



Legislative Testimony
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**Written Testimony Supporting
House Bill 5040, An Act Concerning Adjudication of
Certain Young Adults in Juvenile Court and
House Bill 5042, An Act Concerning Prosecution of
Low-Risk Young Offenders in Adult Court**

Senator Doyle, Senator Kissel, Representative Tong, and distinguished members of the Judiciary Committee:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of House Bill 5040, An Act Concerning Adjudication of Certain Young Adults in Juvenile Court and House Bill 5042, An Act Concerning Prosecution of Low-Risk Young Offenders in Adult Court, if the legislature amends the proposal to incorporate additional protections for civil liberties.

During the past several legislative sessions, Connecticut has led the nation in passing criminal justice reform laws. House Bills 5040 and 5042 present another opportunity for our state to lead the way in creating a twenty-first century justice system. By raising the age of juvenile jurisdiction from 17 to 20 years old, these bills will help to ensure that our justice system does not permanently penalize young adults for actions they take before they have matured. We call upon the legislature, however, to amend these bills before passage to balance the First Amendment rights of the public and press to access proceedings and information with appropriate safeguards for the privacy rights of the young adults involved in each case. With the inclusion of these amendments to protect civil liberties, House Bills 5040 and 5042 can help Connecticut to become a more just and equal place for all.

Young people who make mistakes deserve a second chance to succeed. Under Connecticut's current law, however, a senior in high school could find himself trapped in the adult criminal justice system and shut out of society's opportunities, while his classmate could find a pathway toward rehabilitation through the juvenile justice system, simply because of a difference in their birthdates. Drawing this arbitrary line is unjust, unwise, and unequal. As the U.S. Supreme Court recently recognized in *Graham v. Florida* and

reiterated in *Miller v. Alabama*: “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds ... [particularly in] parts of the brain involved in behavior control.” The Court ruled in both cases that sentencing juveniles to life without parole failed to take into account the fact that young people are not simply miniature adults. The judgment and decision-making skills of people under the age of 21 are less well developed, and the consequences of their decisions should be mitigated accordingly. As experts have determined, brain development continues through one’s mid-twenties. Raising the age of juvenile jurisdiction therefore reflects modern scientific and legal understandings of culpability and appropriate corrective action. The ACLU of Connecticut therefore supports raising the age of juvenile jurisdiction through age 20.

We also seek to ensure open access to the courts, consistent with public and press rights under the U.S. and Connecticut Constitutions. As the Supreme Court ruled in *Richmond Newspapers v. Virginia*, open access to court proceedings is an important right under the First Amendment, not only to ensure the integrity of the judicial system but to ensure public access to information that may be important as part of our democracy.

The ACLU of Connecticut supports protecting youthful offenders from stigma, and we value transparency, which can prevent potentially unjust proceedings against youthful defendants and ensure the availability of information critical to public policy decisions. Specifically, the ACLU of Connecticut proposes two amendments, each of which is described below:

We propose amending CGA Section 46b-122(b), which is not addressed in these bills, to provide the public and the press the right to attend delinquency proceedings (the term used for juvenile proceedings involving alleged misconduct by the juvenile) of those 18 years of age or older, unless specifically excluded by a court for good cause shown. Currently, this section of Connecticut law only applies to people under the age of 18 who are the alleged victims of an alleged delinquency. Today, the courts have presumed confidentiality in juvenile proceedings, and therefore typically exclude the public or press in these cases. This proposed amendment’s assurance of public access is therefore important as Connecticut extends delinquency to young adults.

We also propose amending CGS Section 53-76o to ensure that sealing of young adults’ records does not preclude later access to such records if a court issues an order pursuant to important public policy goals. To prevent potential bias and further these bills’ worthy goal of making our justice system more equal and fair, we should ensure that, at the very least, statistical information regarding young adults’ records is available to the public. This will help policymakers, community members, and advocates alike to ensure

that the system of diverting a new class of juvenile offenders is being used equally for accused people of all races, genders, or other demographics.

Additionally, the very premise of the governor's proposals, that diverting youthful adults to the juvenile system will prevent or diminish later misconduct by those persons (a premise with which we are in full agreement), should be subject to testing later, which could not be done if no records existed of earlier arrests. These records, which should only be available under court order, must at a minimum include the young adult's name, birthdate, race, and gender, as well as the nature and date of the alleged crime or delinquent act.

Connecticut has the chance to set the standard for the rest of the country, and it is important that we get it right the first time. The legislature has the opportunity to ensure that Connecticut remains a leader on juvenile justice reform without sacrificing judicial accountability or the public's right to access critical information. We encourage you to seize this opportunity for justice reform by pursuing these comprehensive pieces of legislation addressing all of these issues during this session.

We urge you to support House Bills 5040 and 5042 if the aforementioned open access provisions are added to the bills, so that Connecticut can improve its juvenile justice system and protect civil liberties.