



DIVISION OF PUBLIC DEFENDER SERVICES
State of Connecticut

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**Testimony of the Office of Chief Public Defender
Deborah Del Prete Sullivan, Legal Counsel**

Judiciary Committee – February 27, 2023

H.B. No. 6715 – An Act Concerning Custodial Interference in the First Degree

The Office of Chief Public Defender supports that section of **H.B. 6715 - An Act Concerning Custodial Interference in the First Degree** which creates an affirmative defense for a person charged pursuant to the statute to present evidence as to why they committed the conduct they are charged with.

An affirmative defense can only be raised at trial. Raising an affirmative defense is separate from the prosecution's burden, which is to prove every element of an offense beyond a reasonable doubt. Raising an affirmative defense places the burden on the defendant to demonstrate that they were justified or had a reason for committing the conduct.

This bill provides specific factors which can be presented by the defendant charged with custodial interference when raising an affirmative defense. To prove an affirmative defense, the defendant must prove that the action was "(A) taken to protect the child from imminent physical harm, (B) taken by a parent fleeing from imminent physical harm to himself or herself, (C) consented to by both parents, or (D) otherwise permitted under law." While the defendant admits the conduct, an affirmative defense will allow the defendant to provide a reason why the conduct was committed. The defendant will have an opportunity to negate culpability if the conduct was taken as permitted by law, to protect the child, under circumstances where the parent is fleeing from imminent physical harm, or where both parents consented.

Therefore, the Office of Chief Public Defender respectfully requests that this amendment be supported by the Committee. Thank you.

Mission Statement of the Division of Public Defender Services

Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us.

We are committed to holistic representation that recognizes clients as individuals, fosters trust and prevents unnecessary and wrongful convictions.