CONNECTICUT PUBLIC DEFENDERS

2017 Legislative Package

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duties; and, (3) make a technical correction regarding the service of subpoenas to include civil cases, such as child welfare, which the Division now provides counsel for indigent persons and subpoena service is warranted.

5. An Act Concerning Jury Selection

Purpose: *To clarify the process whenever a regular or alternate juror is to be replaced.*

6. An Act Concerning Juror Statistics

Purpose: *The amendment would permit the statistical tracking of the race and ethnicity of jurors.*

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Purpose: *To raise the age of persons who are eligible for Youthful Offender status.*

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9. An Act Concerning Statements by Juveniles

Purpose: *Raise the Age legislation re-defined the age of juveniles as under 18 years. The proposed legislative change would protect all children under the age of 18 equally when giving a statement against their interests regardless of whether the juvenile is facing charges in the adult or juvenile courts.*

The proposal also is in keeping with the original purpose of the law which was to protect children from undue influence by adults in authority in the absence of a parent or guardian.

10. An Act Concerning Mandatory Minimum Sentences & Juveniles Prosecuted as Adults

Purpose: *To provide discretion to the court to depart from the*

mandatory minimum sentencing scheme in cases where a juvenile is prosecuted as an adult so that the court can 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.

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Purpose: ***To clarify the confidentiality statutes in juvenile matters.***

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Purpose: *To ensure fair and equitable sentencing and treatment of children adjudicated delinquent and sentenced to be committed to the Department o f Children and Families (DCF).*

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Purpose: ***The legislation would provide credit for a child who is held in certain facilities subsequent to adjudication as delinquent but prior to the disposition of the juvenile matter who is subsequently committed to the Department of Children and Families. The change allows for DCF to plan the most appropriate intervention for the child but allows the child to receive credit for confinement time while placement is determined.***

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2017 Legislative Proposal

AN ACT CONCERNING DEPENDENT CHILD IMPACT STATEMENTS

Purpose: *To require that a Dependent Child Impact Statement be considered by the court prior to imposing a sentence in any case in which a custodial parent may be incarcerated.*

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

(NEW) (*Effective October 1, 2017*) **(a) Prior to sentencing a defendant convicted of a criminal offense for which a sentence of imprisonment may be imposed, the court shall permit the defendant to submit a Dependent Child Impact Statement if the defendant is the parent or guardian of a minor child and has physical custody of the minor child. The judge shall consider such Dependent Child Impact Statement prior to pronouncing any sentence.**

(b) A Dependent Child 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.

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2017 Legislative Proposal

AN ACT CONCERNING BAIL

Purpose: *To prohibit the requirement of a cash or surety bond in non violent misdemeanor matters in the adult and juvenile courts.*

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

(NEW) (*Effective upon passage*) **Notwithstanding any other provision of the general statutes, a surety or cash bond shall not be imposed or required by the court in any criminal matter, regardless of whether the arrest was by warrant, in which the defendant has been charged with non-violent misdemeanors.**

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2017 Legislative Proposal

AN ACT CONCERNING DIVERSIONARY PROGRAMS

Purpose: *This proposed legislation clarifies that application and program fees required by statute for certain pre-trial diversionary programs and probation are waived for persons represented by the Division of Public Defender Services.*

In addition, the proposal would provide consistency as to the sealing of court files for offenders who are placed in certain diversionary programs.

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

Sec. 1. (NEW) (*Effective From Passage*) **(A) IF A PERSON HAS BEEN DETERMINED INDIGENT AND ELIGIBLE FOR REPRESENTATION BY A PUBLIC DEFENDER, WHO HAS BEEN APPOINTED PURSUANT TO SECTION 51-296 OF THE GENERAL STATUTES, THE COURT SHALL WAIVE ALL APPLICATION, PROGRAM, ADMINISTRATION AND/OR PARTICIPATON FEES FOR THE FOLLOWING:**

(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.

(B) NOTWITHSTANDING ANY OTHER STATUTES, UPON APPLICATION BY ANY PERSON FOR PARTICIPATION IN ANY PROGRAM ARTICULATED IN SUBSECTION A OF THIS SECTION, THE COURT SHALL, BUT ONLY AS TO THE PUBLIC, ORDER THE COURT FILE SEALED.

Sec. 2. (NEW) (*Effective from Passage*) **IF A PERSON HAS BEEN DETERMINED INDIGENT AND ELIGIBLE FOR REPRESENTATION BY A PUBLIC DEFENDER, WHO HAS BEEN APPOINTED PURSUANT TO SECTION 51-296 OF THE GENERAL STATUTES, THE COURT MAY NOT, AS A CONDITION OF WAIVING FEES PURSUANT TO SECTION 52-259B OF THE GENERAL STATUTES, REQUIRE THAT SUCH PERSON COMPLETE A PROGRAM OF COMMUNITY SERVICE.**

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2017 Legislative Proposal

AN ACT CONCERNING FEES

Purpose: *The proposed bill would: (1) prohibit the disclosure of the residential addresses of investigators employed by the Division of Public Defender Services; (2) remove the imposition of a record search and copy fee by the Department of Emergency Services and Public Protection and the Division of Public Defender Services. Currently the Division of Public Defender Services, as a Connecticut state agency, is exempt from the payment of fees under C.G.S. §29-11. The Division is also exempt from the payment of fees for freedom of information requests under subsection (d)(5) of C.G.S. 1-212. The amendment would also exempt the Division from payment of any fees for "record searches and copies" currently imposed by DESPP upon certification that the records pertain to the Division's duties; and, (3) make a technical correction regarding the service of subpoenas to include civil cases, such as child welfare, which the Division now provides counsel for indigent persons and subpoena service is warranted.*

SECTION 1. *Section 1-217 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) No public agency may disclose, under the Freedom of Information Act, from its personnel, medical or similar files, the residential address of any of the following persons employed by such public agency:

(1) A federal court judge, federal court magistrate, judge of the Superior Court, Appellate Court or Supreme Court of the state, or family support magistrate;
(2) A sworn member of a municipal police department, a sworn member of the Division of State Police within the Department of Emergency Services and Public Protection or a sworn law enforcement officer within the Department of Energy and Environmental Protection;
(3) An employee of the Department of Correction;
(4) An attorney-at-law who represents or has represented the state in a criminal prosecution;
(5) An attorney-at-law who is or has been employed by the Division of Public Defender Services or **an investigator or** a social worker who is employed by the Division of Public Defender Services;
(6) An inspector employed by the Division of Criminal Justice;
(7) A firefighter;
(8) An employee of the Department of Children and Families;
(9) A member or employee of the Board of Pardons and Paroles;

(10) An employee of the judicial branch;
(11) An employee of the Department of Mental Health and Addiction Services who provides direct care to patients; or
(12) A member or employee of the Commission on Human Rights and Opportunities.

(b) The business address of any person described in this section shall be subject to disclosure under section 1-210. The provisions of this section shall not apply to Department of Motor Vehicles records described in section 14-10.

(c) (1) Except as provided in subsections (a) and (d) of this section, no public agency may disclose the residential address of any person listed in subsection (a) of this section from any record described in subdivision (2) of this subsection that is requested in accordance with the provisions of said subdivision, regardless of whether such person is an employee of the public agency, provided such person has (A) submitted a written request for the nondisclosure of the person's residential address to the public agency, and (B) furnished his or her business address to the public agency.
(2) Any public agency that receives a request for a record subject to disclosure under this chapter where such request (A) specifically names a person who has requested that his or her address be kept confidential under subdivision (1) of this subsection, shall make a copy of the record requested to be disclosed and shall redact the copy to remove such person's residential address prior to disclosing such record, (B) is for an existing list that is derived from a readily accessible electronic database, shall make a reasonable effort to redact the residential address of any person who has requested that his or her address be kept confidential under subdivision (1) of this subsection prior to the release of such list, or (C) is for any list that the public agency voluntarily creates in response to a request for disclosure, shall make a reasonable effort to redact the residential address of any person who has requested that his or her address be kept confidential under subdivision (1) of this subsection prior to the release of such list.

(3) Except as provided in subsection (a) of this section, an agency shall not be prohibited from disclosing the residential address of any person listed in subsection (a) of this section from any record other than the records described in subparagraphs (A) to (C), inclusive, of subdivision (2) of this subsection.

(d) The provisions of this section shall not be construed to prohibit the disclosure without redaction of any document, as defined in section 7-35bb, any list prepared under title 9, or any list published under section 12-55.

(e) No public agency or public official or employee of a public agency shall be penalized for violating a provision of this section, unless such violation is wilful and knowing. Any complaint of such a violation shall be made to the Freedom of Information Commission. Upon receipt of such a complaint, the commission shall serve upon the public agency, official or employee, as the case may be, by certified or registered mail, a copy of the complaint. The commission shall provide the public agency, official or employee with an opportunity to be heard at a hearing conducted in accordance with the provisions of chapter 54, unless the commission, upon motion of the public agency, official or employee or upon motion of the commission, dismisses the complaint without a hearing if it finds, after examining the complaint and construing all allegations most favorably to the complainant, that the public agency, official or employee has not wilfully and knowingly violated a provision of this

section. If the commission finds that the public agency, official or employee wilfully and knowingly violated a provision of this section, the commission may impose against such public agency, official or employee a civil penalty of not less than twenty dollars nor more than one thousand dollars. Nothing in this section shall be construed to allow a private right of action against a public agency, public official or employee of a public agency.

SECTION 2. Section 29-10b *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

The Commissioner of Emergency Services and Public Protection shall charge the following fees for the item or service indicated:

(1) Each search of the record files made pursuant to a request for a copy of an accident or investigative report which results in no document being produced, sixteen dollars.

(2) Each copy of an accident or investigative report, sixteen dollars.

Notwithstanding this section, any such fees under (1) and (2) shall be waived when the person requesting the records is a member of the Division of Public Defender Services or an attorney appointed by the court as a Division of Public Defender Services Assigned Counsel under section 51-296 and such member or attorney certifies that the records pertain to the member's or attorney's duties.

SECTION 3. *Section 52-143 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective upon passage):*

(a) Subpoenas for witnesses shall be signed by the clerk of the court or a commissioner of the Superior Court and shall be served by an officer, indifferent person or, in any **[criminal]** case in which a defendant is represented by a public defender or Division of Public Defender Services assigned counsel, by an investigator of the Division of Public Defender Services. The subpoena shall be served not less than eighteen hours prior to the time designated for the person summoned to appear, unless the court orders otherwise.

(b) Any subpoena summoning a police officer as a witness may be served upon the chief of police or any person designated by the chief of police at the appropriate police station who shall act as the agent of the police officer named in the subpoena. Service upon the agent shall be deemed to be service upon the police officer.

(c) Any subpoena summoning a correctional officer as a witness may be served upon a person designated by the Commissioner of Correction at the correctional facility where the correctional officer is assigned who shall act as the agent of the correctional officer named in the subpoena. Service upon the agent shall be deemed to be service upon the correctional officer.

(d) Subpoenas for witnesses summoned by the state, including those issued by the Attorney General or an assistant attorney general, or by any public defender or assistant public defender acting in his official capacity may contain this statement: "Notice to the person summoned: Your statutory fees as witness will be paid by the clerk of the court where you are summoned to appear, if you give

the clerk this subpoena on the day you appear. If you do not appear in court on the day and at the time stated, or on the day and at the time to which your appearance may have been postponed or continued by order of an officer of the court, the court may order that you be arrested."

(e) If any person summoned by the state, or by the Attorney General or an assistant attorney general, or by any public defender or assistant public defender acting in his official capacity, by a subpoena containing the statement as provided in subsection (d) of this section, or if any other person upon whom a subpoena is served to appear and testify in a cause pending before any court and to whom one day's attendance and fees for traveling to court have been tendered, fails to appear and testify, without reasonable excuse, he shall be fined not more than twenty-five dollars and pay all damages to the party aggrieved; and the court or judge, on proof of the service of a subpoena containing the statement as provided in subsection (d) of this section, or on proof of the service of a subpoena and the tender of such fees, may issue a capias directed to some proper officer to arrest the witness and bring him before the court to testify.

(f) Any subpoena summoning a physician as a witness may be served upon the office manager or person in charge at the office or principal place of business of such physician who shall act as the agent of the physician named in the subpoena. Service upon the agent shall be deemed to be service upon the physician.

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2017 Legislative Proposal
AN ACT CONCERNING JUROR SELECTION

Purpose: *To clarify the process whenever a regular or alternate juror is to be replaced.*

SECTION 1. Subsection (c) of Sec. 54-82h *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):*

(c) Alternate jurors shall attend at all times upon trial of the cause. They shall be seated when the case is on trial with or near the jurors constituting the regular panel, with equal opportunity to see and hear all matters adduced in the trial of the case.

(1) If, at any time, **prior to the administering of the juror's oath set forth in section 1-25,** any **regular or alternate** juror shall, for any reason, become unable to further perform the duty of a juror, the court may excuse such **regular or alternate** juror and, if any such regular or alternate juror is so excused or dies, the regular juror or the alternate juror who had been selected next after the excused or deceased juror had been selected will fill the position of said excused or deceased juror and each subsequently selected regular or alternative juror will fill the position of the juror chosen immediately prior to his or her selection.

(2) If, at any time after the administering of the jurors' oath set forth in sections 1-25, any regular juror shall, for any reason, become unable to further perform the duty of a juror, the court may excuse such juror and, if any juror is so excused or dies, the court may order that an alternate juror who is designated by lot to be drawn by the clerk shall become a part of the regular panel and the trial or deliberation shall then proceed with appropriate instructions from the court as though such juror had been a member of the regular panel from the time when the trial or deliberation began.

If the alternate juror becomes a member of the regular panel after deliberations began, the jury shall be instructed by the court that deliberations by the jury shall begin anew. A juror who has been selected to serve as an alternate shall not be segregated from the regular panel except when the case is given to the regular panel for deliberation at which time such alternate juror may be dismissed from further service on said case or may remain in service under the direction of the court.

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2017 Legislative Proposal

AN ACT CONCERNING JURORS

Purpose: *To permit 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, 2017):*

(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 juror 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 thejuror 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 therefore. 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.

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AN ACT CONCERNING YOUTHFUL OFFENDERS

Purpose: *To raise the age of persons who are eligible for Youthful Offender status.*

SECTION 1. Sec. 54-76b *of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):*

(a) For the purposes of sections 54-76b to 54-76n, inclusive:

(1) "Youth" means (A) a [minor] **person** who has reached the age of sixteen years but has not reached the age of [eighteen] **twenty-two** years 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 or 14-227g, section 1 of public act 16-126, subdivision (1) or (2) of subsection (a) of section 2 of public act 16-126, 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 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.

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AN ACT CONCERNING THE RESTORATION OF A LICENSE

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

SECTION 1. *Be it enacted by the Senate and House of Representatives in General Assembly convened:*

Notwithstanding any other statute, in cases where an indigent person did not install an ignition interlock device, the period of time for which a motor vehicle license shall be suspended for a violation of C.G.S.. §14-227a or 14-227b, shall not exceed the total suspension time period for a license of a person who did install an ignition interlock device.

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2017 Legislative Proposal

AN ACT CONCERNING STATEMENTS BY JUVENILES

Purpose: *The statute currently applies to children under the age of 16. Raise the Age legislation re-defined the age of juveniles as under 18 years. The proposed legislative change would protect all children under the age of 18 regardless of the court's jurisdiction. It would also be in keeping with the original purpose of the law which was to protect children from undue influence by adults in authority in the absence of a parent or guardian.*

SECTION 1. *Section 46b-137 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):*

(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.

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2017 Legislative Proposal

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 science development 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:

(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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2017 Legislative Proposal

AN ACT CONCERNING THE APPOINTMENT OF COUNSEL IN JUVENILE MATTERS

Purpose: *To ensure that counsel paid for by the Public Defender Services Commission are appropriately allocated to indigent persons.*

Section 46b-136 of the general statues is repealed and the following substituted herewith, (Effective upon passage). Appointment of Attorney to Represent Child or Youth and Parent or Guardian.

(a) 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**.** If the child's or youth's parent or parents or guardian, or other person having control of the child or youth **requests that counsel be appointed and the parent or parents or guardian are indigent according to the Income Eligibility Guidelines and Financial Eligibility Policies adopted by the Public Defender Services Commission, such judge may order that counsel be provided to represent the 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. **Any attorney appointed for a child shall be required to represent the child or youth in accordance with the Connecticut Rules of Practice and the policies of the Division of Public Defender Services.**

(b)[and] **I** [I] n any proceeding in which the custody of a child is at issue, [such] **a** judge [shall] **may** provide an attorney to represent the **parent or parents or guardian or other person having control of the child or youth, if the parent or parents or guardian or other person having control of the child or youth apply for counsel and (1) are indigent according to the Income Eligibility Guidelines adopted by the Public Defender Services Commission; (2) the Office of Chief Public Defender agrees to provide counsel after determining that (i) retaining counsel will cause financial strain to the party so as to render them indigent according to the Income Eligibility Guidelines and Financial Eligibility Policies adopted by the Public Defender Services**

Commission; (ii) circumstances exist that make it impossible for the party to retain private counsel; or (iii) the circumstances of the case are such that the interests of justice require that counsel be provided. The judge 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.

(c) 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, **including the cost of representation and expenses** 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 in providing such counsel, to the extent of their financial ability to do so. The Division of Public Defender Services shall establish the rate at which counsel provided pursuant to this section shall be compensated.

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2017 Legislative Proposal

AN ACT CONCERNING THE TERMINATION OF PARENTAL RIGHTS

Purpose: ***To eliminate prior termination of parental rights when the subject parent was a minor child at the time of the initial TPR.***

SECTION ONE. ***Section 17a-111b of the general statutes is repealed and the following substituted herewith. (Effective October 1, 2017).***

(a) The Commissioner of Children and Families shall make reasonable efforts to reunify a parent with a child unless the court (1) determines that such efforts are not required pursuant to subsection (b) of this section or subsection (j) of section 17a-112, or (2) has approved a permanency plan other than reunification pursuant to subsection (k) of section 46b-129.

(b) The Commissioner of Children and Families or any other party may, at any time, file a motion with the court for a determination that reasonable efforts to reunify the parent with the child are not required. The court shall hold an evidentiary hearing on the motion not later than thirty days after the filing of the motion or may consolidate the hearing with a trial on a petition to terminate parental rights pursuant to section 17a-112. The court may determine that such efforts are not required if the court finds upon clear and convincing evidence that: (1) The parent has subjected the child to the following aggravated circumstances: (A) The child has been abandoned, as defined in subsection (j) of section 17a-112; or (B) the parent has inflicted or knowingly permitted another person to inflict sexual molestation or exploitation or severe physical abuse on the child or engaged in a pattern of abuse of the child; (2) the parent has killed, through deliberate, nonaccidental act, another child of the parent or a sibling of the child, or has requested, commanded, importuned, attempted, conspired or solicited to commit or knowingly permitted another person to commit the killing of the child, another child of the parent or sibling of the child, or has committed or knowingly permitted another person to commit an assault, through deliberate, nonaccidental act, that resulted in serious bodily injury of the

child, another child of the parent or a sibling of the child; (3) the parental rights of the parent to a sibling have been terminated within three years of the filing of a petition pursuant to this section, provided the commissioner has made reasonable efforts to reunify the parent with the child during a period of at least ninety days, **except that parental rights that were terminated while the parent was a minor shall not be grounds for the court determining that such efforts are not required**; (4) the parent was convicted by a court of competent jurisdiction of sexual assault, except a conviction of a violation of section 53a-71 or 53a-73a resulting in the conception of the child; or (5) the child was placed in the care and control of the commissioner pursuant to the provisions of sections 17a-57 to 17a-60, inclusive, and section 17a-61.

(c) If the court determines that such efforts are not required, the court shall, at such hearing or at a hearing held not later than thirty days after such determination, approve a permanency plan for such child. The plan may include (1) adoption and a requirement that the commissioner file a petition to terminate parental rights, (2) transfer of guardianship, or (3) for a child sixteen years of age or older, such other planned permanent living arrangement as may be ordered by the court, provided the commissioner has documented a compelling reason why it would not be in the best interests of the child for the permanency plan to include one of the options set forth in subdivision (1) or (2) of this subsection. The child's health and safety shall be of paramount concern in formulating such plan. If the permanency plan for a child sixteen years of age or older includes such other planned permanent living arrangement pursuant to subdivision (3) of this subsection, the provisions of subdivisions (3) to (5), inclusive, of subsection (k) of section 46b-129 shall be applicable.

(d) If the court determines that reasonable efforts to reunify the parent with the child are not required, the Department of Children and Families shall use its best efforts to maintain the child in the initial out-of-home placement, provided the department determines that such placement is in the best interests of the child, until such time as a permanent home for the child is found or the child is placed for adoption. If the permanency plan calls for placing the child for adoption or in some other permanent home, good faith efforts shall be made to place the child for adoption or in some other permanent home.

SECTION TWO. *Section § 17a-112. Of the general statutes is repealed and the following substituted herewith. (Effective January 1, 2017)*

(a) In respect to any child in the custody of the Commissioner of Children and Families in accordance with section 46b-129, either the commissioner, or the attorney who represented such child in a pending or prior proceeding, or an attorney appointed by the Superior Court on its own motion, or an attorney retained by such child after attaining the age of fourteen, may petition the court for the termination of parental rights with reference to such child. The petition shall be in the form and

contain the information set forth in subsection (b) of section 45a-715, and be subject to the provisions of subsection (c) of said section. If a petition indicates that either or both parents consent to the termination of their parental rights, or if at any time following the filing of a petition and before the entry of a decree, a parent consents to the termination of the parent's parental rights, each consenting parent shall acknowledge such consent on a form promulgated by the Office of the Chief Court Administrator evidencing that the parent has voluntarily and knowingly consented to the termination of such parental rights. No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of such mother's child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent. **No termination consented to by a minor shall be grounds for a subsequent termination of parental rights under subsection (b)(3) of section 17a-111b**.

(b) Either or both birth parents and an intended adoptive parent may enter into a cooperative postadoption agreement regarding communication or contact between either or both birth parents and the adopted child. Such an agreement may be entered into if: (1) The child is in the custody of the Department of Children and Families; (2) an order terminating parental rights has not yet been entered; and (3) either or both birth parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights. The postadoption agreement shall be applicable only to a birth parent who is a party to the agreement. Such agreement shall be in addition to those under common law. Counsel for the child and any guardian ad litem for the child may be heard on the proposed cooperative postadoption agreement. There shall be no presumption of communication or contact between the birth parents and an intended adoptive parent in the absence of a cooperative postadoption agreement.

(c) If the Superior Court determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if: (1) Each intended adoptive parent consents to the granting of communication or contact privileges; (2) the intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court; (3) consent to postadoption communication or contact is obtained from the child, if the child is at least twelve years of age; and (4) the cooperative postadoption agreement is approved by the court.

(d) A cooperative postadoption agreement shall contain the following: (1) An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irrevocable, even if the adoptive parents do not abide by the cooperative postadoption agreement; and (2) an

acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative postadoption agreement.

(e) The terms of a cooperative postadoption agreement may include the following: (1) Provision for communication between the child and either or both birth parents; (2) provision for future contact between either or both birth parents and the child or an adoptive parent; and (3) maintenance of medical history of either or both birth parents who are parties to the agreement.

(f) The order approving a cooperative postadoption agreement shall be made part of the final order terminating parental rights. The finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption agreement. Such an agreement shall not affect the ability of the adoptive parents and the child to change their residence within or outside this state.

(g) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption and shall not serve as a basis for orders affecting the custody of the child. The court shall not act on a petition to change or enforce the agreement unless the petitioner had participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute and allocate any cost for such mediation or dispute resolution proceedings.

(h) An adoptive parent, guardian ad litem for the child or the court, on its own motion, may, at any time, petition for review of any order entered pursuant to subsection (c) of this section, if the petitioner alleges that such action would be in the best interests of the child. The court may modify or terminate such orders as the court deems to be in the best interest of the adopted child.

(i) The Superior Court upon hearing and notice, as provided in sections 45a-716 and 45a-717, may grant a petition for termination of parental rights based on consent filed pursuant to this section if it finds that (1) upon clear and convincing evidence, the termination is in the best interest of the child, and (2) such parent has voluntarily and knowingly consented to termination of the parent's parental rights with respect to such child. If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. Consent for the termination of the parental rights of one parent does not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.

(j) The Superior Court, upon notice and hearing as provided in sections 45a-716 and 45a-717, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence that (1) the

Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with subsection (a) of section 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3)(A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child; (B) the child (i) has been found by the Superior Court or the Probate Court to have been neglected, abused or uncared for in a prior proceeding, or (ii) is found to be neglected, abused or uncared for and has been in the custody of the commissioner for at least fifteen months and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (C) the child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to, sexual molestation or exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being, except that nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights; (D) there is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child; (E) the parent of a child under the age of seven years who is neglected, abused or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable period of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families; (F) the parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent; or (G) the parent committed an act that constitutes sexual assault as described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a or compelling a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force as described in section 53a-70b, if such act resulted in the conception of the child.

(k) Except in the case where termination of parental rights is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding: (1) The timeliness, nature and extent of services offered, provided and made available to the parent and the child by an agency to facilitate the reunion of the child with the parent; (2) whether the Department of Children and Families has made reasonable efforts to reunite the family pursuant to the federal Adoption and Safe Families Act of 1997, as amended from time to time; (3) the terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order; (4) the feelings and emotional ties of the child with respect to the child's parents, any guardian of such child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties; (5) the age of the child; (6) the efforts the parent has made to adjust such parent's circumstances, conduct, or conditions to make it in the best interest of the child to return such child home in the foreseeable future, including, but not limited to, (A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions, and (B) the maintenance of regular contact or communication with the guardian or other custodian of the child; and (7) the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent.

(*l*) Any petition brought by the Commissioner of Children and Families to the Superior Court, pursuant to subsection (a) of section 46b-129, may be accompanied by or, upon motion by the petitioner, consolidated with a petition for termination of parental rights filed in accordance with this section with respect to such child. Notice of the hearing on such petitions shall be given in accordance with sections 45a-716 and 45a-717. The Superior Court, after hearing, in accordance with the provisions of subsection (i) or (j) of this section, may, in lieu of granting the petition filed pursuant to section 46b-129, grant the petition for termination of parental rights as provided in section 45a-717.

(m) Nothing contained in this section and sections 17a-113, 45a-187, 45a-606, 45a-607, 45a-707 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724, 45a-725, 45a-727, 45a-733, 45a-754 and 52-231a shall negate the right of the Commissioner of Children and Families to subsequently petition the Superior Court for revocation of a commitment of a child as to whom parental rights have been terminated in accordance with the provisions of this section. The Superior Court may appoint a statutory parent at any time after it has terminated parental rights if the petitioner so requests.

(n) If the parental rights of only one parent are terminated, the remaining parent shall be the sole parent and, unless otherwise provided by law, guardian of the person.

(o) In the case where termination of parental rights is granted, the guardian of the person or statutory parent shall report to the court not later than thirty days after the date judgment is entered on a case plan, as defined by the federal Adoption and Safe Families Act of 1997, as amended from time to time, for the child which shall include measurable objectives and time schedules. At least every three months thereafter, such guardian or statutory parent shall make a report to the court on the progress made on implementation of the plan. The court may convene a hearing upon the filing of a report and shall convene and conduct a permanency hearing pursuant to subsection (k) of section 46b-129 for the purpose of reviewing the permanency plan for the child not more than twelve months from the date judgment is entered or from the date of the last permanency hearing held pursuant to subsection (k) of section 46b-129, whichever is earlier, and at least once a year thereafter while the child remains in the custody of the Commissioner of Children and Families. For children where the commissioner has determined that adoption is appropriate, the report on the implementation of the plan shall include a description of the reasonable efforts the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts. At such hearing, the court shall determine whether the department has made reasonable efforts to achieve the permanency plan. If the court determines that the department has not made reasonable efforts to place a child in an adoptive placement or that reasonable efforts have not resulted in the placement of the child, the court may order the Department of Children and Families, within available appropriations, to contract with a child-placing agency to arrange for the adoption of the child. The department, as statutory parent, shall continue to provide care and services for the child while a child-placing agency is arranging for the adoption of the child.

(p) The provisions of section 17a-152, regarding placement of a child from another state, and the provisions of section 17a-175, regarding the Interstate Compact on the Placement of Children, shall apply to placements pursuant to this section.

(q) The provisions of this section shall be liberally construed in the best interests of any child for whom a petition under this section has been filed.

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2017 Legislative Proposal

AN ACT CONCERNING CONFIDENTIALITY OF RECORDS

Purpose: ***To clarify the confidentiality statutes in juvenile matters.***

Section 46b-124 of the General Statutes is repealed and the following substituted herewith; (Effective upon passage)

(a) For the purposes of this section, "records of cases of juvenile matters" includes, but is not limited to, court records, records regarding juveniles maintained by the Court Support Services Division, records regarding juveniles maintained by an organization or agency that has contracted with the Judicial Branch to provide services to juveniles, records of law enforcement agencies including fingerprints, photographs and physical descriptions, and medical, psychological, psychiatric and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies and clinics.

(b) All records of cases of juvenile matters, as provided in section 46b-121, except delinquency proceedings, or any part thereof, and all records of appeals from probate brought to the superior court for juvenile matters pursuant to section 45a-186, shall be confidential and for the use of the court in juvenile matters, and open to inspection or disclosure to any third party, including bona fide researchers commissioned by a state agency, only upon order of the Superior Court, except that: (1) Such records shall be available to (A) the attorney representing the child or youth, including the Division of Public Defender Services, in any proceeding in which such records are relevant, (B) the parents or guardian of the child or youth until such time as the child or youth reaches the age of majority or becomes emancipated, (C) an adult adopted person in accordance with the provisions of sections 45a-736, 45a-737 and 45a-743 to 45a-757, inclusive, (D) employees of the Division of Criminal Justice who, in the performance of their duties, require access to such records, (E) employees of the Judicial Branch who, in the performance of their duties, require access to such records, (F) another

court under the provisions of subsection (d) of section 46b-115j, (G) the subject of the record, upon submission of satisfactory proof of the subject's identity, pursuant to guidelines prescribed by the Office of the Chief Court Administrator, provided the subject has reached the age of majority or has been emancipated, (H) the Department of Children and Families, (I) the employees of the Division of Public Defender Services who, in the performance of their duties related to Division of Public Defender Services assigned counsel, require access to such records, and (J) judges and employees of the Probate Court who, in the performance of their duties, require access to such records; and (2) all or part of the records concerning a youth in crisis with respect to whom a court order was issued prior to January 1, 2010, may be made available to the Department of Motor Vehicles, provided such records are relevant to such order. Any records of cases of juvenile matters, or any part thereof, provided to any persons, governmental or private agencies, or institutions pursuant to this section shall not be disclosed, directly or indirectly, to any third party not specified in subsection (d) of this section, except as provided by court order, in the report required under section 54-76d or 54-91a or as otherwise provided by law.

(c) All records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be confidential and for the use of the court in juvenile matters and shall not be disclosed except as provided in this section.

(d) Records of cases of juvenile matters involving delinquency proceedings shall be available to (1) Judicial Branch employees who, in the performance of their duties, require access to such records, (2) judges and employees of the Probate Court who, in the performance of their duties, require access to such records, and (3) employees and authorized agents of state or federal agencies involved in (A) the delinquency proceedings, (B) the provision of services directly to the child, (C) the design and delivery of treatment programs pursuant to section 46b-121j, or (D) the delivery of court diversionary programs. Such employees and authorized agents include, but are not limited to, law enforcement officials, community-based youth service bureau officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials including officials of both the regular criminal docket and the docket for juvenile matters and officials of the Division of Criminal Justice, the Division of Public Defender Services, the Department of Children and Families, the Court Support Services Division and agencies under contract with the Judicial Branch. Such records shall also be available to (i) the attorney representing the child, including the Division of Public Defender Services, in any proceeding in which such records are relevant, (ii) the parents or guardian of the child, until such time as the subject of the record reaches the age of majority, (iii) the subject of the record, upon submission of satisfactory proof of the subject's identity, pursuant to guidelines prescribed by the Office of the Chief Court Administrator, provided the subject has reached the age of majority, (iv) law enforcement officials and prosecutorial officials conducting legitimate criminal investigations, (v) a state or federal agency providing services related to the collection of moneys due

or funding to support the service needs of eligible juveniles, provided such disclosure shall be limited to that information necessary for the collection of and application for such moneys, and (vi) members and employees of the Board of Pardons and Paroles and employees of the Department of Correction who, in the performance of their duties, require access to such records, provided the subject of the record has been convicted of a crime in the regular criminal docket of the Superior Court and such records are relevant to the performance of a risk and needs assessment of such person while such person is incarcerated, the determination of such person's suitability for release from incarceration or for a pardon, or the determination of the supervision and treatment needs of such person while on parole or other supervised release. Records disclosed pursuant to this subsection shall not be further disclosed, except that information contained in such records may be disclosed in connection with bail or sentencing reports in open court during criminal proceedings involving the subject of such information, or as otherwise provided by law.

(e) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, may be disclosed upon order of the court to any person who has a legitimate interest in the information and is identified in such order. Records disclosed pursuant to this subsection shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

(f) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be available to the victim of the crime committed by such child to the same extent as the record of the case of a defendant in a criminal proceeding in the regular criminal docket of the Superior Court is available to a victim of the crime committed by such defendant. The court shall designate an official from whom such victim may request such information. Records disclosed pursuant to this subsection shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

(g) Information concerning a child who is the subject of an order to take such child into custody or other process that has been entered into a central computer system pursuant to subsection (i) of section 46b-133 may be disclosed to employees and authorized agents of the Judicial Branch, law enforcement agencies and the Department of Children and Families in accordance with policies and procedures established by the Chief Court Administrator.

(h) Information concerning a child who has escaped from a detention center or from a facility to which the child has been committed by the court or for whom an arrest warrant has been issued with respect to the commission of a felony may be disclosed by law enforcement officials.

(i) Nothing in this section shall be construed to prohibit any person employed by the Judicial Branch from disclosing any records, information or files in such employee's possession to any person employed by the Division of Criminal Justice as a prosecutorial official, inspector or investigator who,

in the performance of his or her duties, requests such records, information or files, or to prohibit any such employee of said division from disclosing any records, information or files in such employee's possession to any such employee of the Judicial Branch who, in the performance of his or her duties, requests such records, information or file.

(j) Nothing in this section shall be construed to prohibit a party from making a timely objection to the admissibility of evidence consisting of records of cases of juvenile matters, or any part thereof, in any Superior Court or Probate Court proceeding, or from making a timely motion to seal any such record pursuant to the rules of the Superior Court or the rules of procedure adopted under section 45a-78.

(k) A state's attorney shall disclose to the defendant or such defendant's counsel in a criminal prosecution, without the necessity of a court order, exculpatory information and material contained in any record disclosed to such state's attorney pursuant to this section and may disclose, without a court order, information and material contained in any such record which could be the subject of a disclosure order.

(*l*) Notwithstanding the provisions of subsection (d) of this section, any information concerning a child that is obtained during any **RISK ASSESSMENT**, mental health screening or assessment of such child, during the provision of services pursuant to subsection (b) of section 46b-149, or during the performance of an educational evaluation pursuant to subsection (e) of section 46b-149, shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity providing such services or performing such screening, assessment or evaluation. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or provision of services to the child, or pursuant to sections 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.
(m) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, containing information that a child has been convicted as delinquent for a violation of subdivision (e) of section 1-1h, subsection (c) of section 14-147, subsection (a) of section 14-215, section 14-222, subsection (b) of section 14-223, subsection (a), (b) or (c) of section 14-224, section 30-88a or subsection (b) of section 30-89, shall be disclosed to the Department of Motor Vehicles for administrative use in determining whether administrative sanctions regarding such child's motor vehicle operator's license are warranted. Records disclosed pursuant to this subsection shall not be further disclosed.
(n) Records of cases of juvenile matters involving adoption proceedings, or any part thereof, shall be confidential and may only be disclosed pursuant to sections 45a-743 to 45a-757, inclusive.

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2017 Legislative Proposal

AN ACT CONCERNING THE CONNECTICUT JUVENILE TRAINING SCHOOL ADVISORY BOARD

Purpose: *To provide oversight and accountability for the administration of the Connecticut Juvenile Training School.*

Sec. 17a-6b. of the General statutes is repealed and the following substituted herewith, effective upon passage.

(a) [The] **There shall be an** advisory group for the Connecticut Juvenile Training School. [established pursuant to subsection (b) of section 17a-6,] **The advisory group known as the CJTS Advisory Board** shall provide an on-going review of the Connecticut Juvenile Training School with recommendations for improvement or enhancement. **The members of the CJTS Advisory Board shall be comprised as follows: (1)the Secretary of the Office of Policy and Management or their designee; (2) the Speaker of the House of Representatives who shall appoint a parent for a person who has resided at CJTS; (3) the President Pro Tempore of the Senate who shall appoint a representative of a nonprofit provider who provides services to children in the Juvenile Justice System;(4) the Minority Leader of the House of Representatives who shall appoint someone with expertise in education;(5) the Minority Leader of the Senate who shall appoint someone with expertise in children's behavioral health; (6) a co-chair of the general assembly joint Committee on Children or their designee; (7) the Chief Court Administrator or their designee; (8) the Child Advocate; (9) A designee of the Chief State's Attorney with experience in juvenile matters; (10) a designee of the Chief Public Defender with experience in juvenile matters; (11) a representative from the Judicial Branch, Court Support Services Division with experience in juvenile matters, appointed by the Chief Court Administrator.**

The review shall include, but not be limited to:

(1) The number, age, ethnicity and race of the residents placed at the training school, including the court locations that sentenced them, the number sentenced from each court location and the offenses for which they were sentenced;

(2) The percentage of residents in need of substance abuse treatment and the programming interventions provided to assist residents;

(3) A review of the program and policies of the facility;

(4) The educational and literacy programs available to the residents, including the educational level of residents, the number of residents requiring special education and related services, including school attendance requirements, the number of residents who are educated in the alternative school and the reasons for such education;

(5) The vocational training programs available to the residents and the actual number of residents enrolled in each training program, including all vocational attendance requirements;

(6) The delinquency recidivism rates of such residents, which shall include the number of children discharged to residential placement, the number of children discharged due to expiration of the period of commitment and the number of children returned to the Connecticut Juvenile Training School;

(7) The diagnosis of each resident after intake assessment;

(8) The costs associated with the operation of the training school, including staffing costs and average cost per resident;

(9) Reintegration strategies and plans to transition the residents to their home communities; and

(10) A review of safety and security issues that affect the host municipality.

(b) The Department of Children and Families shall serve as administrative staff of the advisory group referred to in subsection (a) of this section.

(c) Not later than February 4, 2004, and annually thereafter, the [Commissioner of Children and Families] **CJTS ADVISORY BOARD** shall report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary, human services and children with respect to the Connecticut Juvenile Training School.

(d) Each report required pursuant to subsection (c) of this section shall summarize the information and recommendations specified in subsection (a) of this section and shall also include such other information that the [Department of Children and Families] **CJTS ADVISORY BOARD** has identified as requiring immediate legislative action.

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2017 Legislative Proposal

AN ACT ENSURING THE FAIR SENTENCING OF CHILDREN AND YOUTH

Purpose: *To ensure fair and equitable sentencing and treatment of children adjudicated delinquent and sentenced to commitment to the Department o f Children and Families.*

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. **When a child or youth is ordered committed to the Department of Children and Families, the commitment 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.

(b) The Commissioner of Children and Families may file a motion for an extension of the commitment as provided in subparagraph (A) of subdivision (1) of subsection (a) of this section beyond the eighteen-month period on the grounds that such extension is for the best interest of the child or the community. The court shall give notice to the parent or guardian and to the child at least fourteen days prior to the hearing upon such motion. The court may, after hearing and upon finding that such extension is in the best interest of the child or the community, continue the commitment for an additional period of not more than eighteen months, except that such additional period shall not continue beyond the date the child attains the age of twenty. Not later than twelve months after a child is committed to the Department of Children and Families in accordance with subparagraph (A) of subdivision (1) of subsection (a) of this section, the court shall hold a permanency hearing in

accordance with subsection (d) of this section. After the initial permanency hearing, subsequent permanency hearings shall be held not less frequently than every twelve months while the child remains committed to the Department of Children and Families.
(c) The court shall hold a permanency hearing in accordance with subsection (d) of this section for each child convicted as delinquent for a serious juvenile offense as provided in subparagraph (B) of subdivision (1) of subsection (a) of this section within twelve months of commitment to the Department of Children and Families and every twelve months thereafter if the child remains committed to the Department of Children and Families. Such hearing may include the submission of a motion to the court by the commissioner to either (1) modify such commitment, or (2) extend the commitment beyond such four-year period on the grounds that such extension is for the best interest of the child or the community. The court shall give notice to the parent or guardian and to the child at least fourteen days prior to the hearing upon such motion. The court, after hearing, may modify such commitment or, upon finding that such extension is in the best interest of the child or the community, continue the commitment for an additional period of not more than eighteen months.
(d) At least sixty days prior to each permanency hearing required pursuant to subsection (b) or (c) of this section, the Commissioner of Children and Families shall file a permanency plan with the court. At each permanency hearing, the court shall review and approve a permanency plan that is in the best interest of the child and takes into consideration the child's need for permanency. Such permanency plan may include the goal of: (1) Revocation of commitment and placement of the child with the parent or guardian, (2) transfer of guardianship, (3) adoption, or (4) for any child sixteen years of age or older, such other planned permanent living arrangement ordered by the court, provided the Commissioner of Children and Families has documented a compelling reason why it would not be in the best interest of the child for the permanency plan to include the goals in subdivisions (1) to (3), inclusive, of this subsection. Such other planned permanent living arrangement may include, but not be limited to, placement of the child in an independent living program. At any such permanency hearing, the court shall also determine whether the Commissioner of Children and Families has made reasonable efforts to achieve the permanency plan.
(e) (1) If the permanency plan for a child sixteen years of age or older includes such other planned permanent living arrangement pursuant to subdivision (4) of subsection (d) of this section, the department shall document for the court: (A) The manner and frequency of efforts made by the department to return the child home or secure a placement for the child with a fit and willing relative, legal guardian or an adoptive parent; and (B) the steps the department has taken to ensure that (i) the child's foster family home or child care institution is following a reasonable and prudent parent standard, as defined in section 17a-114d; and (ii) the child has regular, ongoing opportunities to engage in age appropriate or developmentally appropriate activities, as defined in section 17a-114d.
(2) At any such permanency hearing in which the plan for a child sixteen years of age or older is such other planned permanent living arrangement pursuant to subdivision (4) of subsection (d) of this

section, the court shall (A) (i) ask the child about his or her desired permanency outcome, or (ii) if the child is unavailable to appear at such hearing, require the attorney for the child to consult with the child regarding the child's desired permanency outcome and report the same to the court; (B) make a judicial determination that, as of the date of hearing, such other planned permanent living arrangement is the best permanency plan for the child; and (C) document the compelling reasons why it is not in the best interest of the child to return home or to be placed with a fit and willing relative, legal guardian or adoptive parent.

(f) All other commitments of delinquent, mentally deficient or mentally ill children by the court pursuant to the provisions of section 46b-140 may be for an indeterminate time, except that no such commitment may be ordered or continued for any child who has attained the age of twenty. Commitments may be reopened and terminated at any time by said court, provided the Commissioner of Children and Families shall be given notice of such proposed reopening and a reasonable opportunity to present the commissioner's views thereon. The parents or guardian of such child may apply not more than twice in any calendar year for such reopening and termination of commitment. Any order of the court made under the provisions of this section shall be deemed a final order for purposes of appeal, except that no bond shall be required and no costs shall be taxed on such appeal.

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2017 Legislative Proposal

AN ACT CONCERNING JUVENILE JUSTICE

Purpose: ***The legislation would provide credit for a child who is held in certain facilities subsequent to adjudication as delinquent but prior to the disposition of the juvenile matter who is subsequently committed to the Department of Children and Families. The change allows for DCF to plan the most appropriate intervention for the child but allows the child to receive credit for confinement time while placement is determined .***

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

Section 1. (NEW) (*Effective October 1, 2017*) WHENEVER A CHILD IS CONVICTED AS DELINQUENT AND SUBSEQUENTLY COMMITTED TO THE DEPARTMENT OF CHILDREN AND FAMILIES, THE PERIOD OF THE CHILD'S COMMITMENT SHALL BE REDUCED BY THE NUMBER OF DAYS THE CHILD WAS HELD IN A JUVENILE DETENTION CENTER, AN ALTERNATIVE DETENTION CENTER, THE CONNECTICUT JUVENILE TRAINING SCHOOL OR ANY OTHER FACILITY OR HOSPITAL PURSUANT TO A DETENTION ORDER, BETWEEN THE DATE OF CONVICTION AS A DELINQUENT AND THE DATE THE CHILD IS ORDERED COMMITTED AND PLACED WITH THE DEPARTMENT OF CHILDREN AND FAMILIES.