



Legislative Testimony  
765 Asylum Avenue, First Floor  
Hartford, CT 06105  
860-523-9146  
[www.acluct.org](http://www.acluct.org)

**Written Testimony Supporting House Bill 6671, An Act Concerning the  
Provision of Legal Counsel in a Criminal Matter to a Person under  
Eighteen Years of Age**

Senator Winfield, Representative Stafstrom, Ranking Members Kissel and Fishbein,  
and distinguished members of the Judiciary Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in support of House Bill 6671, An Act Concerning the Provision of Legal Counsel in a Criminal Matter to a Person under Eighteen Years of Age

The ACLU-CT fights to protect access to fair and equal justice for all Connecticut residents. Every person, of every financial background, has fundamental human and legal rights that deserve protection and respect. Many fundamental rights protected by the Constitution are impacted by the criminal legal system, in which indigent defendants do indeed have a right to counsel in many circumstances. There remain, however, situations where criminal defendants, including young people under the age of eighteen, do not have a right to counsel. Given the important consequences for Connecticut's kids who get involved in the criminal legal system, guaranteeing legal counsel to them in every criminal matter is vital to ensure justice is served.

In *Johnson v. Zerbst*, the U.S. Supreme Court held that the Sixth Amendment right to counsel in criminal proceedings included the right to have a lawyer appointed if the criminal defendant could not afford a lawyer.<sup>1</sup> In reaching this conclusion, the Court held that the purpose of the Sixth Amendment guarantee of counsel was to ensure that a person is not deprived of "his legal and constitutional rights" due to "his

---

<sup>1</sup> *Johnson v. Zerbst*, 304 U.S. 458 (1938).

own ignorance” of them.<sup>2</sup> When the U.S. Supreme Court expanded this requirement to states in *Gideon v. Wainwright*,<sup>3</sup> it observed that “any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.”<sup>4</sup> This, the Court stated, is the only way to ensure the “noble ideal” of the U.S. that every person “stands equal before the law.”<sup>5</sup> This right, though, was limited by the U.S. Supreme Court, which held it was only applicable to a case which “actually leads to imprisonment.”<sup>6</sup> In other words, unless a person will actually be incarcerated at the end of the case, that person is not entitled to a criminal defense attorney, even though that person is “haled into court” and deprived of their “legal and constitutional rights” due to their “own ignorance of them,” and even if the defendant is a child.

A lawyer is a game-changer for a criminal defendant. Outcomes for self-represented people compared with lawyer-represented people are dramatically different in both civil and criminal cases. In immigration cases, for example, people with lawyers are 4 times more likely to be released from detention, 11 times more likely to seek relief from deportation, and twice as likely to obtain the immigration relief they sought.<sup>7</sup> In eviction proceedings, where 90% of landlords have legal counsel and only 10% of tenants do, tenants overwhelmingly lose cases, with lifelong effects.<sup>8</sup>

These stacked odds are unacceptable given the rights, liberties, and benefits that young people may be forced to give up if they face criminal charges without an attorney. Children who are involved with the criminal legal system are likely to face immediate and long-term health impacts, educational interruptions, and long-term

---

<sup>2</sup> *Id.* at 465.

<sup>3</sup> *Gideon v. Wainwright*, 372 U.S. 335, 343-45 (1963).

<sup>4</sup> *Id.* at 344.

<sup>5</sup> *Id.*

<sup>6</sup> *Argersinger v. Hamlin*, 407 U.S. 25, 33 (1972).

<sup>7</sup> Ingrid Eagly & Steven Shafer, “Access to counsel in immigration court.” American Immigration Council Special Report, Sept. 28, 2016, *available at* <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

<sup>8</sup> Heidi Schultheis & Caitlin Rooney, “A right to counsel is a right to a fighting chance.” Center for American Progress, Oct. 2, 2019, *available at* <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>.

interference with employment opportunities.<sup>9</sup> These are the exact kind of legal rights that no one, let alone children, should be deprived of without access to lawyer, when the other side is represented by competent, professional counsel.

For these reasons, the ACLU-CT supports providing counsel to people in a wide range of scenarios, including all criminal proceedings no matter the actual sentence imposed. The justifications for appointed counsel are even stronger when defendants are children, who are less likely than adults to know of and adequately protect their rights and liberties. House Bill 6671 ensure that this will not happen to young people facing criminal charges of any type in Connecticut. We support this bill and urge this Committee to report favorably on it.

---

<sup>9</sup> Barry Holman & Jason Zidenberg, "The dangers of detention: The impact of incarcerating youth in detention and other secure facilities." Justice Policy Institute, *available at* [http://www.justicepolicy.org/images/upload/06-11\\_rep\\_dangersofdetention\\_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf).