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State of Connecticut

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Testimony of the Office of Chief Public Defender
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Judiciary Committee – March 15, 2023
Raised H.B. 6889 – An Act Concerning Juvenile Matters

The Office of Chief Public Defender (OCPD) **opposes *Raised Bill 6889, An Act Concerning Juvenile Matters***, which would be counterproductive to the goals of the youth justice system, including increased diversion, public safety and improved outcomes for youth.

Court Location

Section 1 would require that when children are arrested for certain offenses their cases be heard in the adult geographical area court where the offense allegedly *occurred* rather than where the *child's family resides*. While that may be appropriate when adults are arrested, a child needs to rely on their parent to bring them to court and to participate in the proceeding with them. Many parents are already challenged by transportation, childcare and other issues appearing in court, which in juvenile cases is often the very next day. This bill would require families in many instances to travel further away from their homes and communities to attend court with their child and adds an additional and unnecessary barrier to the court process.

Mandatory Fingerprinting/Photographs

Section 2 would *require* that a child be photographed and fingerprinted if arrested for

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.

certain offenses. Under current law, the *court already has discretion* to order this for *any* arrest regardless of the charge. The court's existing authority to exercise that discretion as it deems necessary and appropriate based on the nature of the offense and the child's circumstances should remain intact. It's also important to note that the child's name, photograph and custody status can already be disclosed to the public if the arrest involves a Class A felony.

Parental Control

In addition, **Section 2** would give the court unconstitutional discretion to remove custody from a parent when their child has been arrested if the court believes the parent(s) "lack control" over the child and aren't likely to be "effective" in preventing "reoffending." This would be an egregious violation of both the child's and the parents' constitutional rights for a host of reasons, and there are already existing constitutional procedures available to the court in rendering custody determinations in juvenile proceedings.

Transfer of Children to the Adult Court

Section 3 would unnecessarily add a "Serious Juvenile Offense" (SJO) as defined in CGS Sec. 46b-120 to the currently expansive and duplicative list of offenses that are already *automatically transferred* from the juvenile to the adult court. The SJO definition simply refers to other statutory offenses that are already subject to either automatic or discretionary transfer. Under existing law, all Class A felonies and many Class B felonies are already transferred automatically to the adult court without a hearing. In addition, other Class B, C, D, E and Unclassified felonies can also be transferred to the adult court after a hearing in the juvenile court if the best interests of the child and the public will not be served by maintaining the case in the juvenile court. In making that determination, the court is already required to consider: (1) any prior criminal or juvenile offenses by the child; (2) the seriousness of such offenses; (3) any evidence that the child has intellectual disability or mental illness; and (4) the availability of services in the juvenile court that can serve the child's needs. This bill would *completely eliminate* the juvenile court's authority to hold a transfer hearing or to consider any of these factors prior to transferring an SJO to the adult court. In addition, it should be noted that the current SJO definition includes running away from a residential program, which should never give rise to an automatic referral to the adult court.

OCPD is opposed to any proposals that would result in increased transfer of children to the adult court system particularly for low-risk youth behavior. Despite beliefs to the contrary, transferring children to the adult court does not provide any long-term benefit to public safety and is often counterproductive to improving youth outcomes and success. The juvenile court system has undergone enormous change over the last decade, which has allowed more children to be successfully diverted from court involvement and, therefore, more resources being available to court-involved children with more complex needs and behaviors. These individualized supports and services, including secure and staff-secure confinement with specialized treatment, are simply not available to children in the adult court system.

Investigations/Assessments

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 absent any due process protections that must be afforded in a criminal case where a child's liberty interests are at stake and where there has been no finding of guilt. 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. Lastly, PA 22-115 recently expanded the juvenile court's ability to conduct pre-adjudication assessments so the language in this section of the bill is duplicative and unnecessary.

Family with Service Needs (FWSN)

As this committee is aware, CT recently eliminated juvenile court jurisdiction over FWSN cases to promote increased diversion and timely access to community-based services for behaviors that are not criminal. The progressive sunseting of FWSN jurisdiction concluded during the pandemic on June 30, 2020, and children and families are now receiving these services without the unnecessary delay and stigma of being processed through the court system. **Sections 5 & 6** of this bill simply adds the 2008 FWSN language back into the statutes and would result in counterproductive backsliding on a long-overdue and effective reform effort.

Victim Impact Panels

Although OCPD supports the intent of **Section 10**, which would require the Judicial Branch to study the implementation of victim impact panels in delinquency proceedings and to implement such panels if feasible, this office would propose that any such study and implementation also include the restorative justice practices.

Therefore, the Office of Chief Public Defender urges this Committee to reject this bill. Thank you.