



## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

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#### **Testimony of Christine Perra Rapillo, Chief Public Defender**

**Judiciary Committee - March 31, 2021**

#### **H.B. 6671, AN ACT CONCERNING THE PROVISION OF LEGAL COUNSEL IN A CRIMINAL MATTER TO A PERSON UNDER EIGHTEEN YEARS OF AGE**

The Office of Chief Public Defender (OCPD) supports the premise that everyone under the age of 18 should be entitled to counsel when facing criminal charges. In the landmark case of In Re Gault, 387 U.S. 1 (1967), the United States Supreme Court recognized that young people charged with crimes have a constitutional interest in due process and a fair proceeding. The Court in Gault extended the right to court-appointed counsel to indigent children charged as delinquents in juvenile court.

This proposal would provide for court-appointed counsel for anyone under the age of 18 who was charged with a crime, regardless of whether they could afford to pay. This makes sense, since a parent or guardian may influence a child's decision making in a criminal case. The accused child is the person with the liberty interest in the case. He or she will endure the consequences of all decisions, including possible confinement in a juvenile or adult correctional facility. The accused child is constitutionally entitled to zealous, client-directed, conflict-free representation.

The presence of a parent or guardian is not a substitute for competent counsel. Parents may not understand the legal process and could advise a child in a way that negatively impacts the legal outcome of the case. Often, parents have conflicts of interest with their children, particularly if the child is accused of a crime against a family member. A parent with the means to hire a

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lawyer may choose not to spend the money and leave the child unrepresented. Even if a parent hires a lawyer to defend the child, the lawyer may allow the parent to direct the representation, and not give the child a full opportunity to make decisions in their case.

While this proposal is good policy, it will fundamentally impact the operations of the Division of Public Defender Services (DPDS). The Judicial Branch kindly provided the data below. It indicates how many judicially-handled docket numbers were handled by public defender attorneys, how many were handled by private attorneys and how many had no data regarding counsel. This proposal is likely to result in many more young people using the services of the public defender in both juvenile and adult court, since the proposal would also give a lawyer to every youth transferred under section 46b-127 of the General Statutes. This could not be done without additional DPDS staff in both the juvenile and adult courts.

The Office of Chief Public Defender supports a policy that will provide counsel to all young people charged with a crime but this will require significant additional funding to our agency. While the legislation would allow DPDS to seek payment from families of means, the current rate of reimbursement would be only \$350 per juvenile case. We also have no way to force a family to pay and would need to rely on the Office of Attorney General to assist with collections. We are happy to work with the proponent of the bill to determine a reasonable level of funding for this worthwhile proposal.

**Attorney Type by Docket Number in Juvenile Court:**

	Public Defender	Private Attorney	No Attorney Information Entered	Total Number of Judicial Docket Numbers Disposed
FY18	3580	513	1240	5333
FY19	3573	480	1229	5282