

CONNECTICUT PUBLIC DEFENDERS



2016 Legislative Package

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2016 Legislative Proposal

AN ACT CONCERNING FAMILY IMPACT

Purpose: *To require that a family impact statement be considered by the court prior to sentencing in any case in which a custodial parent will be incarcerated.*

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

(NEW) (Effective October 1, 2016) (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 family 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 family impact statement prior to pronouncing any sentence.

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

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2016 Legislative Proposal

AN ACT CONCERNING THE RESTORATION OF A MOTOR VEHICLE LICENSE

Purpose: To require that the suspension of a person's license not exceed the total time period for which a person could operate a motor vehicle if they had installed an ignition interlock device.

SECTION 1. *Subsection (g) of section 14-227a of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):*

(g) Penalties for operation while under the influence. Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14-227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the one-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j **EXCEPT THAT IF A PERSON DOES NOT INSTALL AN IGNITION INTERLOCK DEVICE ON EACH MOTOR VEHICLE OWNED OR OPERATED BY SUCH PERSON, NO SUCH SUSPENSION SHALL EXCEED ONE YEAR;** (2) for conviction of a second violation within ten years after a prior conviction for the same offense, (A) be fined not less than one thousand dollars or more than four thousand dollars, (B) be imprisoned not more than two years, one hundred twenty consecutive days of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-

five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the three-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, except that for the first year of such three-year period, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center or an appointment with a probation officer[;]. **IF A PERSON DOES NOT INSTALL AN IGNITION INTERLOCK DEVICE ON EACH MOTOR VEHICLE OWNED OR OPERATED BY SUCH PERSON, NO SUCH SUSPENSION SHALL EXCEED THREE YEARS;** and (3) for conviction of a third and subsequent violation within ten years after a prior conviction for the same offense, (A) be fined not less than two thousand dollars or more than eight thousand dollars, (B) be imprisoned not more than three years, one year of which may not be suspended or reduced in any manner, and sentenced to a period of probation requiring as a condition of such probation that such person: (i) Perform one hundred hours of community service, as defined in section 14-227e, (ii) submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, and (iii) undergo a treatment program if so ordered, and (C) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense, except that if such person's revocation is reversed or reduced pursuant to subsection (i) of section 14-111, such person shall be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j, for the time period prescribed in subdivision (2) of subsection (i) of section 14-111. For purposes of the imposition of penalties for a second or third and subsequent offense pursuant to this subsection, a conviction under the provisions of subsection (a) of this section in effect on October 1, 1981, or as amended thereafter, a conviction under the provisions of either subdivision (1) or (2) of subsection (a) of this section, a conviction under the provisions of section 53a-56b or 53a-60d or a conviction in any other state of any offense the essential elements of which are determined by the court to be substantially the same as subdivision (1) or (2) of subsection (a) of this section or section 53a-56b or 53a-60d, shall constitute a prior conviction for the same offense.

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2016 Legislative Proposal

AN ACT CONCERNING STATEMENTS BY JUVENILES

Purpose: Currently, 46b-137 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 equally 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, 2016):*

(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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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. Recent court opinions 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.