



# Dannel P. Malloy

GOVERNOR  
STATE OF CONNECTICUT

March 28, 2018

Sen. John R. Kissel  
Sen. Paul R. Doyle  
Rep. William Tong  
Rep. Rosa C. Rebimbas

Judiciary Committee  
Legislative Office Building, Room 2500  
Hartford CT 06106

Re: Testimony from Governor Dannel P. Malloy in support of:

- SB 13: AAC Fair Treatment of Incarcerated Women
- SB 14 AAC Special Parole for High-Risk, Violent and Sexual Offenders
- HB 5040: AAC Adjudication of Certain Young Adults in Juvenile Court
- HB 5041: AAC The Transfer of Juvenile Services from the Department of Children and Families to the Court Support Services Division of the Judicial Branch
- HB 5042: AAC Prosecution of Low-Risk Young Offenders in Adult Court

Senator Kissel, Senator Doyle, Representative Tong, Representative Rebimbas and distinguished members of the Judiciary Committee. People who are involved in the criminal justice system deserve to be treated with dignity, respect, and humanity. Thank you for the opportunity to provide testimony on these five proposals which seek to address fairness for young adults, women, and men in various stages of involvement with the criminal justice system.

My belief in in second chances is well documented. Unfortunately, all too often a young person's opportunity at a genuine second chance is unfairly derailed before they're even old enough to purchase alcohol or rent a car. I have consistently advocated that

young adults aged 18, 19, and 20 should be treated differently from older offenders. Recent decisions by the United State Supreme Court and scientific studies regarding the development of the brain areas involved in reasoning and self-control indicate that individuals age 18, 19, and 20 share numerous similarities to those in the 16 and 17 year old age group. This year, I am proposing two bills to ensure that our laws align with these established scientific findings: **HB 5040: AAC Adjudication of Certain Young Adults in Juvenile Court**, and **HB 5042: AAC Prosecution of Low-Risk Young Offenders in Adult Court**.

**HB 5040: AAC Adjudication of Certain Young Adults in Juvenile Court** (aka "Raise the Age"), seeks to expand the jurisdiction of the juvenile court to allow cases involving 18 to 20 year olds to start in the same court as those younger than 17, while allowing the courts to have discretion over transfers for certain crimes. For those cases where 18, 19, 20 year olds are in adult court, I have introduced **HB 5042: AAC Prosecution of Low-Risk Young Offenders in Adult Court** (aka "Youthful Offender"). It would offer those young adults whose cases are in *adult court* some of the same protections given to minors against the lifelong stigma of having a public record of arrest. Under current policies, more than 85% of the cases coming into the court involving 18, 19 and 20 year olds are disposed without the defendant receiving even 1 day in jail.

These two proposals seek to provide Connecticut's young adults with a fair second chance at a successful life. We can ensure that young adults who have not fully matured are not branded for the rest of their lives by mistakes they made while they were young. While attempting to reduce crime and recidivism, we also have to address conditions of those who are incarcerated.

Women face unique barriers throughout their lives, and incarcerated women are no different. **S.B. 13, AAC Fair Treatment for Incarcerated Women** addresses several issues unique to this population in an effort to help reduce recidivism among female inmates. This proposal will ensure incarcerated women who are pregnant are provided with counseling and written materials, receive appropriate medical care throughout, and after, their pregnancy, and would prohibit the inhumane practice of shackling during labor. Additionally, my proposal will ensure all women receive feminine hygiene products at no cost, and will ensure that staff are properly trained in gender-specific and trauma-related issues faced by female inmates. S.B. 13 will ensure women are treated with dignity and fairness.

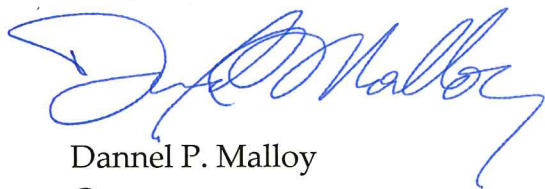
For some, additional supervision may be required after incarceration. Keeping public safety in mind, we have to ensure that post-incarceration supervision is fair and not disproportionately restrictive to an individuals' success.

In the late 1990s, the legislature created “special parole,” a sentencing option which permitted judges to mandate post-release supervision for defendants receiving a prison sentence of more than two years to serve. The specific goal was to make sure that dangerous, high-risk, violent and sexual offenders were not released directly from prison to the street without supervision. Over time, however, special parole has become increasingly used in a broader array of circumstances above and beyond what the legislature contemplated. To that end, I have introduced **S.B. 14 AAC Special Parole for High-Risk, Violent and Sexual Offenders** to restore fairness in the use of special parole sentencing.

Finally, Public Act 17-2, which passed during the June 2017 Special Session, transferred \$17.7 million in FY 2019 funding from DCF’s budget to the Judicial Department’s budget to reflect CSSD’s assumption of the responsibility for adjudicated youth on and after July 1, 2018. There are currently two pieces of legislation before the Judiciary committee to implement this transfer. Our bill, **HB 5041 AAC The Transfer of Juvenile Services from the Department of Children and Families to the Court Support Services Division of the Judicial Branch**, implements the mandates of PA 17-2 JSS in various statutes throughout Title 17, and Sections 10 through 35 of HB 5562, AA Implementing the Recommendations of the Juvenile Justice Policy and Oversight Committee, implements the mandate in Title 46b. All of the key stakeholders in this transition – DCF, OPM, the Judicial Branch / CSSD, the Office of the Chief Public Defender and the Office of the Chief State’s Attorney – have been meeting and working together collaboratively on the legislative changes necessary to implement this transfer, and we anticipate that these two bills will be consolidated into one, and that proposed substitute language will be submitted to the committee.

Attached, you will find proposed substitute language for my proposals, drafted pursuant to conversations with stakeholders. We are ready, willing, and able to continue working with the legislature and stakeholders on these criminal justice proposals. Together, we have made Connecticut a safer and fairer place. Thank you for the opportunity to provide testimony to you today, and thank you for your continued partnership.

Best,



Dannel P. Malloy  
Governor

**SB 13, AAC Fair Treatment of Incarcerated Women**

**Proposed Substitute Language**

**We propose adding the following NEW language to Section 1 of the bill:**

If a departmental or contracted, licensed health care provider trained in prenatal medical care or any other health care professional who evaluates or treats any pregnant inmate determines that the pregnancy is high-risk or may have any medical complication for either the inmate mother or their babies, the inmate mother shall be immediately transferred to the medical infirmary setting or any hospital deemed appropriate as determined by said licensed health care provider.

**S.B. 14, AN ACT CONCERNING SPECIAL PAROLE FOR HIGH-RISK, VIOLENT  
AND SEXUAL OFFENDERS**

**Proposed Substitute Language**

**We propose removing and replacing current language of S.B. 14 with the following:**

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

Section 1. Subsection (b) of section 53a-28 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):

(b) Except as provided in section 53a-46a, when a person is convicted of an offense, the court shall impose one of the following sentences: (1) A term of imprisonment; or (2) a sentence authorized by section 18-65a or 18-73; or (3) a fine; or (4) a term of imprisonment and a fine; or (5) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a period of probation or a period of conditional discharge; or (6) a term of imprisonment, with the execution of such sentence of imprisonment suspended, entirely or after a period set by the court, and a fine and a period of probation or a period of conditional discharge; or (7) a fine and a sentence authorized by section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or (9) a term of imprisonment and a period of special parole as provided in section 54-125e, except that the court shall not impose a period of special parole for convictions of offenses under chapter 420b.

Section 2. Subsection (b) of section 54-125e of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):

(b)(1) A court shall not impose a period of special parole unless it determines, based on the nature and circumstances of the offense, the defendant's prior criminal record and the defendant's history of performance on probation or parole, that such period of special parole is necessary to ensure public safety and (2) the court may recommend that such person comply with any or all of the requirements of subsection (a) of section 53a-30. The court shall cause a copy of any such recommendation to be delivered to such person and to the Department of Correction. The Board of Pardons and Paroles may require that such person comply with the requirements of subsection (a) of section 53a-30 which the court recommended. Any person sentenced to a period of special parole shall also be subject to such rules and conditions as may be established by the Board of Pardons and Paroles or its chairperson pursuant to section 54-126.

Section. 3. Section 54-129 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2018):

If it appears to the appropriate panel of the Board of Pardons and Paroles that any convict or inmate on parole or eligible for parole or on special parole will lead an orderly life, said panel, by a unanimous vote of all the members present at any regular meeting [thereof] of the panel, may declare such convict or inmate discharged from the custody of the Commissioner of Correction and shall thereupon deliver to him a written certificate to that effect under the seal of the Board of Pardons and Paroles and signed by its chairman and the commissioner.

**HB 5042, AN ACT CONCERNING PROSECUTION OF LOW-RISK YOUNG  
OFFENDERS IN ADULT COURT**

**Proposed Substitute Language**

**We propose adding the highlighted language to H.B. 5042:**

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

Section 1. Section 54-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) For the purposes of [sections 54-76b to 54-76n, inclusive] this section and sections 54-76c to 54-76q, inclusive, as amended by this act:

(1) "Youth" means (A) a [minor who has reached the age of sixteen years but has not reached the age of eighteen years] person who is fifteen years of age or older but under twenty-one years of age at the time of the alleged offense, or (B) a [child] person who has been transferred to the regular criminal docket of the Superior Court pursuant to section 46b-127; and

(2) "Youthful offender" means a youth who (A) is charged with the commission of a crime which is not a class A felony or a violation of section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224, section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving consensual sexual intercourse or sexual contact between [the youth] a person who is fifteen years of age or older but under eighteen years of age and another person who is thirteen years of age or older but under sixteen years of age, and (B) has not previously been convicted of a felony in the regular criminal docket of the Superior Court or been previously adjudged a serious juvenile offender or serious juvenile repeat offender, as defined in section 46b-120.

(b) The Interstate Compact for Adult Offender Supervision under section 54-133 shall apply to youthful offenders.

Sec. 2. Subsection (b) of section 54-76c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) (1) Upon motion of the prosecuting official and order of the court, the case of any defendant who is a youth and is charged with the commission of a felony, other than a felony set forth in subsection (a) of this section, shall be transferred from the youthful

offender docket to the regular criminal docket of the Superior Court, provided the court finds that there is probable cause to believe the defendant has committed the act for which he or she is charged. The defendant shall be arraigned in the regular criminal docket of the Superior Court by the next court business day following such transfer, provided any proceedings held prior to the finalization of such transfer in which the defendant is under eighteen years of age shall be private and shall be conducted in such parts of the courthouse or the building wherein court is located as shall be separate and apart from the other parts of the court which are then being held for proceedings pertaining to adults charged with crimes. The file of any case so transferred shall remain sealed until the end of the tenth working day following such arraignment, unless the prosecuting official has filed a motion pursuant to subdivision (2) of this subsection, in which case such file shall remain sealed until the court makes a decision on the motion.

(2) A prosecuting official may, not later than ten working days after such arraignment, file a motion to transfer the case of any defendant who is a youth and is charged with the commission of a felony, other than a felony set forth in subsection (a) of this section, from the regular criminal docket of the Superior Court to the youthful offender docket for proceedings in accordance with the provisions of sections 54-76b to 54-76n, inclusive, as amended by this act. The court sitting for the regular criminal docket of the Superior Court shall, after hearing and not later than ten working days after the filing of such motion, decide such motion.

Sec. 3. Subsection (a) of section 54-76h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) All of the proceedings had under the provisions of sections 54-76b to 54-76n, inclusive, as amended by this act, in which the defendant is under eighteen years of age at the time of the offense, shall be private and [shall be] conducted in such parts of the courthouse or the building [wherein] in which the court is located [as shall be] that are separate and apart from [the other parts] any other part of the court [which are] that is then being held for proceedings pertaining to adults charged with crimes. If the defendant is committed while any examination and investigation under section 54-76d is pending, before trial, during trial or after judgment and before sentence, those persons in charge of the place of detention shall segregate the defendant, to the extent of their facilities, from defendants over the age of eighteen years charged with crime.

Sec. 4. Subsection (b) of section 54-76j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) If execution of the sentence is suspended under subdivision (6) of subsection (a) of this section, the defendant may be placed on probation or conditional discharge for a period not to exceed three years, provided, at any time during the period of probation,



after hearing and for good cause shown, the court may extend the period as deemed appropriate by the court. If the court places [the] a person who is under eighteen years of age at the time of the offense and who is adjudicated to be a youthful offender on probation, the court may order that, as a condition of such probation, [the] such person be referred for services to a youth service bureau established pursuant to section 10-19m, provided the court finds, through an assessment by a youth service bureau or its designee, that [the] such person is in need of and likely to benefit from such services. If the court places [a] such youthful offender on probation, school and class attendance on a regular basis and satisfactory compliance with school policies on student conduct and discipline may be a condition of such probation and, in such a case, failure to so attend or comply shall be a violation of probation. If the court has reason to believe that the person adjudicated to be a youthful offender is or has been an unlawful user of narcotic drugs, as defined in section 21a-240, and the court places such youthful offender on probation, the conditions of probation, among other things, shall include a requirement that such person shall submit to periodic tests to determine, by the use of "synthetic opiate antinarcotic in action", nalline test or other detection tests, at a hospital or other facility, equipped to make such tests, whether such person is using narcotic drugs. A failure to report for such tests or a determination that such person is unlawfully using narcotic drugs shall constitute a violation of probation. If the court places a person adjudicated as a youthful offender for a violation of section 53-247 on probation, the court may order that, as a condition of such probation, the person undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program, provided such a program exists and is available to the person.

Sec. 5. Subsection (a) of section 54-76l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The records or other information of a youth, other than a youth [arrested for or] charged with the commission of a crime which is a class A felony or a violation of section 14-222a, subsection (a) or subdivision (1) of subsection (b) of section 14-224, section 14-227a, 14-227g or 14-227m, subdivision (1) or (2) of subsection (a) of section 14-227n, subdivision (2) of subsection (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation involving consensual sexual intercourse or sexual contact between [the youth] a person who is fifteen years of age or older but under eighteen years of age and another person who is thirteen years of age or older but under sixteen years of age, including fingerprints, photographs and physical descriptions, shall be confidential and shall not be open to public inspection or be disclosed except as provided in this section, but such fingerprints, photographs and physical descriptions submitted to the State Police Bureau of Identification of the Division of State Police within the Department of Emergency Services and Public Protection at the time of the arrest of a person subsequently adjudged, or subsequently presumed or determined to be eligible to be adjudged, a youthful offender shall be retained as confidential matter in the files of the bureau and be opened to inspection

only as provided in this section. Other data ordinarily received by the bureau, with regard to persons arrested for a crime, shall be forwarded to the bureau to be filed, in addition to such fingerprints, photographs and physical descriptions, and be retained in the division as confidential information, open to inspection only as provided in this section.

Sec. 6. Section 54-760 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

Whenever any person has been adjudicated a youthful offender and has subsequently been discharged from the supervision of the court or from the care of any institution or agency to whom [he] such person has been committed by the court, all police and court records pertaining to such youthful offender shall be automatically erased [when such person attains twenty-one years of age] four years after such person was sentenced as a youthful offender, provided such person has not subsequent to being adjudged a youthful offender been convicted of a felony, as defined in section 53a-25, prior to attaining such age. Youthful offender status shall not be deemed conviction of a crime for the purposes of this section. Upon the entry of such an erasure order, all references including arrest, complaint, referrals, petitions, reports and orders, shall be removed from all agency, official and institutional files. The persons in charge of such records shall not disclose to any person, except the subject of the record, upon submission of satisfactory proof of the subject's identity in accordance with guidelines prescribed by the Chief Court Administrator, information pertaining to the record so erased. No [youth] person who has been the subject of such an erasure order shall be deemed to have been arrested ab initio, within the meaning of the general statutes, with respect to proceedings so erased. Copies of the erasure order shall be sent to all persons, agencies, officials or institutions known to have information pertaining to the proceedings affecting such [youth] person.

**HB 5040, AN ACT CONCERNING ADJUDICATION OF CERTAIN YOUNG  
ADULTS IN JUVENILE COURT**

**Proposed Substitute Language**

**We propose adding the following NEW Section to H.B. 5040:**

Sec. 31. Subdivision (4) of subsection (a) of section 54-210 is repealed and the following is substituted in lieu thereof:

(a) The Office of Victim Services or a victim compensation commissioner may order the payment of compensation under sections 54-201 to 54-218, inclusive, as amended by this act, for: (1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim, provided coverage for the cost of medical care and treatment of a crime victim who does not have medical insurance or who has exhausted coverage under applicable health insurance policies or Medicaid shall be ordered; (2) loss of earning power as a result of total or partial incapacity of such victim; (3) pecuniary loss to the spouse or dependents of the deceased victim, provided the family qualifies for compensation as a result of murder or manslaughter of the victim; (4) pecuniary loss to an injured victim or the relatives or dependents of an injured victim or a deceased victim for attendance at court proceedings with respect to the criminal case or delinquency proceeding of the person or persons charged with committing the crime that resulted in the injury or death of the victim; (5) loss of wages by any parent or guardian of a deceased victim, provided the amount paid under this subsection shall not exceed one week's net wage; and (6) any other loss, except as set forth in section 54211, as amended by this act, resulting from the personal injury or death of the victim which the Office of Victim Services or a victim compensation commissioner, as the case may be, determines to be reasonable.

(b) Payment of compensation under sections 54-201 to 54-218, inclusive, as amended by this act, may be made to a person who is a recipient of public assistance or state-administered general assistance for necessary and reasonable expenses related to injuries resulting from a crime and not provided for by the income assistance program in which such person is a participant. Unless required by federal law, no such payment shall be considered an asset for purposes of eligibility for such assistance.

**HB 5041, AN ACT CONCERNING THE TRANSFER OF JUVENILE SERVICES  
FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE COURT  
SUPPORT SERVICES DIVISION OF THE JUDICIAL BRANCH**

We are currently working with stakeholders on proposed substitute language.