



Legislative Testimony
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Written Testimony Opposing House Bill 6889, An Act Concerning Juvenile Matters

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

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in opposition of House Bill 6889, An Act Concerning Juvenile Matters.

The ACLU-CT is an organization dedicated to ending mass incarceration, eliminating racial disparities in the criminal legal system, and reducing harms to justice-impacted people. Among the most vulnerable people who become enmeshed in the criminal legal system are young people under the age of eighteen, who suffer unique harms due to their involvement in the criminal legal system and are more likely to experience even wider racial disparities than exist for adults.¹ Recognizing these harms and disparities, the ACLU-CT believes that children should be supported with services and resources that support them, their families, and their communities, rather than criminalized. The policies proposed by House Bill 6889, though, do not share this value; instead, this bill's solutions are primarily rooted in a criminal legal foundation.

Section 1 would require children to be heard in the adult area court where the offense allegedly occurred, rather than where the child's family lives when they are being tried for certain crimes. This poses an extra burden on the families of children accused

¹ Colette Marcellin & Samantha Harvell, *Data Snapshot of Youth Incarceration in Connecticut*, URBAN INST. (May 2020), available at https://www.urban.org/sites/default/files/publication/102176/data-snapshot-of-youth-incarceration-in-connecticut_1.pdf.

of a crime, who are more likely to be low-income and families of color. Many parents already struggle to suddenly obtain transportation and childcare when their child is required to appear in court. House Bill 6889 would even further burden working families by oftentimes requiring them to travel far from their homes to attend court with their child.

Section 2 of this bill would require children to be fingerprinted and photographed when they are arrested for certain offenses. This mandate is wholly unnecessary as courts already have the discretion to order fingerprinting and photographing for any arrest. Section 2 also would, as aptly stated in the Office of the Chief Public Defender’s testimony, allow the court to strip parents of custody of their children if the court finds that parents “lack control” over their child and are not likely to be “effective” in preventing “reoffending”—this is flagrantly unconstitutional.

Children do not belong in adult prisons, ever. According to a recent state audit, an overwhelming majority of transferred boys, and all of the transferred girls, in the adult system during 2019 lived in families previously investigated for child abuse or neglect, often multiple times.² The audit found that most boys in the system completed few or no programs while incarcerated.³ Young people will most likely be unable to change behaviors until their root issues and traumas are addressed in a rehabilitative, non-carceral setting.⁴ Because of systemic racism, Connecticut disproportionately incarcerates youth of color at significantly higher rates than it does white youth.⁵ When comparing young people with similar crimes and past encounters with the justice system, those who entered the adult system were 30 percent more likely to be re-arrested after returning to their community than the young people who remained in the juvenile system.⁶

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Lonan Lanza-Kaduce, Donna M. Bishop, Charles E. Fraizer & Lawrence Winner, *Changes in Juvenile Waiver and Transfer Provisions: Projecting the Impact in Florida*, 18 U. DENVER L. & POL’Y 137 (1996).

Section 3 greatly and unnecessarily expands the pool of children to be automatically transferred to adult court to include children as young as fifteen. Under current law, juvenile courts must already automatically transfer children between fifteen and seventeen years old if they are charged with Class A felonies and most Class B felonies, and prosecutors still retain the discretion to transfer cases to adult court that are not subject to immediate transfer.⁷ Current law already subjects a wide swath of cases to be automatically transferred to adult court,⁸ and it is unlikely that increasing the number of cases transferred to adult court will result in any reduction of crime. Courts currently must consider prior offenses by the child, the seriousness of those offenses, evidence of an intellectual disability or mental illness, and the availability of services in juvenile courts for that child. Recidivism has not substantially increased over the past decade in Connecticut.⁹ Most juvenile repeat offenders commit lower-level misdemeanors, not felonies.¹⁰ Connecticut has reduced the number of children in juvenile detention, and the state's rate of recidivism has not increased.¹¹ The charge to lower the age at which children can be put into the adult system to merely fifteen is extremely concerning. Evidence has demonstrated that delinquency referrals to juvenile court for children fourteen and under were quite low.¹² House Bill 6889 would fully eliminate the authority of juvenile courts to hold transfer hearings or consider any of the aforementioned factors before transferring certain children to adult court.

⁷ See Conn. Gen. Stat. § 46b-127 (2019).

⁸ Under current law, all Class A felonies and many Class B felonies are automatically transferred to the adult court. Some Class B, C, D, E, and Unclassified felonies may also be transferred to adult court after a hearing in the juvenile court if the best interests of the child and that the public will not be served by continuing the case in child court.

⁹ Jim Haddadin, Jacqueline Rabe Thomas, Walter Smith & Deidre Montague, *Charts: 5 Things to Know About Juvenile Crime in Connecticut*, CONN. PUB. RADIO (Nov. 1, 2021 at 10:59 AM), available at <https://www.ctpublic.org/2021-11-01/charts-5-things-to-know-about-juvenile-crime-in-connecticut>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Facts and Figures on Connecticut's Juvenile Justice System*, CONN. OFF. POL'Y & MGMT. (last accessed Mar. 14, 2022), available at <https://portal.ct.gov/OPM/CJ-JJYD/Facts-About-Juvenile-Justice/CT-Facts--Figures-Graph-7>.

Section 4 would allow juvenile courts the same authority granted to family courts to investigate certain family matters as is helpful, relevant, or material to a case. By applying this authority to juvenile courts, in the realm of criminal law, this legislature would strip children of vital due process protections that must be granted. Juvenile courts currently have investigative authority, and therefore this extreme encroachment on due process does not address any real problem. Sections 5 and 6 rolls back the removal of Family with Service Needs (FWSN) from courts in 2020. FWSN was eliminated from juvenile courts in order to increase diversion and timely access to community services for status offenses. Children and families should be able to receive social services without going through the court system.

The bill is rooted in a false narrative about young people. Politicians have made hyperbolic claims in the court of public opinion about the “rash” of car thefts. There is no such “rash”—in fact, car thefts in 2020 were down 3 percent relative to 2018, after a record-setting reduction in 2019.¹³ Connecticut differs from much of the country in that the state has seen a substantial decline in car thefts over the last decade, including a 20 percent drop in 2019 from the previous year.¹⁴ Since the peak of car thefts in Connecticut in 1991, the state saw a 77 percent reduction in the thefts to record lows in 2019.¹⁵ Like the rest of the country, rates of crimes across the board have increased during the beginning of the COVID-19 pandemic has wrought economic destruction upon communities.¹⁶ Motor vehicle thefts periodically increased nationally, but Connecticut’s rate of theft has remained below the national rate.¹⁷ A majority of these motor vehicle thefts, in fact, are committed by adults, not children under eighteen.¹⁸ Moreover, data analysis makes clear that any perceived uptick in

¹³ Kelan Lyons, *New Data Show Car Thefts Are Declining, Despite a Pandemic Bump*, CT MIRROR (Mar. 19, 2021), available at <https://ctmirror.org/2021/03/19/new-data-show-car-thefts-are-declining-despite-a-pandemic-bump/>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

car thefts does not correlate juvenile justice reforms made over the past few years.¹⁹ With that understanding, it does not make sense to enact far-reaching policies which are not data-driven or services-based to solve a problem that is not, in fact, a problem. Sections 7, 8, and 9 unnecessarily crack down even further on motor vehicle offenses, and as such, we oppose these sections.

The ACLU-CT is committed to ending mass incarceration, especially for our youngest and most vulnerable people. House Bill 6889 will increase racial injustice and incarceration. Because of systemic racism spread inextricably throughout the criminal legal system, youth of color are already more likely to be transferred to adult court than white youth in Connecticut.²⁰ Young people who are entangled with the criminal legal system need resources and support, not increased surveillance and exposure to the adult criminal legal system. Yet those are the proposals in House Bill 6889. Accordingly, the ACLU-CT opposes House Bill 6889, and urges this Committee to do the same.

¹⁹ Zach Murdock, *Connecticut Has a Teen Car Theft Problem, But It Is Not Related to State Juvenile Justice Reforms, New Analysis Finds*, HARTFORD COURANT (Mar. 26, 2021), available at <https://news.yahoo.com/connecticut-teen-cartheft-problem-162200460.html>.

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