Testimony Supporting

H.B. 6888: An Act Concerning Juvenile Justice

S.B. 1196: An Act Concerning Procedures of the Department of Correction Relating to Strip Searches and the Transfer of Persons who are Incarcerated Between Correctional Facilities

H.B. 6875: An Act Concerning the Issuance of a State Identification Card or Motor Vehicle Operator’s License to a Person Being Discharged from a Correctional Facility

Committee on Judiciary
March 15, 2023

Dear Co-Chairs Winfield and Stafstrom, Ranking Members Kissel and Fishbein, and distinguished Members of the Committee on Judiciary of the Connecticut General Assembly:

My name is Lauren Ruth, and I am testifying today on behalf of Connecticut Voices for Children (CT Voices), a research-based advocacy organization working to ensure that Connecticut is a thriving and equitable state where all children achieve their full potential.


CT Voices supports H.B. 6888, which will create a process to divert young people prior to issuing an arrest for minor first and second time offenses. It will expand the Juvenile Justice Policy and Oversight Committee (JJPOC) to include impacted people as voting members and compensate these people for their time and knowledge. It will require the Department of Corrections (DOC) to create and implement a commissary plan that supports young people in learning positive behaviors and allows equitable access to commissary goods. It will require creating a reentry plan for young people to better meet the immediate and long-term needs of those returning home from carceral facilities. It will require the Judicial Branch to update its proposal to move young people under 18 from DOC care to Judicial Branch care and create an actionable timeline to implement the plan. And finally, it will update the Alvin W. Penn Racial Profiling Prohibition Act to add pedestrian stops to collected and analyzed data. We support these proposals and offer a few friendly amendments to further strengthen these proposals.

Sections 1 and 2: Pre-Arrest Diversion

Section 1 of H.B. 6888 requires police officers to send young people who commit simple trespass, public disturbance, disorderly conduct, and larceny of items valued at $500 or less to a Juvenile Review Board
(JRB) that is actively implementing Connecticut’s community-based diversion system for a first or second infraction. If a young person does not successfully fulfill requirements, the JRB may refer the child to the courts for delinquency proceedings. We believe pre-arrest diversion is an effective and appropriate model for young people suspected of committing minor criminal offenses.

The International Association of Chiefs of Police has endorsed pre-arrest diversion as an effective model for addressing minor misdemeanors such as those included in this bill.\(^1\) An analysis of outcomes from the Leon County, Florida Pre-Arrest Diversion Program found that the re-arrest rate for individuals who successfully completed the program was 9.5\% compared to 45\% for those with the same offenses who were processed through the traditional criminal legal system; this is an 80\% reduction in re-arrests.\(^2\) It is believed that much of the success of this program has to do with individuals completing pre-arrest diversion services avoiding the harmful collateral impacts of having an arrest record. Florida’s statewide civil citation and alternatives to arrest program for young people reports even stronger effects, with a 2019-2020 overall recidivism statistic of three\%.\(^3\) Given that young people in Connecticut who are adjudicated do not have their records automatically erased until the age of 21,\(^4\) creating pre-arrest diversion may help young people in Connecticut avoid collateral consequences of having a record, such as employment and educational funding discrimination.

Section 2 of H.B. 6888 tasks a team to develop a plan to divert low-risk children pre-arrest. The team consists of the Department of Children and Families (DCF), the State Department of Education (SDE), DOC, the Court Support Services Division (CSSD) of the Judicial Branch, and representatives from local and regional boards of education. We respectfully question including the Department of Corrections on this team because it does not serve low-risk children, and instead suggest including providers of community-based services, legal advocates for children, and family behavioral health care providers.

Section 3: JJPOC Voting Members with Lived Experience

Section 3 of H.B. 6888 expands the JJPOC to include two young people with lived experience and a family member of a young person with lived experience or a credible messenger as voting members. Section 9 provides funding for transportation and childcare stipends for these community experts. The National Council of State Legislatures has determined that State legislatures should center “system-involved youth, families, crime victims, and survivors impacted by the juvenile justice system…in informing the development of juvenile justice policy and finding solutions to hold youth accountable in age-appropriate ways.”\(^5\) Ensuring that impacted young people and members of impacted communities have a vote on the JJPOC is an important step toward upholding this principle and making the work of the JJPOC more accountable to individuals directly impacted by Connecticut’s criminal legal system.

Section 4: Equitable, Educational Commissary

Section 4 requires that DOC collaborate with the JJPOC incarceration subcommittee to develop an implementation plan for a new commissary system that integrates Positive Behavioral Interventions & Supports (PBIS) as a motivation system where young people can exchange points earned by prosocial behavior for commissary goods, that recognizes the needs of diverse groups and young people who do not have access to money for commissary items, that promotes good health, and that collects feedback from impacted young people as part of continuous quality improvement. Connecticut’s current commissary system places an undue burden on families and cannot be equitably accessed by young people from communities with fewer resources, including those who are indigent and those who do not live with their biological families.

Research on commissary systems in Illinois, Massachusetts, and Washington finds that 85\% of what
incarcerated individuals purchase at commissary stores are necessities, including food and hygiene items; this necessity to purchase commissary items places a significant burden on the families of incarcerated individuals. Research by the University of New Haven finds that 70 percent of individuals incarcerated at Manson Youth Institute (MYI) and York Correctional Institute believe that commissary products are unaffordable and insufficient to fulfill their basic needs. Connecticut’s commissary markup rate of 30 percent is close to the federally allowed maximum of 35 percent. Because individuals working in-prison jobs earn $.75 to $1.75 per hour, a person incarcerated at MYI may need to pay a day’s wages for a tube of antifungal cream to treat a medical condition.

We applaud the recommendation to use PBIS, which rewards the use of appropriate behaviors in various situations, to improve equitable access to commissary products. We also anticipate that fidelity in implementing PBIS at MYI and York will improve the quality of life for young people while they are incarcerated and may reduce reoffending when young people reenter their communities. When administrators at the Iowa Juvenile Home implemented PBIS in 2003, they saw a 73 percent reduction in rates of restraint and seclusion during their first year and a 50 percent reduction in disciplinary removals. Similarly, after implementing PBIS at the Illinois Youth Center, the facility went from 32 fights in one year to no fights for three years. While research on whether PBIS helps to reduce reoffending after incarcerated individuals return to their communities is scarce, because PBIS so effectively supports positive educational outcomes and positive educational outcomes significantly reduce rates of re-offense, the state of Texas has implemented PBIS in all youth-serving carceral facilities in an effort to lower recidivism rates.

Section 5: Reentry Success Plan for Young People

Section 5 of H.B. 6888 tasks CSSD, DCF, DOC, SDE, and the JJPOC with developing a reentry success plan for young people finishing their terms of incarceration through DOC or programs through CSSD. The plan should incorporate restorative and transformative justice principles and include best practices to support academic success, connect young people with vocational and workforce opportunities, connect young people with safe and affordable housing, provide necessary mental health and substance use treatments, utilize restorative justice reentry circles, and employ credible messengers and reentry coordinators. It will do this by expanding Connecticut’s existing community reentry roundtables and welcome centers that focus on youth.

The reentry success plan combines empirically supported principles of the Risk-Needs-Recidivism model with the principles of newer restorative justice models. The Risk-Needs-Recidivism (RNR) model to reduce reoffending essentially uses a risk assessment to determine a person’s benefit-to-cost ratio of committing a criminal act, and it uses programming targeted to reduce this risk. Specifically, the following factors contribute to people developing a higher benefit-to-cost ratio: personality traits, attitudes, social context, substance abuse, familial and intimate relationships, unsatisfying school and work, and recreational activities. This model would target at least three RNR principles by supporting academic and vocational success, providing necessary mental health and substance use treatments, and employing credible messengers. Incorporating restorative and transformative justice models could further support individuals in creating more stable and fulfilling social and familial relationships. The model further supports young people by helping them meet their basic needs for safe housing, which has also been found to predict reduced reoffending.

As part of a research project currently in the works at CT Voices, we interviewed three young people with past criminal legal system involvement, and all three talked about the need for clear connections to vocational training and work that pays a living wage, mental health support, and mentoring. This plan would help provide those things to young people who want to move forward in their lives but don’t have
robust family resources.

We would further advocate for this bill to provide immediate financial support for Connecticut’s community reentry roundtables and welcome centers, many of whom are losing funds they received through the American Rescue Plan Act once FY 2024 ends. The Bridgeport Reentry Welcome Center at Career Resources Inc. received $720,000 in ARPA funding for a three-year span. This money is used to fund two full-time employees, two part-time employees, facility costs, and equipment. Unless the State appropriates new funding for Bridgeport’s Reentry Welcome Center, it is slated to shut its doors on June 30, 2024. The Hartford Reentry Welcome Center is facing a similar situation. The Bridgeport Welcome Center has served 208 people with only 1.5 case managers, and rearrest rates for those served are in the very low single digits. The Welcome Centers are effective programs that provide so much value to their communities. They could change so many lives with stable, expanded funding to increase staff and provide clients with support funding to assist with basic needs.

Section 6: Update the Plan to Move Young People Out of DOC Care

Section 6 of this bill requires the Judicial Branch to update its plan to move all young people under 18 from DOC to Judicial and include a phased-in timetable for implementation and costs for each phase. We strongly support removing young people from adult carceral facilities. Incarcerating young people in secure settings has been shown to harm young people’s psychosocial maturity, temperament, and understanding of responsibility. Conversely, researchers found that spending time in a therapeutic residential facility was associated with increased responsibility and perspective among young people charged with serious offenses, particularly for older youth. For property crimes, re-arrest rates are higher for young people sent to the adult system than for young people sent to the juvenile system.

Beyond the generalizable issues related to incarcerating young people in adult facilities, Connecticut’s prison for young males charged as adults, MYI, has been found by the U.S. Government to violate young people’s constitutional rights against cruel punishment and deprivation of liberty due to the use of isolation practices. It further violates the right of young people with special education needs to access appropriate educational services.

We ask that the Committee consider expanding the language in this section of H.B. 6888 so that the planning process involves youth and families directly impacted by this system and members of the JJPOC and/or the previous work group, as appropriate.

Section 7: Expanding Alvin W. Penn to Include Pedestrian Stops

Section 7 broadens the definition of racial profiling to include police officers detaining, interdicting, or otherwise treating disparately a person based in whole or in part on perceived racial or ethnic status. This is critical because implicit bias—that is, biases that operate outside of conscious awareness and control—has been shown to contribute to bias in policing. Even when officers don’t explicitly say that they hold negative beliefs and feelings toward people of color, they may act in ways that disproportionately target and harm people of color. While implicit biases are difficult to detect in one interaction, they can be detected in individuals over a pattern of interactions and groups of people. Section 8 adds pedestrian stops to policies governing racial disparities in traffic stops, and Section 9 requires OPM and the Racial Profiling Prohibition Project Advisory Board to collect and report data on this. Examining these data will help police departments better support their officers and lead to fairer, more just policing.

Additional Considerations
Finally, we would be remiss if we did not express our disappointment that this bill does not include language to raise the minimum age to arrest children from 10 to 12 (preferably 14), and that this bill does not include language banning DOC from using chemical agents to restrain young people in its care. These are recommendations supported by the JJPOC and proposed in bills this legislative session. Below, we include some data demonstrating the critical need to incorporate these proposals.

**JUST FACTS ON YOUNG CHILDREN IN THE COURTS AND THE USE OF CHEMICAL AGENTS ON MINORS HELD IN DOC CUSTODY**

- **Eight states have a higher minimum age of arrest than Connecticut.** These states include California, Utah, Nebraska, Maryland, Delaware, New York, New Hampshire, and Massachusetts. Notably, most of Connecticut’s neighboring states have a higher minimum arrest age.¹⁹

- **Children under 12 make up a very small portion of court referrals.** In 2022, 79 10- and 11-year-olds were referred to the courts; they make up 1.8 percent of all people under 18 referred to the courts.²⁰

- **The overwhelming majority of young children arrested in Connecticut are for misdemeanors.** Over 75 percent of 10- and 11-year-olds arrested in 2022 were for misdemeanors.²¹ The most common charge for children of this age is breach of peace.²²

- **Children are referred to the courts disproportionately based on race and location.** Fifty-two percent of 10- and 11-year-olds referred to the courts are Black or Latino/a/x; only 37.5 percent of children in Connecticut are Black and Latino/a/x.²³ Over 33 percent of 10- and 11-year-olds were referred within the Waterbury court system in 2022.²⁴

- **Chemical agents may hurt more young people than intended when used.** Between January 1 and September 30, 2018, DOC used chemical agents in nine situations. 28 young people were affected by chemical agents,²⁵ which equates to 25 percent of the youth admitted to DOC custody.²⁶ From 2018 through 2022, chemical agents were used to respond to 27 percent of “violent incidents,” and they affected more than 130 young people.²⁷

- **Chemical restraints are disproportionately used on young people of color.** Since 2018, between 87 and 100 percent of young people affected each year are Black and Latino/x, while the overall population of Black and Latino/x young people at MYI ranges between 83 and 87 percent annually.²⁸

- **Not all uses of chemical restraints are in response to violence.** DOC reported that between September 2018 and September 2022, they utilized chemical agents 50 times. Forty-five of these times were to stop “violent incidences.”²⁹ This suggests that in at least five cases, DOC used chemical agents at times when young people and staff were not physically threatened with violence.

- **The chemical agents used by DOC can cause nerve and brain damage in young people as well as long-lasting mental health impacts.** Due to teenagers experiencing a period of rapid brain development, medical doctors believe that the impact of using pepper spray on minors may be even more harmful than using pepper spray on adults.³⁰

CT Voices supports S.B. 1196, which will require DOC to notify people who have experienced
victimization whenever the incarcerated person convicted for that crime is moved to a lower security facility and will ban strip searches on incarcerated individuals in DOC custody without documentation of probable cause of concealing contraband. This testimony speaks specifically to our support of implementing these restrictions on the use of strip searches, and we further request that this standard of probable cause be extended to strip searches conducted on children by the Judicial Branch, by police, and by school administration.

Strip searches are inhumane and have been described by members of the U.S. Supreme Court as “inherently harmful, humiliating, and degrading.”31 and some judges have questioned whether strip searches—particularly those that examine bodily cavities—violate the fourth amendment against unreasonable searches.32 Interviews with incarcerated women find that these women experience strip searches as traumatic events similar to sexual assault because there is a power imbalance, they are unable to say “no” to a violation of their bodily autonomy, and they are afraid of consequences if they resist.33 Women who have previously experienced sexual victimization have especially acute responses to strip searching.

Due to being in vulnerable periods of physical, cognitive, and emotional development, children and young people may also experience strip searches as exceptionally traumatic, which can have consequences that last well into adulthood.34 Connecticut’s current standard for conducting a strip search for a child, young person, or adult is reasonable belief. This is the standard upheld within detention facilities “if the detention staff thinks [the young person] may have items that are considered dangerous or not allowed in detention, like weapons, tobacco, drugs or alcohol,”35 as well as when young people first get to detention and when they come back to detention after leaving the property. In schools, students may be strip searched when there is “reasonable suspicion that a search would lead to evidence of a crime or a violation of school rules and the need to maintain order in the school outweighs the student’s legitimate right to personal privacy.”36 Due to the traumatic effects of strip searches coupled with the ineffectiveness of the practice, discussed below, we support raising the standard for a strip search from one of reasonable suspicion to one of probable cause and request that lawmakers extend this higher standard to all people—not just those in DOC custody.

JUST FACTS ON STRIP SEARCHES

- **Strip searches are highly ineffective and rarely find threatening items. Most threatening objects are found by frisking without removing any clothing.** A review of strip searches conducted in Australia found that law enforcement found nothing in 88 percent of cases.37 Law enforcement found nothing in more than 90 percent of strip searches conducted on people under 18. In Toronto, Canada, a police chief reported to the Police Services Board that they only found items in two percent of strip and cavity searches, and only a fraction of that two percent found objects that posed a risk.38

- **Strip searches are disproportionately used in racially unjust ways, dehumanizing people from historically oppressed groups.** The study in Australia examined 211,000 strip searches and found that as many as 37 percent of these strip searches were conducted on children. Seventy-eight percent were conducted on Aboriginal and Torres Strait Islander people.39 A study of strip searches done in Toronto in 2020 found that even though Black people account for 10 percent of the city’s population, they accounted for one-third of people strip searched. Additionally, one-third of Indigenous people who were arrested were strip searched.40 In the UK, over a third of children strip searched are Black.41 Given the high degree of racial disparities in Connecticut’s criminal legal system, it is reasonable to assume that our own strip search statistics would reflect a similarly high impact on Black, Latino/a/x, and Indigenous children.
CT Voices supports H.B. 6875, which requires DOC to assist incarcerated people in obtaining a state identification card or driver’s license beginning 24 months before reentering their communities. This includes helping people who are incarcerated obtain necessary paperwork and take paper examinations, as well as collecting data on successes and challenges encountered.

Photo identification is needed for many parts of everyday life, including renting an apartment, enrolling in job training, starting a new job, booking a hotel room, getting a library card, driving a car, opening a bank account, cashing a check, buying a cell phone, applying to receive public assistance, scheduling a doctor’s appointment, picking up a prescription, and ordering a drink at a bar. Unfortunately, too many people encounter challenges reinstating their IDs when reentering the community, such as DOC having taken possession of their social security cards or birth certificates and not returning those vital documents and the high fees associated with obtaining an ID. Not having an ID upon release increases the likelihood that people who experience incarceration may commit another crime out of necessity, desperation, and hopelessness.

While the DOC reentry unit currently helps people who are incarcerated with the process of obtaining ID, unlike other states, Connecticut’s law around ID creates barriers by requiring returning individuals to request this ID rather than automatically issue the documents, and returning individuals must pay fees associated with obtaining an ID despite the fact that many have little to no savings and massive amounts of debt resulting from their time in prison. Connecticut’s policies are behind many other states; 15 states have laws that automatically provide people leaving carceral facilities with permanent forms of identification, and four more states have laws that provide people leaving carceral facilities with temporary forms of identification. Automatically providing returning citizens with State photo identification is a common-sense policy that will help people who are incarcerated achieve employment, housing, and healthcare stability faster.

JUST FACTS ON IDENTIFICATION AFTER INCARCERATION

- **Helping individuals obtain ID after incarceration is critical to reducing reoffending rates.** Michigan created a reentry initiative that reduced the state’s rate of reoffending by half; helping returning individuals obtain photo identification as fast as possible was a major part of that initiative.

- **Photo IDs are a statistically significant predictor of when individuals begin to work after returning to their communities.** An Urban Institute Study of returning individuals in three states found that photo identification was a statistically significant predictor of whether individuals would work two months after release. Those working after release were less likely to return to prison a year after release than those unemployed two months after release.

- **People who have been incarcerated report that having a driver’s license is an important part of getting and maintaining a job after reentering the community.** In research that CT Voices is currently conducting, we have found that more than 10 percent of entry-level jobs that do not require a bachelor’s degree or advanced degree require a driver’s license as a core component of being able to do the job. Not having a driver’s license noticeably narrows the pool of employment options for people returning from incarceration. We additionally interviewed three individuals about their reentry experiences, and all three talked about how not having a driver’s license impacted their ability to get to and from work. In particular, they mentioned that bus routes are unpredictable and greatly increase their commute, but taking an Uber or Lyft to work can cost more than they earn in an hour, which greatly reduces their take-home salary.
Connecticut Voices for Children urges the committee to pass H.B. 6888: An Act Concerning Juvenile Justice, and we additionally ask that the committee amends the language within H.B. 6888 to include lawyers and service providers working directly with children on the pre-arrest diversion planning team, to provide funding for reentry roundtables and welcome centers, to include people with lived experience and members of the JJPOC on the team updating the plan to remove youth from MYI, and to include language raising the minimum age of arrest from 10 to 12 or 14 and ban the use of chemical agents on young people.

Connecticut Voices for Children urges the committee to pass S.B. 1196: An Act Concerning Procedures of the Department of Correction Relating to Strip Searches and the Transfer of Persons who are Incarcerated Between Correctional Facilities, and we ask that the committee extend the probable cause standard for strip searches to children and young people.

Finally, Connecticut Voices for Children urges the committee to pass H.B. 6875: An Act Concerning the Issuance of a State Identification Card or Motor Vehicle Operator’s License to a Person Being Discharged from a Correctional Facility.

Thank you for your time and consideration.

Sincerely,

Lauren Ruth, Ph.D.
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Connecticut Voices for Children


12 Department of Justice Canada. The Effects of Restorative Justice Programming: A Review of the Empirical, by Jeff Latimer


