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**Testimony Supporting:
H.B. 7246, An Act Implementing the Plan of the Juvenile Jurisdiction Planning and
Implementation Committee and
S.B. 1196, An Act Concerning the Age of a Child for Purposes of Jurisdiction in
Delinquency Matters and Proceedings (with suggested technical corrections).**

Testimony of Taly Bialostocki,¹ Shelley Geballe, Mary Glassman
To the Select Committee on Children
February 27, 2007

Senator Meyer, Representative McMahon, and distinguished Members of the Select Committee on Children:

We testify on behalf of Advocates for Connecticut's Children and Youth (ACCY), a statewide, independent, citizen-based organization dedicated to speaking up for children and youth in the policy making process that has such a great impact on their lives. ACCY is the sister lobbying organization of Connecticut Voices for Children, on whose behalf we also testify.

ACCY strongly supports H.B. 7246, An Act Implementing the Plan of the Juvenile Jurisdiction Planning and Implementation Committee and S.B. 1196 An Act Concerning the Age of a Child for Purposes of Jurisdiction in Delinquency Matters and Proceedings. Connecticut is one of only three states in which sixteen- and seventeen-year-olds accused of crime are automatically treated as adults in criminal court, rather than as delinquents in juvenile court. For several years, the General Assembly has considered the practical and moral challenges associated with this definition of juveniles and looked for ways to bring Connecticut's policy in line with other states. These two bills before you continue the important work done on this issue in recent years.

- **H.B. 7246** takes the next important step by accepting the recommendations of the Juvenile Jurisdiction Planning and Implementation Committee, which was established in statute last session. This Committee has developed consensus around a plan for increasing the jurisdictional age of the juvenile court through the hard work of its Chairs – Rep. Walker and Sen. Harp – and members including Senators Meyer and Freedman who serve on the Select Committee on Children and various other designees from the General Assembly, state agencies, and other communities at large.

¹ Taly Bialostocki is the Albert J. Solnit Policy Fellow at Connecticut Voices for Children.

- **S.B. 1196** changes the method of processing sixteen and seventeen years olds accused of crimes, so they are not automatically handled in the adult criminal court. We suggest a few minor modifications to this bill, described in detail below.

Some Important Reasons to Raise the Age of Juvenile Court Jurisdiction in Connecticut:

Scientific research has confirmed our common sense understanding that children who are 16- and 17-years-old are simply different from adults. Brain imaging studies show that the brains of teenagers do not react to dangerous situations in the same way as the brains of older adults. Making responsible decisions takes 16- and 17-year-olds longer and they may be more likely to make mistakes when trying to identify dangerous situations and appropriate behaviors.² In a variety of ways, Connecticut already recognizes the fact that 16- and 17-year-olds are not fully adults: a 16 or 17 year old Connecticut youth cannot vote, serve on a jury, get a marriage license on his/her own, or enter a casino. Automatically treating 16- and 17-year-olds as adults in criminal court is not only out of step with most states but inconsistent with other Connecticut laws.

Neurologists have demonstrated a clear difference between the brains of 16-year-olds and older youth. Brain imaging studies comparing the brain activity of adults and adolescents confronted with difficult decisions have illustrated that it takes adolescents, whose brains are not yet fully developed, a longer time to figure out what is a bad idea than adults.³ Adults studied showed more activity in the parts of the brain that create mental imagery and the parts of the brain that often signal internal distress, suggesting that adults, when confronted with a potentially dangerous scenario, are more likely to create a mental image of possible outcomes, and to have an aversive response to that image.⁴ Some specialists—like actuaries in the car insurance industry—recognize the fact that people aren't very good at making responsible decisions until about age 25. Brain imaging confirms this fact.

Because such differences directly implicate the decision-making capabilities and relative culpability of children under 18, **a just system must consider these differences when deciding how to punish juveniles who commit crimes.** So acknowledged the United States Supreme Court recently when it struck down the death penalty as a punishment for children under age 18 in the case *Roper v. Simmons*.⁵ The Court stated:

² See A.A. Baird, J.A. Fugelsang, and C.M. Bennett, "What were you thinking?" available at <http://www.theteenbrain.com/research/projects/goodidea2.php>.

³ *Ibid.*

⁴ *Ibid.* For example, when asked if "jumping off a roof" is a good idea, the typical adult immediately generates visual imagery of potential injury and experiences a physical aversion to that image, evoking a rapid "bad idea" response. Teenagers in the study, who took longer to respond to dangerous scenarios, seemed to be trying to decide whether or not the scenarios were actually dangerous. Perhaps because they lack the mental image and subsequent visceral response, teenagers need to reason out the question, and therefore have a more difficult time generating the correct response.

⁵ 543 U.S. 551 (2005).

Three general differences between juveniles under 18 and adults demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders. First...[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions... In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent. The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure...(Y)outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and psychological damage)...The third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.

These differences render suspect any conclusion that a juvenile falls among the worst offenders...From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed...(emphasis added)

At the end of its opinion, the Supreme Court itself pointed to the many state statutes that divest youth under 18 of adult responsibilities, explaining, "For the reasons we have discussed . . . a line must be drawn . . . **The age of 18 is the point where society draws the line for many purposes between childhood and adulthood.**" (emphases added) Connecticut statutes that treat 16- and 17-year-olds as if they are different from adults are consistent with the Supreme Court's explanation. Statutes that thrust 16- and 17-year-olds into the adult criminal justice system are not.

Research shows that the juvenile justice system is better equipped to improve the lives of youth who run afoul of the law – and prevent their further criminal involvement – than is the adult system. Studies that compare recidivism rates of youth handled in the juvenile system with those handled in the adult criminal justice system suggest that youth processed in the adult system are more likely to re-offend, and re-offend sooner and more often, than are youth treated in the juvenile justice system.⁶

⁶ Most studies comparing the two systems have corroborated this claim. See J.A. Fagan, "The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders." *Law and Policy* 18 (1 and 2): 77-113 (1996); D.M. Bishop, C.E. Frazier, L. Lanza-Kaduce, and L. Winner, "The transfer of juveniles to criminal court: Does it make a difference?" *Crime and Delinquency*, 42: 171-191 (1996); L. Winner, L. Lanza-Kaduce, D.M. Bishop, and C.E. Frazier, "The transfer of juveniles to criminal court: Reexamining recidivism over the long term." *Crime and Delinquency* 43(4): 548-563 (1997). Very little data exists on recidivism rates in CT. One study has estimated adult recidivism at 70% within three years (http://www.cga.ct.gov/2002/pridata/RptsAnnual/2002_Annual_Recidivism_Compliance.htm), whereas recidivism from the juvenile system has been calculated at 47% within 18 months ("State of Connecticut Juvenile Justice Programs: Recidivism Outcome Evaluation." Connecticut Policy and Economic Council, July 2002).

Key differences between the juvenile and adult systems support and explain these findings. Juvenile justice systems are typically characterized by higher staff-to-juvenile ratios as well as staff focused on treatment and rehabilitation (leading to more contact and more positive contact with staff). They also place an emphasis on programming that facilitates positive youth development and encourages pro-social behavior and the development of social competencies. The adult penal system, in stark contrast, is characterized by warehousing of inmates by staff focused on custody and security, idle time, violent role models, and a culture of exploitation, domination, victimization, and criminal socialization (facilitated by the lack of correctional staff contact).⁷

In addition to the debilitating experiences typical of the adult system, the criminal record that follows a youth from the adult system significantly impairs his or her re-entry into society upon release, making it harder for that youth to get a job, and eventually provide support to his/her own children.

In Support of H.B. 7246, An Act Implementing the Plan of the Juvenile Jurisdiction Planning and Implementation Committee:

Support for Regional Courts:

The Juvenile Jurisdiction Planning and Implementation Committee (JJPIC), which was tasked by the General Assembly last Session with developing a plan to increase age of juvenile court jurisdiction to age 18, has identified ways to use existing court space and other existing facilities to accommodate the proposed increase in the juvenile court population. As a result, the transition from an upper jurisdictional age of 16 to an upper age of 18 in the juvenile court is not likely to be as expensive as was suggested in past years. The Regional Courts plan described in **section 1 of H.B. 7246** is designed to “maximize use of court facilities that may otherwise be unused or substantially underutilized.” The JJPIC plan identifies eight locations around the state where juvenile proceedings can take place upon the effective date of the bill and two additional locations where juvenile proceedings can take place starting in 2010 and 2011 as scheduled court renovations and construction are completed.⁸

Support for Introduction of an Assessment and Classification System:

Implementing the work of the JJPIC “Front End” sub-committee, **section 2(b) of H.B. 7246** proposes the introduction of an assessment instrument and classification system that

⁷ See Donna M. Bishop, “Juvenile Offenders in the Adult Criminal Justice System.” *Crime and Justice*, 27: 140-146 (2000).

⁸ The Final Report of the Juvenile Jurisdiction Planning and Implementation Committee writes, “Eight of these—Bridgeport, Bristol, Hartford, Rockville, Stamford, Waterbury, Waterford, and Willimantic—will utilize existing space. Two—Middletown and Torrington—will utilize space available in planned but yet-to-be constructed juvenile courthouses set to be operational in 2010 and 2011, respectively. The site for a New Haven regional youth court is yet to be determined. The Bristol site will incorporate cases from New Britain and Torrington, until the juvenile court in Torrington is completed in 2011. The Stamford site will incorporate cases from Norwalk, and the Waterbury site will incorporate cases from Danbury.” (Connecticut Juvenile Jurisdiction Planning and Implementation Committee, Final Report (Submitted February 8, 2007), p. 11 available at: http://www.cga.ct.gov/hdo/jjpic/070212_JJPIC_report_revised.pdf)

will help ensure that decisions about which youth are placed in detention are based on reliable information and objective and valid criteria. Together with the pretrial programs referred to in **section 1 of H.B. 7246**, the assessment and classification system should better ensure that youth who need to be in detention end up there, while others who do not need to be in detention – those who are not accused of serious crimes, who are not likely to be dangerous or offend further, and who are likely to show up to their next court appearance – are diverted from detention in facilities that are expensive to operate and do not always provide the kind of conditions and supports that at-risk youth may need.

Support for Expanded Services:

Section 3 of H.B. 7246 includes an important provision to expand services for youth involved in the juvenile justice system. In the course of its work, the Juvenile Jurisdiction Planning and Implementation Committee discovered some significant challenges facing the state in meeting the needs of older youth in the juvenile justice system. An investigation of available services and service needs, as well as testimony presented before the JJPIC by state agency officials, suggested a lack of appropriate programming for 16 and 17 year olds and asserted the need for developing such services.⁹ The plans to expand needed services included in this bill are essential for accommodating the new population of sixteen and seventeen year olds, addressing their unique needs, and making our current juvenile justice system function more smoothly.

Without the needed interventions and services, our juvenile justice system may place youth in programs or facilities where there is space, even if the placements are not the most appropriate conditions for these youth. Placing youth in more restrictive settings when such restrictive conditions are not needed to ensure the public safety or the safety of the youth involved may have severe negative consequences for youth and communities.¹⁰ Therefore, the codification in **H.B. 7246 Section 4(b)** of the principle that youth be detained “in the least restrictive environment possible in a manner consistent with public safety” is an important safeguard to put in place together with the expansion of services and placement options.

⁹ For example, Peter Rockholz Deputy Commissioner of the Department of Mental Health and Addiction Services submitted testimony on September 21, 2006 stating, “it [Connecticut’s system of providing services] lacks the substantial infrastructure and clinical expertise necessary to meet the very distinct, elaborate and developmentally appropriate needs of children and adolescents – including 16 and 17 year-olds.” The Final Report of the Juvenile Jurisdiction Planning and Implementation Committee describes “the dearth of substance abuse and mental health services—that currently exist in the juvenile justice system” in advancing recommendations for service expansion. (Connecticut Juvenile Jurisdiction Planning and Implementation Committee, Final Report (Submitted February 8, 2007), p. 14 available at: http://www.cga.ct.gov/hdo/jjplic/070212_JJPIC_report_revised.pdf)

¹⁰ Research suggests that restrictive prison like settings do not reduce the occurrence of crime and lower recidivism rates. A study by the Center on Juvenile and Criminal Justice found that as the California youth commitment rate fell to its lowest point in history, youth crime rates also declined to thirty year lows. (M. Doyle Corcoran, D. Macallair, M. Males, *Testing Incapacitation Theory: Youth Crime and Incarceration in California* (Center for Juvenile and Criminal Justice, July 2006) available at: http://www.cjcj.org/pdf/testing_incapacitation.pdf). Also, the State of Missouri has maintained some of the lowest youth recidivism rates in the country after having switched most of its juvenile justice programming to less restrictive settings and adopting small facilities accessible to families and communities (Data available at: <http://www.aecf.org/publications/advocasey/spring2003/small/small.htm>).

Support for Structured Supervision:

The Final Report of the JJPIC affirmed the finding of the “Front End” sub-committee that “some youth detained under the current system might be better served in the community.” The introduction of the assessment instrument and classification scheme described in **Section 1 of H.B. 7246** (and above) will help in identifying the specific population for whom structured supervision is the most appropriate intervention, while the expansions to the system of needed services described in **Section 3 of H.B. 7246** will ensure that we have the resources to help these young people get back on track after coming in contact with the juvenile justice system.

Support for Maximizing Federal Funds for Services:

Section 2(b)(4) of H.B. 7246 addresses an important recommendation of the JJPIC, maximizing the use of federal funds to support eligible community-based services. **Connecticut may be able to claim federal reimbursement through Medicaid for 50% of the cost of health and mental health services provided to youth in *non-secure* facilities.** A report prepared for the JJPIC by Hornby Zeller Associates states, “For every 10 percent of clinical services that could be reimbursed under Medicaid, the state stands to recover about one-half million dollars [through federal reimbursements].”¹¹ It may also be possible to use other federal funding sources to offset the cost of expanding services, including Title IV-E funding for youth dually committed to the juvenile justice and child welfare systems.

In Support of S.B. 1196 An Act Concerning the Age of a Child for Purposes of Jurisdiction in Delinquency Matters and Proceedings with Suggested Technical Corrections:

There are compelling moral and practical reasons (described above) for Connecticut to adopt S.B. 1196, which raises the age of juvenile court jurisdiction to 18. The specific recommendations of the JJPIC outlined in H.B. 7246 help to ensure that the implementation of the change in jurisdictional age is integrated with other needed and planned changes that will make the juvenile justice system run more smoothly and cost-effectively. We support both S.B. 1196 and H.B. 7246 but recommend two amendments to S.B. 1196 to provide the juvenile court greater flexibility in placement of the youth prior to sentencing and ensure parity among juvenile offenders with regard to credit for time served.

The amendments to S.B. 1196 that we recommend are:

- Adding the underlined language below to Sections 4 and 5 to ensure the court has the option to assign accused juveniles to structured supervision before sentencing if

¹¹ The report prepared for the JJPIC by Hornby Zeller Associates notes “State agencies will need to ensure that all youth are tested for Medicaid eligibility and that service providers’ eligibility to provide Medicaid services is a factor in granting contracts.” (Hornby Zeller Associates, *Connecticut Service Needs Study: 16 and 17-Year-Old Court-Involved Youth*, p. 65.)

the assessment of a youth's risks and needs indicate that placement in a secure juvenile facility is not necessary pre-trial:

Line 189 – no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youths or released under structured supervision until such child attains [sixteen] eighteen years of age or until such child is sentenced, whichever occurs first.

Line 212 – no such child shall be placed in a correctional facility but shall be maintained in a facility for children and youths or released under structured supervision until such child attains [sixteen] eighteen years of age or until such child is sentenced, whichever occurs first.

- Inserting the following language in Section 4 to ensure that children who serve time in a juvenile facility before trial in juvenile court receive credit for that time against any sentence imposed, just like the credit against time served for children who serve time in a juvenile facility before transfer to and trial in adult court:

Line 192 – Such child or any child who serves time in juvenile detention before trial shall receive credit against any sentence imposed for time served in a juvenile facility prior to the effectuation of the transfer.

We urge this Committee to support raising the age of juvenile court jurisdiction this session. The compelling reasons outlined above have long been true. The work of the JJPIC in the last year has helped to address concerns and build consensus among stakeholders, making the time ripe for this change. The JJPIC recommendations and timeline for implementation help to ensure that we go about implementing these changes in a deliberate and well-planned way with costs phased in over several years and minimal costs in this biennial budget.

Thank you for the opportunity to testify today.