



DIVISION OF PUBLIC DEFENDER SERVICES
State of Connecticut

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**Testimony of the Office of Chief Public Defender
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Committee on Judiciary – March 22, 2023

**Raised S.B. 1233 – An Act Establishing Community-Based Sentencing Alternatives for
Primary Caretakers of Dependent Children and Other Eligible Caretakers**

The Office of Chief Public Defender (OCPD) supports *Raised S.B. 1233 (LCO 6099)* and recommends certain changes in support of the bill’s important purpose, as the legislation represents a momentous step forward in recognizing the humanity of individuals who are convicted in Connecticut’s criminal courts.

This bill reflects the reality that when an individual convicted of a crime also is a caretaker, community-based sentencing alternatives may provide appropriate rehabilitative intervention without the disruptive, damaging effects of incarceration – direct and indirect effects felt not only by the individual, but also by their children, spouses/partners, employers, and others.

In support of the legislation, this office respectfully recommends the following:

- **Section 2.** Make explicit that a child may have more than one primary caretaker. This recommended change would ensure fair consideration of mothers, fathers, and other individuals, each of whom meets the definition. As drafted, the bill is not limiting, which is appropriate because many family structures include multiple individuals who meet the stated definition of “primary caretaker.” But without clarification, decision-makers in the system may construe such limitation and exclude an individual from due consideration. (By way of background, since September 2021, this office has been an active participant in two domain subcommittees of the Connecticut Fatherhood Initiative (CFI), “a broad-based, statewide collaborative effort led by the Department of Social Services, focused on changing the systems that can improve fathers’ ability to be fully and positively involved

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.

in the lives of their children.”¹ OCPD has participated on the subcommittees for “Domain 2: Fathers in healthy relationships with their children, co-parents, significant others” and “Domain 4: Men involved in the criminal justice system supported in being responsible fathers.”)

- **Section 3.** Add language in the subsection beginning at line 114 to ensure that courts cannot, even in the spirit of helping an individual, order programs for which need is not demonstrated, or which actually may interfere with the individual’s caretaker or employment responsibilities. Stretching an individual too thin may backfire when an impossible program schedule, for example, leads to difficulty meeting the requirements and the case lands back on the docket.
- **Section 4.** At line 162, after “sentence.”, insert “If the court determines that the defendant has violated any condition of the sentence, the court shall determine for any such violation whether such violation was wilful.” This recommended change does not limit the court’s discretion with regard to the possible actions in the subsequent lines of the bill, but it does support the purpose of the bill in seeking individualized justice reflective of the realities of people’s lives. It is true of all persons, and especially of persons living near or below the poverty line, that a violation of a sentence may in fact reflect limited resources, not limited will. (For example, an individual may miss program sessions when their car breaks down and they do not have funds to repair it.)

The terminology used within the criminal legal system is designed to simplify identities and relationships. Such simplification is not unique to that system, and it is understandable insofar as it is a shortcut for faster processing of information. But language shapes and reinforces perspectives, and when linguistic shortcuts omit necessary complexity, they imperil the soundness of decisions and the legitimacy of the system.

Connecticut’s public defenders see every day that people do not fit neatly into the criminal legal system’s terminology. Try finding an “offender” who was never a “victim.” Try viewing someone’s work at an art show and referring to them as a “convict.”² No – people are beautifully, if sometimes tragically, multidimensional.

As zealous advocates, public defenders strive to illuminate and elevate the humanity of every client so that the various decision-makers in the legal system can act on a fuller picture than first presented. Very often, that humanity includes a role as a caretaker – a role not necessarily acknowledged or considered in decisions around prosecution and sentencing; as a result, such decisions impose penalties and requirements which reflect the shortcuts, but not the reality. When that happens, even well-intentioned decisions lead to unnecessary collateral harm.

Bryan Stevenson observes that “each of us is more than the worst thing we’ve ever done.”³ Raised S.B. 1233 represents a profoundly positive step toward a criminal legal system that tailors consequences to maximize rehabilitative impact and minimize harm. OCPD urges favorable action on this important legislation. Thank you.

¹ *The Connecticut Fatherhood Initiative – Overview*, State of Connecticut, <https://portal.ct.gov/Fatherhood/Core/The-Connecticut-Fatherhood-Initiative>.

² See, e.g., *Prison Arts Program*, Community Partners in Action (CPA), <https://cpa-ct.org/prisons-arts-program/>.

³ Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption* (2014).