



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**

Committee on Children – February 21, 2023

**S.B. No. 1048 – An Act Establishing an Affirmative Defense to a Misdemeanor
Concerning the Supervision of Children**

The Office of Chief Public Defender supports **S. B. 1048 - An Act Establishing an Affirmative Defense to a Misdemeanor Concerning the Supervision of Children**. This bill would provide an opportunity for a person so charged 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 when raising an affirmative defense. To prove an affirmative defense, the defendant must prove that they "exercised reasonable judgment in determining that the child was of sufficient age, maturity, physical ability and mental ability to be left unsupervised." These factors are important to consider because age alone should not be the sole factor in any decision to criminalize this conduct. Under current law, these factors are not considered. Only the age of the child is relevant. As a result, under current law, a person could be so charged even if a child is within days of their twelfth birthday. Being able to raise an affirmative defense at trial presents evidence for the court or jury to consider that explains the defendant's reasoning based upon other factors beyond the child's age. Therefore, the Office of Chief Public Defender respectfully requests that this Committee vote favorably on this bill. 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.