



# State of Connecticut

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**PUBLIC SAFETY AND SECURITY COMMITTEE**

**MARCH 12, 2019**

**Raised Bill No. 7332**

**AN ACT CONCERNING PUBLIC SAFETY AND THE WELFARE OF REPEAT JUVENILE OFFENDERS**

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The Office of the Chief Public Defender (OCPD) **OPPOSES RAISED BILL NO. 7332 – AAC PUBLIC SAFETY AND THE WELFARE OF REPEAT JUVENILE OFFENDERS AND THEIR VICTIMS**. This bill would unnecessarily expand the types of cases involving children that are *automatically* transferred from the juvenile to the adult court. More specifically, it would require that any case involving a child with two or more prior delinquency adjudications and a pending charge of larceny involving a motor vehicle be *automatically* transferred from the juvenile to the adult court without the benefit of a hearing. This change is unnecessary and counterproductive to the goals of the juvenile justice system, including the goals of accountability and promoting public safety.

Under existing law, these larceny cases are *already* eligible for discretionary transfer to the adult court following a transfer hearing in the juvenile court. The court has the discretion under existing law to transfer these cases to the adult court if the best interests of the child and the public will not be served by maintaining the case in the juvenile court. In making that determination, the

court is already required to consider: (1) any prior criminal or juvenile offenses by the child; (2) the seriousness of such offenses; (3) any evidence that the child has intellectual disability or mental illness; and (4) the availability of services in the juvenile court that can serve the child's needs. This bill would *completely eliminate* the court's authority to hold a transfer hearing or to consider any of these factors prior to transferring motor vehicle larceny cases to the adult court.

Along with making these specific larceny offenses subject to *automatic* transfer (rather than discretionary transfer), this bill also removes the court's authority to rely on *both* the best interests of the child *and* the public when making transfer decisions on *all other offenses* currently subject to a discretionary transfer process. While this bill would still require the court to "consider" the child's best interest in a discretionary transfer hearing, it would allow for all of these less serious cases to be transferred to the adult court based *solely* on the best interests of the public.

Connecticut has worked for years to limit the number of youth being transferred to adult court because it is an ineffective tool for rehabilitation and does not promote public safety. Most youth who are transferred to adult court receive little or no jail time. One study by the Connecticut Office of Policy and Management showed that 80% of transferred youth received probation. A national Bureau of Justice Statistics Study found that transferred juveniles served an average of 3.5 years.<sup>1</sup> These youth return to their communities saddled with a criminal record and without the beneficial, age appropriate treatment and services provided under a juvenile sentence. Furthermore, studies show that individual who were transferred and sentenced in adult court recidivate at a higher rate and graduate to more serious crimes than their counterparts who remained under juvenile court jurisdiction. Studies in New York, New Jersey and Florida have all shown increased levels of recidivism shown among youth who were transferred.<sup>2</sup> While a recent study showed some deterrent effect for juveniles transferred because of a serious violent felony, the same study found that recidivism for youth transferred on property and nonviolent felonies were nearly twice as likely to recidivate as their counterparts who remained in juvenile court.<sup>3</sup>

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<sup>1</sup> Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, *Transfer of Juveniles to Adult Court: Effects of a Broad Policy on One Court*, December, 2012.

<sup>2</sup> Fagan, J. 1996. The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders. *Law & Policy* 18:77-112.

<sup>3</sup> Pathways to Desistance, Maricopa, AZ (2016)

Furthermore, the current process for transferring youth from the juvenile court to the regular adult docket is fair, just and workable. It provides sufficient due process to ensure that only children charged with the most serious crimes or for who juvenile services can no longer safely rehabilitate them are prosecuted as adults. Automatic transfer should be limited to the most serious cases, Class A and those Class B felonies where the severity of the crimes justifies not considering the situation of the accused child. The Pathway's study cited above indicated that transfer may decrease recidivism in cases of serious violence, but it showed that transfer had the opposite effect for other felonies, such as the larceny charges targeted by this proposal. The existing transfer law, C.G.S. 46b-127 provides for a fair, effective tool for prosecutors and the courts to use to determine if a case is appropriate for transfer. There is no reason to make automatic transfer easier. This important decision requires an assessment of the child and circumstances of the case and should continue to be made by the court after an opportunity for counsel to present evidence and make arguments. The Office of Chief Public Defender urges this committee to reject this proposal.