENDERS IN ADULT COURT

The OCA supports the Governor's proposed bill 5040 which seeks to gradually raise the age of juvenile court jurisdiction from 18 to 20 years of age.

- Science confirms that the adolescent brain is not fully developed until far into the twenties, and that the last features of the brain to develop are those that control judgment, decision-making and proper understanding of the consequences of actions.
- "Emerging adults have the highest recidivism rates of any age group, again both nationally and in Connecticut. Yet this is also an age of opportunity – a time when arrest rates begin to decline and when the life trajectory of young people can be influenced for the better."³ Researchers agree that these "emerging adults" are at a critical development period:
- "Emerging adults", a term first coined in 2000 by psychologist and author Jeffrey Arnett at Clark University, is a term that has become increasingly adopted in the criminal justice arena. The term invokes a critical developmental period: the transition from a child who is dependent

² Id. at 2, citing laws from, among other states, California, Colorado, Illinois, Maine, New York, Pennsylvania, Delaware, Virginia, Montana, and South Carolina.

³ Harvard Kennedy School, Malcolm Wiener Center for Social Policy, *Report, Public Safety and Emerging Adults in Connecticut: Providing Effective and Developmentally Appropriate Responses for Youth Under Age 21*, By Lael Chester and Vincent Schiraldi (December 28, 2016).

on parents or guardians for supervision and guidance (as well as emotional and financial support) into a fully mature, independent adult who engages as a productive and healthy member of society.⁴

Including 18 through 20 year olds in the juvenile justice system would provide these emerging adults with access to important and developmentally appropriate community-based programs that are more apt to lead to rehabilitation than the adult criminal justice system for this age group.

OCA also supports Raised Bill 5042 which will prevent low-risk youth from having life-altering, permanent negative consequences for such behavior. The Court maintains ability to hold the youth accountable for his or her offense, while balancing the nature of the offense with the age, maturity, and potential for successful reintegration into the community.

Thank you for your time and attention.

Respectfully submitted,

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⁴ Id.