



## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

#### Office of Chief Public Defender

55 Farmington Avenue, 8<sup>th</sup> Floor  
Hartford, Connecticut 06105  
(860) 509-6405 Telephone  
(860) 509-6495 Fax

#### Christine Perra Rapillo

Chief Public Defender  
[Christine.Rapillo@jud.ct.gov](mailto:Christine.Rapillo@jud.ct.gov)

#### Susan I. Hamilton, MSW, JD

Director of Delinquency Defense and Child Protection  
[Susan.Hamilton@jud.ct.gov](mailto:Susan.Hamilton@jud.ct.gov)

### Testimony of Susan I. Hamilton, Director of Delinquency Defense and Child Protection, Office of Chief Public Defender

Judiciary Committee - March 31, 2021

### H. B. 6669 AN ACT CONCERNING JUVENILES AND MOTOR VEHICLE THEFT, INVESTIGATIONS OF CERTAIN PENDING JUVENILE MATTERS AND REPORTING OF REQUESTS TO DETAIN ARRESTED JUVENILES.

The Office of Chief Public Defender opposes *Raised Bill No. 6669, An Act Concerning Juveniles and Motor Vehicle Theft, Investigations of Certain Pending Juvenile Matters and Reporting of Requests to Detain Arrested Juveniles* and offers the following comments:

**Section 1** of this bill creates a new criminal offense of “enticing a juvenile to commit a criminal act” which would make it a Class D felony if a person knowingly causes, encourages, solicits, recruits, intimidates or coerces a person under age 18 to commit or participate in a criminal act. While the intent of adding this new offense is unclear, we suspect it may be aimed at providing law enforcement with a new way of arresting children and young adults involved in a motor vehicle theft or misuse incident, even if that person was not the driver and there is no other applicable offense. OCPD opposes adding any language that would criminalize new behavior, particularly as applied to children and young adults.

**Section 2** adds a new factor that the juvenile court can consider when determining whether a child poses a risk to public safety for purposes of incarcerating a child pre-adjudication in a juvenile detention center, including if the charge is a violent offense. Current law already gives the court broad discretion in making this finding and requires that it be based on a risk screen, which includes the seriousness of the pending charges. Accordingly, the new language in lines 19 – 22 is duplicative and unnecessary.

**Section 3** would require automatic electronic monitoring of children charged with any motor vehicle offense during the pendency of the case, including the pre-trial period prior to any finding of guilt and absent any finding that the child poses a risk to public safety. Under current law, electronic monitoring is something the court can already order under a Suspended Detention Order as an alternative to detention IF

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the court has found probable cause for the charges along with a ground for detention. The court can also authorize probation to use graduated sanctions, including electronic monitoring, under both a pre-trial Suspended Detention Order or as part of a probation sentence if the child is ultimately found guilty of the offense. The current process and statutory framework allows for electronic monitoring but also provides children with the due process protections to which they are entitled. This new language would violate children's constitutional rights and is unnecessary given the court's current authority.

**Section 4** amends a family court section of the statutes (Sec. 46b-6) which currently allows the family court to investigate any circumstance of a family relations matter that would be helpful, material or relevant to a proper disposition of the case, including, but not limited to, the child's home conditions, habits and character of the child's parents, and evaluations of the child's mental condition. This bill would give the juvenile court the same authority in certain delinquency cases involving motor vehicle theft and other offenses absent any due process protections that must be afforded in a criminal case where a child's liberty interests are at stake. While this authority may be constitutionally permissible in a civil family case, it cannot be applied as drafted in a delinquency case, and the language is misplaced in the family court section of the statutes. Moreover, the juvenile court and probation already have authority to investigate many of these factors as part of both the detention risk screening process and the probation studies that are done to assist the court in entering a disposition if a child is ultimately convicted of a crime.

**Section 5** requires the Judicial Branch to collect data regarding how often arresting police officers seek a detention order from a judge at the time of arrest, how often the requests are denied, and the basis for the denial. This may help to address the misperception that police are currently unable to detain children at the time of arrest. As noted above, police can request detention at the time of arrest, and the court can (and does) grant such requests if there is probable cause that the child committed the offense; the child poses a risk to public safety; and there is no appropriate less restrictive alternative available.

OCPD appreciates this Committee's efforts to help improve outcomes for children and young adults involved in both our juvenile and adult justice systems consistent with due process and looks forward to working with you toward that end. However, as the OCPD opposes this bill, it asks that the Committee take no action.