CONNECTICUT PUBLIC DEFENDERS

2018 Legislative Package

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2018 Legislative Proposal - #1

AN ACT CONCERNING THE RESTORATION OF A LICENSE

Purpose: *To provide for a definite period of license suspension for persons who have had their motor vehicle license suspended for a violation of 14-227a but who are indigent and never installed an ignition interlock device.*

SECTION 1. Sec. 14-227a *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):*

(g) Penalties for operation while under the influence. Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the one-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j;

(2) for conviction of a second violation within ten years after a prior conviction for the same offense, (A) be fined not less than one thousand dollars or more than four thousand dollars, (B) be imprisoned not more than two years, one hundred twenty consecutive days of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the three-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, except that for the first year of such three-year period, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer; and (3) for conviction of a third and subsequent violation within ten years after a prior conviction for the same offense, (A) be fined not less than two thousand dollars or more than eight thousand dollars, (B) be imprisoned not more than three years, one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense, except that if such person's revocation is reversed or reduced pursuant to subsection (i) of section 14-111, such person shall be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, for the time period prescribed in subdivision (2) of subsection (i) of section 14-111. For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section in effect on October 1, 1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense.

(h) Suspension of operator's license or nonresident operating privilege. (1) Each court shall report each conviction under subsection (a) of this section to the Commissioner of Motor Vehicles, in accordance with the provisions of section 14-141. The commissioner

shall suspend the motor vehicle operator's license or nonresident operating privilege of the person reported as convicted for the period of time required by subsection (g) of this section. The commissioner shall determine the period of time required by subsection (g) of this section based on the number of convictions such person has had within the specified time period according to such person's driving history record, notwithstanding the sentence imposed by the court for such conviction. (2) The motor vehicle operator's license or nonresident operating privilege of a person found guilty under subsection (a) of this section who, at the time of the offense, was operating a motor vehicle in accordance with a special operator's permit issued pursuant to section 14-37a shall be suspended by the commissioner for twice the period of time set forth in subsection (g) of this section. (3) If an appeal of any conviction under subsection (a) of this section is taken, the suspension of the motor vehicle operator's license or nonresident operating privilege by the commissioner, in accordance with this subsection, shall be stayed during the pendency of such appeal.

(i) Ignition interlock device. (1) The Commissioner of Motor Vehicles shall permit a person whose license has been suspended in accordance with the provisions of subparagraph (C) of subdivision (1) or subparagraph (C) of subdivision (2) of subsection (g) of this section to operate a motor vehicle if (A) such person has served either the suspension required under said subparagraph (C) or the suspension required under subsection (i) of section 14-227b, and (B) such person has installed an approved ignition interlock device in each motor vehicle owned or to be operated by such person, and verifies to the commissioner, in such manner as the commissioner prescribes, that such device has been installed. For a period of one year after the installation of an ignition interlock device by a person who is subject to subparagraph (C) of subdivision (2) of subsection (g) of this section, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer. Except as provided in sections 53a-56b and 53a-60d, no person whose license is suspended by the commissioner for any other reason shall be eligible to operate a motor vehicle equipped with an approved ignition interlock device.

(2) All costs of installing and maintaining an ignition interlock device shall be borne by the person required to install such device. No court sentencing a person convicted of a violation of subsection (a) of this section may waive any fees or costs associated with the installation and maintenance of an ignition interlock device **except that the court shall waive all costs of installing and maintaining an ignition interlock device for any person for whom the court has appointed counsel pursuant to section 51-296 of the general statutes.**

(3) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this subsection. The regulations shall establish procedures for the approval of ignition interlock devices, for the proper calibration and maintenance of such devices and for the installation of such devices by any firm approved and authorized by the commissioner and shall specify acts by

persons required to install and use such devices that constitute a failure to comply with the requirements for the installation and use of such devices, the conditions under which such noncompliance will result in an extension of the period during which such persons are restricted to the operation of motor vehicles equipped with such devices and the duration of any such extension. The commissioner shall ensure that such firm provide notice to both the commissioner and the Court Support Services Division of the Judicial Branch whenever a person required to install such device commits a violation with respect to the installation, maintenance or use of such device.

(4) The provisions of this subsection shall not be construed to authorize the continued operation of a motor vehicle equipped with an ignition interlock device by any person whose operator's license or nonresident operating privilege is withdrawn, suspended or revoked for any other reason.

(5) The provisions of this subsection shall apply to any person whose license has been suspended in accordance with the provisions of subparagraph (C) of subdivision (1) or subparagraph (C) of subdivision (2) of subsection (g) of this section on or after January 1, 2012.

(6) Whenever a person is permitted by the commissioner under this subsection to operate a motor vehicle if such person has installed an approved ignition interlock device in each motor vehicle owned or to be operated by such person, the commissioner shall indicate in the electronic record maintained by the commissioner pertaining to such person's operator's license or driving history that such person is restricted to operating a motor vehicle that is equipped with an ignition interlock device and, if applicable, that such person's operation of a motor vehicle is limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer, and the duration of such restriction or limitation, and shall ensure that such electronic record is accessible by law enforcement officers. Any such person shall pay the commissioner a fee of one hundred dollars prior to the installation of such device.

(7) There is established the ignition interlock administration account which shall be a separate, nonlapsing account in the General Fund. The commissioner shall deposit all fees paid pursuant to subdivision (6) of this subsection in the account. Funds in the account may be used by the commissioner for the administration of this subsection.

(8) Notwithstanding any provision of the general statutes to the contrary, upon request of any person convicted of a violation of subsection (a) of this section whose operator's license is under suspension on January 1, 2012, the Commissioner of Motor Vehicles may reduce the term of suspension prescribed in subsection (g) of this section and place a restriction on the operator's license of such person that restricts the holder of such license to the operation of a motor vehicle that is equipped with an approved ignition interlock device, as defined in section 14-227j, for the remainder of such prescribed period of suspension.

(9) Any person required to install an ignition interlock device under this section shall be supervised by personnel of the Court Support Services Division of the Judicial Branch while such person is subject to probation supervision, or by personnel of the Department of Motor Vehicles if such person is not subject to probation supervision, and such person shall be subject to any other terms and conditions as the commissioner may prescribe and any provision of the general statutes or the regulations adopted pursuant to subdivision (3) of this subsection not inconsistent herewith.

(10) Notwithstanding the periods prescribed in subsection (g) of this section and subdivision (2) of subsection (i) of section 14-111 during which a person is prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, such periods may be extended in accordance with the regulations adopted pursuant to subdivision (3) of this subsection."

(11) (NEW) (a) Notwithstanding the periods of license suspension prescribed in subsection (C) of subdivision (1) of section (g) of this section, if such person does not install an ignition interlock device because such person does not own or operate a motor vehicle, the suspension of such person's motor vehicle operator's license or nonresident operating privilege shall not exceed one-year.

(b) Notwithstanding the periods of license suspension prescribed in subsection (C) of subdivision (2) of section (g) of this section, if such person does not install an ignition interlock device because such person does not own or operate a motor vehicle, then the suspension of such person's motor vehicle operator's license or nonresident operating privilege shall not exceed three-years.

(c) Notwithstanding the periods of license suspension prescribed in subdivision (2) of subsection (i) of section 14-111, if such person does not install an ignition interlock device because such person does not own or operate a motor vehicle, then the suspension of such person's motor vehicle operator's license or nonresident operating privilege shall not exceed fifteen years.

(d) The provisions of this subsection shall apply to any person whose license has been suspended in accordance with the provisions of subsection (C) of subdivision (1) and (2) of section (g) and subdivision (2) of subsection (i) of section 14-111 who was arrested and/or convicted before or after the effective date of this act.

SECTION 2. Sec. 14-227b *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):*

(i) (1) The commissioner shall suspend the operator's license or nonresident operating privilege of a person who did not contact the department to schedule a hearing, who failed to appear at a hearing, or against whom a decision was issued, after a hearing, pursuant to subsection (h) of this section, as of the effective date contained in the suspension notice, for a period of forty-five days. As a condition for the restoration of such operator's license or nonresident operating privilege, such person shall be

required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, for the longer of either (A) the period prescribed in subdivision (2) of this subsection for the present arrest and suspension, or (B) the period prescribed in subdivision (1), (2) or (3) of subsection (g) of section 14-227a for the present arrest and conviction, if any. **Notwithstanding the periods of suspension prescribed in these subsections (1) (A) or (B) of this section (i), if such person does not install an ignition interlock device, because such person does not own or operate a motor vehicle, then such person's operating license or nonresident operating privilege shall be suspended for the longer of the full time period of either (i) the period prescribed in subdivision (2) of this subsection for the present arrest and suspension, or (ii) the period prescribed in subdivision (1), (2), or (3) of subsection (g) of subsection 14-227a for the present arrest and conviction, if any.**

(2) (A) A person twenty-one years of age or older at the time of the arrest who submitted to a test or analysis and the results of such test or analysis indicated that such person had an elevated blood alcohol content shall install and maintain an ignition interlock device for the following periods: (i) For a first suspension under this section, six months; (ii) for a second suspension under this section, one year; and (iii) for a third or subsequent suspension under this section, two years. **Notwithstanding the periods of license suspension prescribed in this subsection (A) of this section (2), if such person does not install an ignition interlock device because such person does not own or operate a motor vehicle, the suspension of such person's motor vehicle operator's license or nonresident operation privilege shall not exceed six months for a first suspension, one year for a second suspension and two years for a third or subsequent suspension under this section**; (B) a person under twenty-one years of age at the time of the arrest who submitted to a test or analysis and the results of such test or analysis indicated that such person had an elevated blood alcohol content shall install and maintain an ignition interlock device for the following periods: (i) For a first suspension under this section, one year; (ii) for a second suspension under this section, two years; and (iii) for a third or subsequent suspension under this section, three years. **Notwithstanding the periods of license suspension prescribed in this subsection (B) of this section (2), if such person does not install an ignition interlock device because such person does not own or operate a motor vehicle, the suspension of such person's motor vehicle operator's license or nonresident operation privilege shall not exceed one year for a first suspension, two years for a second suspension and three years for a third or subsequent suspension under this section**; and (C) a person, regardless of age, who refused to submit to a test or analysis shall install and maintain an ignition interlock device for the following periods: (i) For a first suspension under this section, one year; (ii) for a second suspension under this section, two years; and (iii) for a third or subsequent suspension, under this section, three years. **Notwithstanding the periods of license suspension prescribed in this subsection (C) of this section (2), if such person does not install an ignition interlock device on each motor vehicle owned or operated by such person, the suspension of such person's motor vehicle operator's license or nonresident operation privilege shall not exceed one year for a first suspension, two**

years for a second suspension and three years for a third or subsequent suspension under this section.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, a person whose motor vehicle operator's license or nonresident operating privilege has been permanently revoked upon a third offense pursuant to subsection (g) of section 14-227a shall be subject to the penalties prescribed in subdivision (2) of subsection (i) of section 14-111**, as amended**.

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2018 Legislative Proposal - #2

AN ACT CONCERNING
MANDATORY MINIMUM SENTENCES AND JUVENILES PROSECUTED AS ADULTS

Purpose: *To provide discretion to the court to depart from the mandatory minimum sentencing scheme in cases involving juveniles prosecuted as adults and fashion an appropriate penalty if good cause is shown. Caselaw and brain development science demonstrate why juveniles are different and should not be treated the same as adults.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. (NEW) *(Effective upon passage)*

Notwithstanding the general statutes, the court shall have the discretion to depart from imposing the mandatory minimum sentence, for good cause shown, when sentencing any juvenile who is prosecuted as an adult.

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2018 Legislative Proposal - #3

AN ACT CONCERNING THE PSYCHIATRIC SECURITY REVIEW BOARD

Purpose: *To make certain changes to the Psychiatric Security Review Board (PSRB) and its process as it refers to intra-hospital transfers and to make the commitment process conform to the psychiatric model.*

SECTION 1. *Sec. 17a-497 of the general statutes as amended is repealed and the following is substituted in lieu thereof. (Effective upon passage):*

(a) The jurisdiction of the commitment of a person with psychiatric disabilities to a hospital for psychiatric disabilities shall be vested in the Probate Court for the district in which such person resides or, when his or her place of residence is out of the state or unknown, in which he or she may be at the time of filing the application, except in cases where it is otherwise expressly provided by law. In any case in which the person is hospitalized in accordance with the provisions of sections 17a-498, 17a-502 or 17a-506, and 17a-582, and an application for the commitment of such person is filed in accordance with the provisions of said sections, the jurisdiction shall be vested in the Probate Court for the district in which the hospital where such person is a patient is located. In the event that an application has been previously filed in another Probate Court with respect to the same confinement, no further action shall be taken on such prior application. If the respondent is confined to a hospital, notwithstanding the provisions of section 45a-7, the probate judge from the district where the application was filed shall hold the hearing on such commitment at the hospital where such person is confined, if in the opinion of at least one of the physicians appointed by the court to examine him it would be detrimental to the health and welfare of the respondent to travel to the Probate Court where the application was filed or if it could be dangerous to the respondent or others for him to travel to such court. The Probate Court shall

exercise such jurisdiction only upon written application alleging in substance that such person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled. Such application may be filed by any person and, if any person with psychiatric disabilities is at large and dangerous to the community, the first selectman or chief executive officer of the town in which he or she resides or in which he or she is at large shall make such application.

(b) Upon the motion of any respondent or his or her counsel, or the probate judge having jurisdiction over such application, filed not later than three days prior to any hearing scheduled on such application, the Probate Court Administrator shall appoint a three-judge court from among the probate judges to hear such application. The judge of the Probate Court having jurisdiction over such application under the provisions of this section shall be a member, provided such judge may disqualify himself in which case all three members of such court shall be appointed by the Probate Court Administrator. Such three-judge court when convened shall have all the powers and duties set forth under sections 17a-75 to 17a-83, inclusive, 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-618, inclusive, and shall be subject to all of the provisions of law as if it were a single-judge court. No such respondent shall be involuntarily confined without the vote of at least two of the three judges convened hereunder. The judges of such court shall designate a chief judge from among their members. All records for any case before the three-judge court shall be maintained in the Probate Court having jurisdiction over the matter as if the three-judge court had not been appointed.

SECTION 2. *Sec. 17a-584 of the general statutes as amended is repealed and the following is substituted in lieu thereof. (Effective upon passage):*

At any hearing before the board considering the discharge, conditional release or confinement of the acquittee, except a hearing pursuant to section 17a-592 or subsection (d) of section 17a-593, the board shall make a finding as to the mental condition of the acquittee and, considering that its primary concern is **to balance** the protection of society, **consideration of whether or not a less restrictive placement is available, and the rights of patients hospitalized or treated in any public or private facility for the treatment of persons with psychiatric disabilities pursuant to section 17a-541 of the Connecticut General Statutes** shall do one of the following:

(1) If the board finds that the acquittee is a person who should be discharged, it shall recommend such discharge to the court pursuant to section 17a-593.

(2) If the board finds that the acquittee is a person who should be conditionally released, the board shall order the acquittee conditionally released subject to such conditions as are necessary to prevent the acquittee from constituting a danger to himself or others.

(3) If the board finds that the acquittee is a person who should be confined, the board shall order the person confined in a hospital for psychiatric disabilities or placed with the Commissioner of Developmental Services for custody, care and treatment.

SECTION 3. *Sec. § 17a-593 of the general statutes as amended is repealed and the following is substituted in lieu thereof. (Effective upon passage):*

(a) The board, pursuant to section 17a-584 or 17a-592, may recommend to the court the discharge of the acquittee from custody or the acquittee may apply directly to the court for discharge from custody. The court shall send copies of the recommendation or application to the state's attorney and to counsel for the acquittee. An acquittee may apply for discharge not more than once every six months and no sooner than six months after the initial board hearing held pursuant to section 17a-583.

(b) The recommendation or application shall contain the dates on which any prior recommendations or applications for discharge had been filed with the court, the dates on which decisions thereon were rendered, and a statement of facts, including any change in circumstances since the determination on the most recent recommendation or application, sufficient to qualify the acquittee as a person who should be discharged. A recommendation by the board shall contain findings and conclusions to support the recommendation.

(c) If reasonable cause exists to believe that the acquittee remains a person with psychiatric disabilities or a person with intellectual disability to the extent that his discharge at the expiration of his maximum term of commitment would constitute a danger to himself or others **or is gravely disabled**, the state's attorney **may make application for commitment of said acquittee to a hospital for psychiatric disabilities pursuant to Title 17a, Chapter 319 I, Part II of the Connecticut General Statutes.**

(d) The court shall forward any application for discharge received from the acquittee ~~[and any petition for continued commitment of the acquittee]~~ to the board. The board shall, within ninety days of its receipt of the application or petition, file a report with the court, and send a copy thereof to the state's attorney and counsel for the acquittee, setting forth its findings and conclusions as to whether the acquittee is a person who should be discharged. The board may hold a hearing or take other action appropriate to assist it in preparing its report.

(e) Within ten days of receipt of a recommendation for discharge filed by the board under subsection (a) of this section or receipt of the board's report filed under subsection (d) of this section, either the state's attorney or counsel for the acquittee may file notice of intent to perform a separate examination of the acquittee. An examination conducted on behalf of the acquittee may be performed by a psychiatrist or psychologist of the acquittee's own choice and shall be performed at the expense of the acquittee unless he is indigent. If the acquittee is indigent, the court shall provide him with the services of a psychiatrist or psychologist to perform the examination at the

expense of the state. Any such separate examination report shall be filed with the court within thirty days of the notice of intent to perform the examination. To facilitate examinations of the acquittee, the court may order him placed in the temporary custody of any hospital for psychiatric disabilities or other suitable facility or placed with the Commissioner of Developmental Services.

(f) After receipt of the board's report and any separate examination reports, the court shall promptly commence a hearing on the recommendation or application for discharge **[~~or petition for continued commitment~~]**. At the hearing, the acquittee shall have the burden of proving by a preponderance of the evidence that the acquittee is a person who should be discharged.

(g) The court shall make a finding as to the mental condition of the acquittee and, considering that its primary concern is the **balance between the** protection of society **and the rights of patients hospitalized or treated in any public or private facility for the treatment of persons with psychiatric disabilities pursuant to section 17a-541 of the Connecticut General Statutes**, make one of the following orders: (1) If the court finds that the acquittee is not a person who should be discharged, the court shall order the recommendation or application for discharge be dismissed; or (2) if the court finds that the acquittee is a person who should be discharged, the court shall order the acquittee discharged from custody. The court shall send a copy of such finding and order to the board.

SECTION 4. *Sec. § 17a-587 of the general statutes as amended is repealed. (Effective upon passage):*

(a) If at any time after the confinement of an acquittee in a hospital for psychiatric disabilities or the placement of an acquittee with the Commissioner of Developmental Services pursuant to order of the board, the superintendent of such hospital or said commissioner is of the opinion that the acquittee's psychiatric supervision and treatment would be advanced by permitting the acquittee to leave such hospital or the custody of said commissioner temporarily, the superintendent or said commissioner shall apply to the board for an order authorizing temporary leaves. The application shall include a statement of reasons in support thereof. The board shall send a copy of the application to the state's attorney. The board may order a hearing on the application and shall order such a hearing if the state's attorney files with the board a request therefor within ten days of his receipt of the application. The board shall grant the application, subject to such conditions and supervision as the board may set in the order for temporary leave, if it concludes that the acquittee's temporary leave, under the conditions specified, would not constitute a danger to himself or others. If such application is granted, the acquittee may be permitted to leave such hospital or the custody of said commissioner temporarily, under the charge of his guardian, relatives or friends, or by himself, at such times and under such conditions as the superintendent or said commissioner deems appropriate, unless the order of the board provides

otherwise. The provisions of section 17a-521 not inconsistent with this section shall be applicable to temporary leaves authorized by this section.

(b)At any time after the confinement of an acquittee in a hospital for psychiatric disabilities or the placement of an acquittee with the Commissioner of Developmental Services, the acquittee or another person acting on his behalf may apply to the board for an order of temporary release. On receipt of the application, the board shall request the superintendent of the hospital or said commissioner to report whether he is of the opinion that the acquittee is a person who should be temporarily released. The report shall set forth facts supporting the opinion. An application for temporary release under this subsection shall not be filed more often than once every six months from the date of the initial board hearing held pursuant to section 17a-583. The board is not required to hold a hearing on a first application under this subsection any sooner than ninety days after the initial hearing. Hearings resulting from any subsequent requests shall be held within sixty days of the filing of the application.

(c)The board may designate any capable person or appropriate public or private agency to supervise the acquittee on temporary leave pursuant to subsection (a) of this section. Prior to any designation, the board shall notify the person or agency that the board contemplates designating to supervise the acquittee's temporary leave and provide the person or agency with an opportunity to be heard before the board. Any person or agency designated by the board to supervise the acquittee's temporary leave shall comply with such conditions as the board sets in the order for temporary leave.

SECTION 5. *Sec. § 17a-599 of the general statutes as amended is repealed. (Effective upon passage):*

~~[At any time the court or the board determines that the acquittee is a person who should be confined, it shall make a further determination of whether the acquittee is so violent as to require confinement under conditions of maximum security. Any acquittee found so violent as to require confinement under conditions of maximum security shall not be confined in any hospital for psychiatric disabilities or placed with the Commissioner of Developmental Services unless such hospital or said commissioner has the trained and equipped staff, facilities or security to accommodate such acquittee.~~]

SECTION 6. (NEW) *(Effective upon passage)* **Notwithstanding any provisions of the general statutes concerning the confidentiality of records, information and media pertaining to the Department of Mental Health and Addiction Services, Connecticut Valley Hospital or the Psychiatric Security Review Board, any and all records and any media recorded within or on the property of any such facility in which an acquittee is present or in regard to an acquittee, shall be disclosable to counsel for the acquittee without the acquittee's consent.**

Records and media include but are not limited to still or electronically stored photographs, security cameras or video, CDs, DVDs, flash drive recordings, cellphones, tablets or any other electronic media and or storage regardless of whether stored locally or remotely.

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2018 Legislative Proposal - #4

AN ACT CONCERNING FAMILY IMPACT

Purpose: *To allow for a Family Impact Statement to be considered by the court prior to sentencing in misdemeanor and motor vehicle proceedings in which a custodial parent could be incarcerated.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. (NEW) (*Effective October 1, 2018*) (a) Prior to sentencing a defendant convicted of a misdemeanor or motor vehicle offense for which a sentence of imprisonment may be imposed, a defendant may submit a Family Impact Statement to the court for its consideration if the defendant is the parent or guardian of a minor child and has physical custody of the minor child.

(b) A Family Impact Statement submitted by a defendant pursuant to subsection (a) of this section may address the impact on the minor child and other family members that would result if the defendant is sentenced to a term of imprisonment, including, but not limited to, the impact on the financial needs of the child and other family members, the relationship between the defendant and the child, the availability of community and family support for the child, the defendant's employment history and available employment opportunities, programs available to rehabilitate the defendant if the defendant is not sentenced to a term of imprisonment, the seriousness of the offense and the defendant's criminal history.

(c) Nothing in this section shall be construed as creating a basis for vacating a conviction or ground for appellate relief in a criminal case.

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2018 Legislative Proposal - #5

AN ACT CONCERNING JURORS

Purpose: *To require the retention of accurate statistics on the race and ethnicity of jurors.*

SECTION 1. Sec. 51-232 *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):*

(a) The Jury Administrator shall send to each juror drawn, by first class mail, a notice stating the place where and the time when he is to appear and such notice shall constitute a sufficient summons unless a judge of said court directs that jurors be summoned in some other manner.

(b) Such summons or notice shall also state the fact that a juror has a right to one postponement of the juror's term of juror service for not more than ten months and may contain any other information and instructions deemed appropriate by the Jury Administrator. If the date to which the juror has postponed jury service is improper, unavailable or inconvenient for the court, the Jury Administrator shall assign a date of service which, if possible, is reasonably close to the postponement date selected by the juror. Such notice or summons shall be made available to any party or the attorney for such party in an action to be tried to a jury. The Jury Administrator may grant additional postponements within or beyond said ten months but not beyond one year from the original summons date.

(c) The Jury Administrator shall send to a prospective juror a juror confirmation form and a confidential juror questionnaire. Such questionnaire shall include questions eliciting the juror's name, age, race and ethnicity, occupation, education and information usually raised in voir dire examination. The questionnaire shall inform the prospective juror that information concerning race and ethnicity is required solely to enforce nondiscrimination in jury selection. [, ~~that the furnishing of such information is not a prerequisite to being qualified for jury service and that such information need not be furnished if the prospective juror finds it objectionable to do so.~~] Such juror confirmation form and confidential juror questionnaire shall be signed by the prospective juror under penalty of false statement. Copies of the completed questionnaires shall be provided to the judge and counsel for use during voir dire or in preparation therefor. Counsel shall be required to return such copies to the clerk of the court upon completion of the voir dire. Except for disclosure made during voir dire or unless the court orders otherwise, information inserted by jurors shall be held in confidence by the court, the parties, counsel and their authorized agents. Such completed questionnaires shall not constitute a public record.

(d) The number of jurors in a panel may be reduced when, in the opinion of the court, such number of jurors is in excess of reasonable requirements. Such reduction by the clerk shall be accomplished by lot to the extent authorized by the court and the jurors released shall be subject to recall for jury duty only if and when required.

(e) In each judicial district, the Chief Court Administrator shall designate one or more courthouses to be the courthouse to which jurors shall originally be summoned. The court may assign any jurors of a jury pool to attend any courtroom within the judicial district.

(NEW) (f) The Jury Administrator shall keep a record of the date of service and the race and ethnicity as reported by each prospective juror in his/her completed juror questionnaire. The court may allow a party to inspect and copy such records as needed to prepare a motion challenging compliance with constitutionally required selection procedures.

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2018 Legislative Proposal - #6

AN ACT CONCERNING FAIRNESS IN CERTAIN PROCEEDINGS

Purpose: ***To ensure that any report prepared by the family violence intervention units for the court is also disclosed to the defendant and counsel for the defendant.***

SECTION 1. *Subsection (c) of section 46b-38c of the general statutes is repealed and the following is substituted herewith (Effective upon passage):*

(a) There shall be family violence response and intervention units in the Connecticut judicial system to respond to cases involving family violence. The units shall be coordinated and governed by formal agreement between the Chief State's Attorney and the Judicial Department. **The formal agreement shall include a provision requiring timely disclosure of a copy of all written or oral reports recorded in open court, as provided for in subsection (c)(2) of this section, to the defendant or counsel for the defendant.**

(b) The Court Support Services Division, in accordance with the agreement between the Chief State's Attorney and the Judicial Department, shall establish within each geographical area of the Superior Court a local family violence intervention unit to implement sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g. The Court Support Services Division shall oversee direct operations of the local units.

(c) Each such local family violence intervention unit shall: (1) Accept referrals of family violence cases from a judge or prosecutor, (2) prepare written or oral reports on each case

for the court by the next court date to be presented at any time during the court session on that date, (3) provide or arrange for services to victims and offenders, (4) administer contracts to carry out such services, and (5) establish centralized reporting procedures. All information provided to a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department in a local family violence intervention unit shall be used solely for the purposes of preparation of the report and the protective order forms for each case and recommendation of services and shall otherwise be confidential and retained in the files of such unit, **except that all such reports shall be provided to the defendant or counsel for the defendant,** and not be subject to subpoena or other court process for use in any other proceeding or for any other purpose, except that a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department:

(A) Shall disclose to the court and the prosecuting authority for appropriate action information that the victim has indicated that the defendant holds a permit to carry a pistol or revolver, possesses one or more firearms or possesses ammunition;

(B) Shall disclose to an employee of the Department of Children and Families information that indicates that a defendant poses a danger or threat to a child or a custodial parent of the child;

(C) May disclose to another family relations counselor, family relations counselor trainee or family services supervisor information pursuant to guidelines adopted by the Chief Court Administrator;

(D) May disclose to a bail commissioner or an intake, assessment and referral specialist employed by the Judicial Department information regarding a defendant who is on or is being considered for pretrial release;

(E) May disclose to a law enforcement agency information that indicates that a defendant poses a danger or threat to another person;

(F) May disclose, after disposition of a family violence case, to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision levels, information regarding a defendant who has been convicted and sentenced to a period of probation in the family violence case;

(G) May disclose, after a conviction in a family violence case, to a probation officer for the purpose of preparing a presentence investigation report, any information regarding the defendant that has been provided to the family relations counselor, family relations counselor trainee or family services supervisor in the case or in any other case that resulted in the conviction of the defendant;

(H) May disclose to any organization under contract with the Judicial Department to provide family violence programs and services, for the purpose of determining program and service needs, information regarding any defendant who is a client of such

organization, provided no information that personally identifies the victim may be disclosed to such organization; and

(I) Shall disclose such information as may be necessary to fulfill such counselor's, trainee's or supervisor's duty as a mandated reporter under section 17a-101a to report suspected child abuse or neglect.

(d) In all cases of family violence, a written or oral report that indicates whether the parties in the family violence case are parties to a case pending on the family relations docket of the Superior Court and includes recommendation of the local family violence intervention unit shall be available to a judge at the first court date appearance to be presented at any time during the court session on that date. A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to: (1) Issuance of a protective order pursuant to subsection (e) of this section; (2) prohibition against subjecting the victim to further violence; (3) referral to a family violence education program for persons who commit acts of family violence; and (4) immediate referral for more extensive case assessment. Such protective order shall be an order of the court, and the clerk of the court shall cause (A) a copy of such order to be sent to the victim, and (B) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency for the town in which the victim resides and, if the defendant resides in a town different from the town in which the victim resides, to the law enforcement agency for the town in which the defendant resides. If the victim is employed in a town different from the town in which the victim resides, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to the law enforcement agency for the town in which the victim is employed not later than forty-eight hours after the issuance of such order. If the victim is enrolled in a public or private elementary or secondary school, including a technical high school, or an institution of higher education, as defined in section 10a-55, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to such school or institution of higher education, the president of any institution of higher education at which the victim is enrolled and the special police force established pursuant to section 10a-156b, if any, at the institution of higher education at which the victim is enrolled.

(e) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including, but not limited to, an order enjoining the defendant from (1) imposing any restraint upon the person or liberty of the victim, (2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or (3) entering the family dwelling or the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following notification: "In accordance with section 53a-223 of the

Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than ten years, a fine of not more than ten thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release, and may result in raising the amount of bail or revoking release." Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c.

(f) The Judicial Department may establish, within available appropriations, a pilot program in three judicial districts for the purpose of using electronic monitoring in accordance with this subsection. Such pilot program shall be conducted in at least one judicial district that contains an urban area, as defined in section 4b-13, and at least one judicial district that does not contain such an urban area. Pursuant to such pilot program, the court may order that any person appearing in such judicial district who is charged with the violation of a restraining order or a protective order, and who has been determined to be a high-risk offender by the family violence intervention unit, be subject to electronic monitoring designed to warn law enforcement agencies, a state-wide information collection center and the victim when the person is within a specified distance of the victim, if the court finds that such electronic monitoring is necessary to protect the victim, provided the cost of such electronic monitoring is paid by the person who is subject to such electronic monitoring, subject to guidelines established by the Chief Court Administrator. If the court orders that such person be subject to electronic monitoring, the clerk of the court shall send, by facsimile or other means, a copy of the order, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the person resides. The Judicial Department shall cease operation of any pilot program established under this subsection not later than March 31, 2011, unless resources are available to continue operation of the pilot program. On and after July 1, 2012, the Judicial Department may resume operation of the pilot program, within available resources, and may operate such pilot program in one or more additional judicial districts, within such available resources.

(g) (1) In cases referred to the local family violence intervention unit, it shall be the function of the unit to (A) identify victim service needs, (B) assess offenders for the purpose of identifying appropriate services, (C) monitor compliance with program requirements by offenders who are allowed to participate in the pretrial family violence education program described in subsection (h) of this section, and (D) monitor offenders who have been referred to pretrial services or programs.

(2) The Judicial Department may contract with victim service providers to make available, either directly or through referral, appropriate services that include, but are not limited to, the provision of trauma-informed care, as defined in subsection (d) of section 46b-38b.

(3) The Judicial Department may contract with service providers to provide domestic violence offender treatment programs for offenders referred by the court. Such treatment programs shall comply with the domestic violence offender program standards promulgated under section 46b-38*l*. The provisions of this subdivision shall not apply to the pretrial family violence education program described in subsection (h) of this section.

(h) (1) There shall be a pretrial family violence education program for persons who are charged with family violence crimes. At a minimum, such program shall inform participants of the basic elements of family violence law and applicable penalties. The court may, in its discretion, invoke such program on motion of the defendant when it finds: (A) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986; (B) the defendant has not had a previous case assigned to the family violence education program; (C) the defendant has not previously invoked or accepted accelerated rehabilitation under section 54-56e for a family violence crime which occurred on or after October 1, 1986; and (D) that the defendant is not charged with a class A, class B or class C felony, or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony, an unclassified offense carrying a term of imprisonment of more than five years or an offense that involved the infliction of serious physical injury, as defined in section 53a-3. Participation by any person in the accelerated pretrial rehabilitation program under section 54-56e prior to October 1, 1986, shall not prohibit eligibility of such person for the pretrial family violence education program under this section. The court may require that the defendant answer such questions under oath, in open court or before any person designated by the clerk and duly authorized to administer oaths, under the penalties of perjury as will assist the court in making these findings.

(2) The court, on such motion, may refer the defendant to the family violence intervention unit, and may continue the defendant's case pending the submission of the report of the unit to the court. The court shall also give notice to the victim or victims that the defendant has requested assignment to the family violence education program, and, where possible, give the victim or victims opportunity to be heard. Any defendant who accepts placement in the family violence education program shall agree to the tolling of any statute of limitations with respect to the crime or crimes with which the defendant is charged, and to a waiver of the defendant's right to a speedy trial. Any such defendant shall appear in court and shall be released to the custody of the family violence intervention unit for such period, not exceeding two years, and under such conditions as the court shall order. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. If the defendant satisfactorily completes the family violence education program and complies with the conditions imposed for the period set by the court, the defendant may apply for dismissal of the

charges against the defendant and the court, on finding satisfactory compliance, shall dismiss such charges.

(3) Upon dismissal of charges under this subsection, all records of such charges shall be erased pursuant to section 54-142a.

(i) A nonrefundable application fee of one hundred dollars shall be paid to the court by any person who files a motion pursuant to subdivision (1) of subsection (h) of this section to participate in the pretrial family violence education program, and a fee of three hundred dollars shall be paid to the court by any person who enters the family violence education program, except that no person shall be excluded from such program for inability to pay any such fee, provided (1) the person files with the court an affidavit of indigency or inability to pay, and (2) the court enters a finding thereof. All such fees shall be credited to the General Fund.

(j) The Judicial Department shall establish an ongoing training program for judges, Court Support Services Division personnel, guardians ad litem and clerks to inform them about the policies and procedures of sections 46b-1, 46b-15, 46b-38a to 46b-38f, inclusive, and 54-1g, including, but not limited to, the function of the family violence intervention units and the use of restraining and protective orders. Such training program shall include an examination of the factors that contribute to a family being at risk for episodes of domestic violence within the family. The Judicial Branch may consult with organizations that advocate on behalf of victims of domestic violence in order to ensure that the training includes information on the unique characteristics of family violence crimes.

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2018 Legislative Proposal - #7

AN ACT CONCERNING DIVERSIONARY PROGRAMS

Purpose: *To clarify that application and program fees required by statute for certain pretrial diversionary programs and probation are waived for persons with court appointed counsel in criminal proceedings.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. (NEW) (*Effective from passage*) **(A) The court shall waive all application, program, administration and/or participation fees pertaining to the following for any person for whom the court has appointed counsel pursuant to section 51-296 of the general statutes:**

(1) The community service labor program established pursuant to section 53a-39c of the general statutes;

(2) The pretrial program for accelerated rehabilitation established pursuant to section 54-56e of the general statutes;

(3) The pretrial alcohol education program established pursuant to section 54-56g of the general statutes;

(4) The pretrial drug education and community service program established pursuant to section 54-56i of the general statutes;

(5) The school violence prevention program established pursuant to section 54-56j of the general statutes;

(6) The pretrial family violence education program established pursuant to section 46b-38c of the general statutes;

(7) An examination for alcohol or drug dependency conducted pursuant to section 17a-694 of the general statutes;

(8) Upon the granting of a motion for suspension of prosecution and order of treatment for alcohol or drug dependency pursuant to section 17b-696 of the general statutes; and

(9) A sentence of probation including any and all program fees for any person sentenced to a period of probation, including juvenile and youthful offender probation sentences.

SECTION 2. (New) (*Effective from passage*) The court may not, as a condition of waiving fees required pursuant to any of the programs and probation as articulated in Section 1, require that a person determined indigent and eligible for representation pursuant to section 51-296 and who has been appointed counsel, complete a program of community service.

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2018 Legislative Proposal - #8

AN ACT CONCERNING CONSTITUTIONALLY REQUIRED SERVICES AND THE RIGHT TO COUNSEL

Purpose: *To protect funding for the constitutional right to counsel for indigent persons.*

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SECTION 1. (NEW) (Effective July 1, 2018) **The Division of Public Defender Services in the judicial branch of government may include in the estimates of expenditure requirements transmitted pursuant to section 4-77, and the governor may include in the governor's recommended appropriations in the budget document transmitted to the general assembly pursuant to section 4-71, an estimate of the amount required by said agency for expenditures related to the continued provision of constitutionally required services.**

SECTION 2. Sec. 4-85 *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) Before an appropriation becomes available for expenditure, each budgeted agency shall submit to the Governor through the Secretary of the Office of Policy and Management, not less than twenty days before the beginning of the fiscal year for which such appropriation was made, a requisition for the allotment of the amount estimated to be necessary to carry out the purposes of such appropriation during each quarter of such fiscal year. Commencing with the fiscal year ending June 30, 2011, the initial allotment requisition for each line item appropriated to the legislative branch and to the judicial

branch for any fiscal year shall be based upon the amount appropriated to such line item for such fiscal year minus any amount of budgeted reductions to be achieved by such branch for such fiscal year pursuant to subsection (c) of section 2-35. Appropriations for capital outlays may be allotted in any manner the Governor deems advisable. Such requisition shall contain any further information required by the Secretary of the Office of Policy and Management. The Governor shall approve such requisitions, subject to the provisions of subsection (b) of this section.

(b) Any allotment requisition and any allotment in force shall be subject to the following: (1) If the Governor determines that due to a change in circumstances since the budget was adopted certain reductions should be made in allotment requisitions or allotments in force or that estimated budget resources during the fiscal year will be insufficient to finance all appropriations in full, the Governor may modify such allotment requisitions or allotments in force to the extent the Governor deems necessary. Before such modifications are effected the Governor shall file a report with the joint standing committee having cognizance of matters relating to appropriations and the budgets of state agencies and the joint standing committee having cognizance of matters relating to state finance, revenue and bonding describing the change in circumstances which makes it necessary that certain reductions should be made or the basis for his determination that estimated budget resources will be insufficient to finance all appropriations in full. (2) If the cumulative monthly financial statement issued by the Comptroller pursuant to section 3-115 includes a projected General Fund deficit greater than one per cent of the total of General Fund appropriations, the Governor, within thirty days following the issuance of such statement, shall file a report with such joint standing committees, including a plan which he shall implement to modify such allotments to the extent necessary to prevent a deficit. No modification of an allotment requisition or an allotment in force made by the Governor pursuant to this subsection shall result in a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation, except such limitations shall not apply in time of war, invasion or emergency caused by natural disaster.

(c) If a plan submitted in accordance with subsection (b) of this section indicates that a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation is required to prevent a deficit, the Governor may request that the Finance Advisory Committee approve any such reduction, provided any modification which would result in a reduction of more than five per cent of total appropriations shall require the approval of the General Assembly.

(d) The secretary shall submit copies of allotment requisitions thus approved or modified or allotments in force thus modified, with the reasons for any modifications, to the administrative heads of the budgeted agencies concerned, to the Comptroller and to the joint standing committee of the General Assembly having cognizance of appropriations and matters relating to the budgets of state agencies, through the Office of Fiscal Analysis. The Comptroller shall set up such allotments on the Comptroller's books and be governed thereby in the control of expenditures of budgeted agencies.

(e) The provisions of this section shall not be construed to authorize the Governor to reduce allotment requisitions or allotments in force concerning (1) aid to municipalities; or (2) any budgeted agency of the legislative or judicial branch, except that the Governor may propose an aggregate allotment reduction of a specified amount in accordance with this section for the legislative or judicial branch. If the Governor proposes to reduce allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch, the Secretary of the Office of Policy and Management shall, at least five days before the effective date of such proposed reductions, notify the president pro tempore of the Senate and the speaker of the House of Representatives of any such proposal affecting the legislative branch and the Chief Justice of any such proposal affecting the judicial branch **and the Chief Public Defender of any such proposal affecting the Division of Public Defender Services**. Such notification shall include the amounts, effective dates and reasons necessitating the proposed reductions. Not later than three days after receipt of such notification, the president pro tempore or the speaker, or both, or the Chief Justice **and the Chief Public Defender of the Division of Public Defender Services**, as appropriate, may notify the Secretary of the Office of Policy and Management and the chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, in writing, of any objection to the proposed reductions. The committee may hold a public hearing on such proposed reductions. Such proposed reductions shall become effective unless they are rejected by a two-thirds vote of the members of the committee not later than fifteen days after receipt of the notification of objection to the proposed reductions. If the committee rejects such proposed reductions, the Secretary of the Office of Policy and Management shall present an alternative plan to achieve such reductions to the president pro tempore and the speaker for any such proposal affecting the legislative branch or to the Chief Justice **and the Chief Public Defender of the Division of Public Defender Services** for any such proposal affecting the judicial branch. If proposed reductions in allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch are not rejected, such reductions shall be achieved as determined by the Joint Committee on Legislative Management or the Chief Justice **and the Chief Public Defender of the Division of Public Defender Services,** as appropriate. The Joint Committee on Legislative Management or the Chief Justice **and the Chief Public Defender of the Division of Public Defender Services,** as appropriate, shall submit such reductions to the Governor through the Secretary of the Office of Policy and Management not later than ten days after the proposed reductions become effective.

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2018 Legislative Proposal - #9

AN ACT CONCERNING THE RIGHT TO COUNSEL

Purpose: *To provide for counsel in interests of justice proceedings.*

SECTION 1. *Section 46b-136 of the general statutes as amended is repealed and the following is substituted in lieu thereof:*

In any proceeding in a juvenile matter, the judge before whom such proceeding is pending shall, even in the absence of a request to do so, provide an attorney to represent the child or youth, the child's or youth's parent or parents or guardian, or other person having control of the child or youth, if such judge determines that the interests of justice so require, and in any proceeding in which the custody of a child is at issue, such judge shall provide an attorney to represent the child and may authorize such attorney or appoint another attorney to represent such child or youth, parent, guardian or other person on an appeal from a decision in such proceeding. **All costs for the appointment of counsel shall be incurred by the judicial department.** Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the court shall assess as costs against such parents, guardian or custodian, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the ~~Division of Public Defender Services~~ **Judicial Department** in providing such counsel, to the extent of their financial ability to do so. The **Chief Court Administrator** ~~Division of Public Defender Services~~ shall establish the rate at which counsel provided pursuant to this section shall be compensated.

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2018 Legislative Proposal - #10

AN ACT CONCERNING STATEMENTS BY JUVENILES AND THE FAIR SENTENCING OF CHILDREN AND YOUTH

Purpose: *To protect all children under the age of 18 regardless of the court's jurisdiction, from undue influence by adults in authority in the absence of a parent or guardian and to ensure fair and equitable sentencing and treatment of children adjudicated delinquent and sentenced to commitment.*

SECTION 1. *Section 46b-137 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):*

(a) Any admission, confession or statement, written or oral, made by a child under the age of [~~sixteen~~] eighteen to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the [~~alleged delinquency of the~~] child making such admission, confession or statement unless made by such child in the presence of the child's parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements, and (3) that any statements the child makes may be introduced into evidence against the child.

~~[(b) Any admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer or Juvenile Court official, except an admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer in connection with a case transferred to the Juvenile Court from the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters, shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement, unless (1) the police or Juvenile Court official has made reasonable efforts to contact a parent or guardian of the child, and (2) such child has been advised that (A) the child has the right to contact a parent or guardian and to have a parent or guardian present during any interview, (B) the child has the right to retain counsel or, if unable to afford counsel, to have counsel appointed on behalf of the child, (C) the child has the right to refuse to make any statement, and (D) any statement the child makes may be introduced into evidence against the child.]~~

~~[(c) The admissibility of any admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer or Juvenile Court official, except an admission, confession or statement, written or oral, made by a child sixteen or seventeen years of age to a police officer in connection with a case transferred to the Juvenile Court from the youthful offender docket, regular criminal docket of the Superior Court or any docket for the presentment of defendants in motor vehicle matters, shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement. When determining the admissibility of such admission, confession or statement, the court shall consider (1) the age, experience, education, background and intelligence of the child, (2) the capacity of the child to understand the advice concerning rights and warnings required under subdivision (2) of subsection (b) of this section, the nature of the privilege against self-incrimination under the United States and Connecticut Constitutions, and the consequences of waiving such rights and privilege, (3) the opportunity the child had to speak with a parent, guardian or some other suitable individual prior to or while making such admission, confession or statement, and (4) the circumstances surrounding the making of the admission, confession or statement, including, but not limited to, (A) when and where the admission, confession or statement was made, (B) the reasonableness of proceeding, or the need to proceed, without a parent or guardian present, and (C) the reasonableness of efforts by the police or Juvenile Court official to attempt to contact a parent or guardian.]~~

~~[(d)]~~ (b) Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, uncared for or abused shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of the person's right to retain counsel, and that if the person is unable to afford counsel, counsel will be appointed to represent the person, that the person has a right to refuse to make any statement and that any statements the person makes may be introduced in evidence against the person,

except that any statement made by the mother of any child or youth, upon inquiry by the court and under oath if necessary, as to the identity of any person who might be the father of the child or youth shall not be inadmissible if the mother was not so advised.

SECTION 2. *Subsection (a) of section 46b-141 of the general statutes is repealed and the following is substituted herewith. (Effective upon passage.)*

(a) (1) Except as otherwise limited by subsection (i) of section 46b-140 and subdivision (2) of this subsection, commitment of children convicted as delinquent by the Superior Court to the Department of Children and Families shall be for (A) an indeterminate time up to a maximum of eighteen months, or (B) when so convicted for a serious juvenile offense, up to a maximum of four years at the discretion of the court, unless extended as hereinafter provided. **Whenever a child or youth is ordered committed as delinquent or placed on probation pursuant to this subsection the commitment or period of probation shall be deemed to begin on the date the child is adjudicated delinquent**.

(2) Commitment of children convicted as delinquent by the Superior Court to the Department of Children and Families shall terminate when the child attains the age of twenty.