



State of Connecticut

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Testimony of Christine Perra Rapillo, Chief Public Defender

RAISED BILL 1113, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO THE SEXUAL OFFENDER REGISTRY, PETITIONS TO TERMINATE PARENTAL RIGHTS OF INCARCERATED PARENTS AND SENTENCE REVIEW

Committee on the Judiciary – April 1, 2019

The Office of Chief Public Defender supports Raised Bill 1113, An Act Concerning the Recommendations of Connecticut Sentencing Commission with Respect to the Sexual Offender Registry, Petitions to Terminate Parental Rights of Incarcerated Parents and Sentence Review.

The Office of Chief Public Defender is a member of the Sentencing Commission. The Chief Public Defender participates personally and is assisted by employees of the Division of Public Defender Services with expertise on its various subcommittees and working groups. The Sentencing Commission's membership includes law enforcement, prosecutors, victim's advocates, judges and other major stakeholders in the criminal justice system. The concepts in this bill represent the consensus of the membership, a powerful statement that these ideas are good policy for the State of Connecticut

Sections 1 through 20 would address needed changes to the Connecticut Sexual Offender Registry.

These sections represent a consensus reached on the various issues pertaining to the sex offender registry as it currently exists. It is the result of years of work and was one of the last projects Public Defender Thomas Ullmann championed before his untimely death a year ago. The legislation creates a Sexual Offender Registration Board within the Department of Corrections, which would conduct a risk assessment of an offender using evidence based criteria. The structure would be similar to the Board of Pardons and Parole and would include experts in the field of sexual offender risk and treatment. The proposal also creates a two tiered Registry, The risk assessment conducted would assist the Board in determining whether an offender is a high, moderate or low risk offender. This would guide a decision on whether the offender should be placed on the current public registry or one that is only available to

law enforcement. In addition, the bill provides a mechanism by which a registrant can apply to the court for an exemption from a 10 year registration requirement. These changes leave the most risky offenders on the public list to be monitored in an appropriate manner. The creation of a law enforcement registry will allow low risk offenders to better and more safely reintegrate back into their communities. The Office of Chief Public Defender continues to support these recommendations.

Sections 21 through 25 would allow the court in a child protection termination of parental rights matter to exceed the federal permanency period for incarcerated parents, when the incarceration is not related to the child and is the only reason the child is in the custody of DCF.

The federal Adoption and Safe Families Act (ASFA) passed in 1997¹ and was enacted in CT the following year.² This legislation was aimed, in part, at ensuring child safety and well-being and expediting permanency for children in foster care. In particular, ASFA requires the Department of Children and Families (DCF) to file a petition to terminate parental rights³ (TPR) whenever a child has been in foster care for fifteen (15) of the most recent twenty-two (22) months except under very limited circumstances.

While the express provisions of ASFA are consistent with CT's goals of ensuring child safety, permanency and well-being, there are circumstances where parental incarceration alone could trigger a TPR even when such termination is not in the best interests of the child. This proposal will guard against such unintended consequences while maintaining a focus on the best interests of the child. Service plans for an incarcerated parent will be required to reflect the services reasonably available and accessible by the parent at the facility where the parent is incarcerated; and (2) provide for visitation with the child unless visitation is not in the best interests of the child. In addition, the proposed changes would provide an incarcerated parent with the option to participate in these case plan review meetings via teleconference or videoconference if the parent is unable to participate in person.

This bill would also allow DCF additional time to file a TPR petition for an incarcerated parent if the parent did not have reasonable access to services at the facility. As noted above, current law requires DCF to file a TPR petition whenever a child has been in foster care for fifteen (15) of the most recent twenty-two (22) months except under very limited circumstances. These circumstances include cases where: (1) the child is placed with a relative; (2) there is a compelling reason to believe that terminating parental rights is not in the best interests of the child; or (3) the parent has not been offered the reunification services contained in the permanency plan or the services were not available (Lack of services). The proposed revisions to this section would clarify that the "lack of services" exception to *mandatory* TPR petitions would include situations where an incarcerated parent did not have reasonable access to services available at the facility. In addition, these revisions would provide specific criteria for

¹ Public Law 105-89

² PA 98-241

³ CGS Sec. 17a-112

determining that termination of an incarcerated parent's rights is not in the best interests of the child and would add an eighth factor for the court to consider before terminating the parental rights of an incarcerated parent: (A) whether the parent has maintained a meaningful role in the life of the child; and (B) any delays or barriers the parent may have experienced in accessing visitation or other contact with the child.

The court is also required at every permanency hearing to, among other things, review and determine the services to be provided to the parent and the timetable for such services and determine whether DCF has made reasonable efforts to achieve the permanency plan. For incarcerated parents, the proposed revisions would specifically require the court to consider whether such services are available and reasonably accessible by that parent at the facility where the parent is incarcerated and whether visitation was provided for the parent and child, unless visitation is not in the best interests of the child.

Sections 25 and 26 would make changes to the process for sentence review and sentence modification. Section 25 would prohibit from review the sentence of an individual who plead guilty and was sentenced under a cap agreement, where a maximum possible sentence is agreed to and the defendant has the right to argue for less. Section allows an individual to apply directly to the court for a modification of any sentence where there was an executed period of incarceration of three years or less.

The Office of Chief Public Defender thanks the Committee for raising this bill and requests that it receive a joint favorable vote. Thank you.