Testimony Supporting H.B. 5526 An Act Implementing the Recommendations of the Juvenile Justice Policy and Oversight Committee

Testimony Opposing S.B. 515 An Act Concerning Minor and Technical Changes to Various Statutes Concerning the Juvenile Justice System

Testimony Opposing H.B. 5558 An Act Concerning Juvenile Matters

Testimony Opposing H.B. 5559 An Act Concerning the Transfer of Cases of Repeat Juvenile Felony Offenders to the Regular Criminal Docket

Dr. Lauren Ruth Ph.D
Advocacy Director

Camara Stokes Hudson
Associate Policy Fellow

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

We are submitting testimony today on behalf of Connecticut Voices for Children, a research-based child advocacy organization working to ensure that all Connecticut children have an equitable opportunity to achieve their full potential. Thank you for the opportunity to submit testimony in support of H.B. 5562: An Act Implementing the Recommendations of the Juvenile Justice Policy and Oversight Committee, in opposition to S.B. 515: An Act Concerning Minor and Technical Changes to Various Statutes Concerning the Juvenile Justice System, in opposition to H.B. 5558: An Act Concerning Juvenile Matters, and in opposition to H.B. 5559: .

Support for H.B. 5562: An Act Implementing the Recommendations of the Juvenile Justice Policy and Oversight Committee (JJPOC)

We offer strong support for H.B. 5562, particularly those provisions pertaining to diversion from the juvenile justice system and reinvestment of saved justice dollars into preventative

services. Section 2 implements a community-based diversion system utilizing resources that already exist in many communities. Specifically, this bill leverages Youth Service Bureaus (YSBs) as a coordinating hub to evaluate the needs of youth and families, refer youth and families to appropriate services, coordinate and implement these services, and evaluate the effectiveness of services.

We see a number of strengths in the model proposed. First, it utilizes existing resources and creates a more standardized mechanism by bringing together and coordinating the fragmented pieces of the YSBs, various community services, and the Children's Behavioral Health Plan. It helps to identify where services are insufficiently distributed, insufficiently funded, or insufficiently utilized so that the state can redistribute services and funding in the most efficient manner. This will help the state save money and time when implementing this plan.

Next, the model addresses the contexts in which youth develop antisocial or delinquent behaviors. Youth behaviors develop within the contexts of family dynamics, school dynamics, peer dynamics, and community dynamics.[1] The community diversion model implemented in H.B. 5562 offers support and services not only to the youth exhibiting worrisome behaviors, but also to their families, schools, peers, and communities to help change the dynamics within which behaviors manifest. For example, a youth may exhibit chronic absenteeism from school for a myriad of reasons ranging from homelessness to bullying to anxiety to asthma.[2]

If a school refers a youth to the YSBs for chronic absenteeism, workers at the YSB would evaluate the dynamic creating this behavior, match the youth and families with appropriate services, and follow-up with the youth to ensure the efficacy of the services. If a youth is chronically absent because of homelessness, this diversion plan will help by matching the youth and family with appropriate employment and housing services. If the youth is absent because of chronic asthma, the YSBs can help families find appropriate healthcare and may also be able to identify health risks within physical school structures.

Finally, this model limits court involvement to only the most serious cases. As mentioned, when youth exhibit behaviors due to a certain context, the community-based diversion model helps to identify the dynamic and change the context to promote more appropriate behaviors. Alternatively, if a youth engages in an inappropriate behavior as the result of impulsivity, this model helps the youth learn consequences without the lasting stigma of having a criminal record. Limiting formal juvenile justice system involvement to the most serious cases helps reduce state costs associated with crime and incarceration as well as personal costs to the youth and their families.

We urge the committee to adopt fully the JJPOC recommendations regarding the Community-Based Diversion System. **We also urge the committee members to support fully funding the Community-Based Diversion System by reinvesting dollars saved from reduced incarceration.** Because many YSBs are already underfunded, they cannot expand their coordinating

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[1] Ruth, Lauren, Alexandra Ricks, Rachel Leventhal-Weiner, and Daniel Long. Connecticut Youth Opportunity Atlas. Connecticut Voices for Children. 15 March, 2017. Retrieved from http://www.ctvoices.org/sites/default/files/Youth%20Opportunity%20Atlas%20Final.pdf

[2] Kearney, Christopher A. "School absenteeism and school refusal behavior in youth: A contemporary review." Clinical psychology review 28.3 (2008): 451-471.

capacity without additional resources. It is especially crucial to provide these funds this year because both defiance of school rules and truancy can no longer be referred to the courts, and schools need support from their community so that they can appropriately respond to these behaviors. Furthermore, beginning in July of 2019, additional Family With Service Needs (FWSN) referrals will be removed from the courts as well. Removing these referrals from the courts will save the state money in expensive court costs, but in order for the involved children and families to get the help they need this money must be reinvested into the Community-Based Diversion System *now* so that communities are able to provide support and services.

Connecticut Voices for Children also offers support for Section 3 of this bill, which implements the School Based Diversion System. This system was created to aid schools in being able to identify and support students with mental health needs before these students reach a state of crisis and can no longer be appropriately served in traditional school settings. It was created leveraging the empirically-supported School-Based Diversion Initiative, which has been shown to reduce court referrals by 45 percent.[3] This system was created to work in tandem with the Community Based Diversion System to further reduce court referrals and provide support for children and families in the spaces where they live and learn. We also support providing funding for this system.

Finally, we'd like to offer support for Section 9, which requires a report with a plan for the reinvestment of justice dollars. The members of the JJPOC workgroups are proud that Connecticut's population of incarcerated children continues to shrink each year. This means that more and more children are able to grow up with families, attend school, and grow into productive and contributing citizens. However, it also means that families and communities are trying to support children with high levels of need. **In order to ensure public safety and continue our work reducing the number of children who experience incarceration, it is critical that the state reinvest dollars saved from this reduction of costly incarceration to prevention services.**

<u>Opposition to S.B. 515: An Act Concerning Minor and Technical Changes to Various Statutes Concerning the Juvenile Justice System</u>

We oppose Section 1 of S.B. 515 which would allow the police to report to schools *any* contact they have with students during which they do not arrest students. Specifically, this bill allows police to report to superintendents "if the person's conduct is a violation of school or institution rules and policies or is of a nature that would likely prompt the school or institution to take precautionary steps to protect the health or safety of any student or school or institution employee or prevent damage to any school or institution property or property used by the school or institution,"[4] and it specifies that this information should be used for disciplinary purposes.

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[3] Bracey, Jeana R., Eric. R. Arzubi, Jeffrey J. Vanderploeg, & Robert P. Franks. (2013). "Improving outcomes for children in schools: Expanded school mental health." *The Child Health and Development Institute of Connecticut.* Retrieved from: https://www.chdi.org/publications/reports/impact-reports/improving-outcomes-children-schools-expanded-school-mental-health/

[4] Connecticut General Assembly. (2018). Raised Bill 515. LCO 2721. Section 1.

The term "violation of school rules and policies" varies from school to school across Connecticut; these rules and policies are not subject to stringent oversight by the judicial system in the way that legal statutes are. They differ wildly in the extent to which they protect safety and promote learning. Some school rules and policies--such as those regarding dress codes for female students--contribute to students feeling less safe in school.[5] Thus we believe that allowing police to report to schools regarding these differing and sometimes questionable policies may undermine youths' belief in the legitimacy of the police.[6],[7]

We also believe that the subjective nature of this language-- particularly language about reporting for behavior that *would likely* prompt a school to take disciplinary steps--will increase racial and ethnic disparities in the use of school discipline. Black and Brown children in Connecticut experience dramatically greater rates of exclusionary discipline in Connecticut schools despite no evidence that they behave differently from white peers.[8] These differences in how schools apply discipline to white students and students of color appear as early as preschool. Yale researcher Walter Gilliam and colleagues find that school teachers display implicit bias regarding the behavior of Black preschool students. In a study where preschool teachers were primed to expect challenging behavior and then observed experimentally controlled unproblematic behavior displayed by both Black and white children, these teachers looked at Black boys more frequently and for longer duration than any other children.[9] This suggests that teachers actually see misbehaviors of Black students more than they see similar behaviors of white students *because they are looking at these students more and anticipating that these students will exhibit problem behavior.*

Allowing the police to report similarly subjective problematic behavior to schools allows for these same biases to exist and will likely contribute to creating greater disparities in how Black, Brown, and white students are treated in Connecticut's school systems.

<u>Opposition to H.B. 5558: An Act Concerning Juvenile Matters</u>

H.B. 5558 would make all Class B felonies grounds for automatic transfer to adult court for youth 15 and over; it also adds several reasons for which youth can be detained including: running away, risk to self, unsafe home, and violation of a court order. We oppose transferring more youth to adult court and to detaining youth for minor violations and for behaviors that are not directly related to criminal charges because these policy choices are not philosophically consistent with Connecticut's juvenile justice reforms, are not grounded in developmental research, would increase recidivism, and

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[5] Harbach, M. J. (2015). Sexualization, sex discrimination, and public school dress codes. *U. Rich. L. Rev.*, *50*, 1039.
[6] Tyler, T. R., Fagan, J., & Geller, A. (2014). Street stops and police legitimacy: Teachable moments in young urban men's legal socialization. *Journal of Empirical Legal Studies*, *11*(4), 751-78.
[7] Fagan, J., & Tyler, T. R. (2005). Legal socialization of children and adolescents. *Social justice research*, *18*(3), 217-241.
[8] Stokes Hudson, Camara. (2018). "The Black-white education gap in Connecticut: Indicators of inequality in access and outcomes." *Connecticut Voices for Children.* Retrieved from: http://www.ctvoices.org/publications/black-white-education-gap-connecticut-indicators-inequality-access-and-outcomes.
[9] Gilliam, W. S., Maupin, A. N., Reyes, C. R., Accavitti, M., & Shic, F. (2016). Do early educators' implicit biases regarding sex and race relate to behavior expectations and recommendations of preschool expulsions and suspensions. *Research Study Brief. Yale University, Yale Child Study Center, New Haven, CT.*

convey the message that Connecticut prefers to incarcerate children rather than invest in meeting children's needs.

These provisions within H.B. 5558 stand in conflict to the state's recent juvenile justice and behavioral health reforms, may increase disproportionate minority contact with the criminal justice system, and may increase recidivism. Transferring more children into the adult court system and detaining children who pose a risk to themselves, run away, live in an unsafe home, or violate a court order undercut the intent and success of justice reforms that have reduced the incarceration of children as well as mental health reforms that have helped rehabilitate youth with high needs.

The practice of charging young people as adults gained momentum during the 1990s when "Tough on Crime" was the prevailing philosophy.[10] This is not the philosophy endorsed by Connecticut, which has been nationally acknowledged for its "strong commitment to invest in alternatives to detention and incarceration, improve conditions of confinement, examine research, and focus on treatment strategies with evidence of effectiveness" (p. 1).[11]

Connecticut's Juvenile Justice Policy and Oversight Committee has consulted with world-renowned researchers on adolescent development and behavior including Dr. Elizabeth Cauffman, Dr. Lawrence Steinberg, and Dr. Edward Latessa. These experts overwhelmingly agree that adolescence is a time of rapid brain development and changing maturation. A longitudinal study commissioned by the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) and conducted by Dr. Steinberg and Dr. Cauffman found that "the vast majority of juvenile offenders, even those who commit serious crimes, grow out of antisocial activity as they transition to adulthood" (p. 1).[12] The researchers attribute this drastic decline in the propensity to engage in antisocial behavior in adulthood to better impulse control, better ability to delay gratification, and decreased susceptibility to peer pressure—all of which develop with age.

Furthermore, national research shows that the majority of youth in the justice system have a diagnosed mental illness, traumatic brain injury, developmental delay, and/or emotional disturbance.[13] We know that Connecticut follows this national trend: in 2015, 91 percent of boys admitted to CJTS had a diagnosed behavioral disorder and 62 percent had a neuro-developmental disorder.[14]

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[10] Austin, J., Johnson, K. D., & Gregoriou, M. (2000). Juveniles in Adult Prisons and Jails: A National Assessment. Washington, DC: Bureau of Justice Assistance; Bureau of Justice Statistics Prison and Jail Inmates at Midyear Series; Bureau of Justice Statistics Prisoner Series; Strom, K. J. (2000). Profile of State Prisoners under Age 18, 1985-1997. Washington, DC: Bureau of Justice Statistics.

[11] Mendel, Richard. "Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth." The Justice Policy Institute (2013). Retrieved from: http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_juvenile_justice_reform_in_ct.pdf

[12] Steinberg, Lawrence, Elizabeth Cauffman, and Kathryn C. Monahan. (2015). "Psychological Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders." Office of Juvenile Justice and Delinquency Prevention Juvenile Justice Bulletin. Retrieved from: https://www.cga.ct.gov/app/tfs/20141215_Juvenile%20Justice%20Policy%20and%20Oversight%20Committee/20160218/Dr.%20Elizabeth%20Cauffman%27s%20Pathways%20and%20Maturity%20.pdf.

[13] Washburn, J. J., Teplin, L. A., Voss, L. S., Simon, C. D., Abram, K. M., & McClelland, G. M. (2008). Psychiatric disorders among detained youths: a comparison of youths processed in juvenile court and adult criminal court. Psychiatric services, 59(9), 965-973.

[14] Connecticut Juvenile Training School Advisory Board." Report to the Commissioner of the Department of Children and Families (2016). Available for download at: http://www.portal.ct.gov/DCF/Data-Connect/DCF-Data-Reports.

The U.S. Department of Justice has found that mental health services for incarcerated individuals are often inadequate,[15] and this is particularly true when children and adolescents are incarcerated in the adult system.[16] The adult criminal justice system does not capitalize on youths' maturing brains and ability to develop prosocial behaviors when given therapeutic rehabilitation and supportive services.

We have noted that the adult system is not effective in rehabilitating youth and does not provide adequate mental and behavioral health services. For these reasons alone children who enter the adult system as opposed to the juvenile system are more likely to continue engaging in antisocial behaviors. However, confinement in adult prison or jail can turn children into serious criminals because they are far more likely to interact with older criminals who are at high-risk for recidivism. The Centers for Disease Control (CDC) finds that young people charged as adults are 35 percent likelier to be rearrested than those who are tried as juveniles.[17] For this reason, the CDC—like Connecticut Voices for Children—recommends against transferring youth to the adult justice system. **It is inappropriate to incarcerate youth in adult prisons, and Connecticut should be working to ensure that fewer children are tried as adults.**

Another troublesome provision within H.B. 5558 is allowing youth to be detained "for their own good", because they live in "unsafe homes," because they violate a court order, or because they have run away from home. **Detaining youth for *any* of these reasons conveys that Connecticut is unwilling to invest in services that help stabilize youth in crisis and would prefer instead to place children in jail.** This is both costly (incarcerating youth at CJTS costs $1,244 per day per youth)[18] and, as discussed, ineffective.

<u>Opposition to H.B. 5559: An Act Concerning the Transfer of Cases of Repeat Juvenile Felony Offenders to the Regular Criminal Docket</u>

HB 5559 adds to the statute that determines what juveniles are automatically transferred to the adult criminal docket in two ways:

1. Requires that youth who have committed two or more felony offenses be transferred to criminal court.
2. Requires that youth who have committed a felony in which another party (who was not involved in the crime) is injured be transferred automatically to criminal court.

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[15] United States Department of Justice. (2011). Department of Justice Activities Under the Civil Rights Institutionalized Persons Act: Fiscal Year 2010. Washington DC: United States Department of Justice. Online. Available: http://www.justice.gov/crt/about/spl/documents/split_cripa10.pdf.

[16] Davis, Antoinette, Andrea Gentile, & Caroline Glesman (2016). "No Place for Youth: Girls in the Adult Justice System." U.S. Department of Justice National Institute of Corrections. Retrieved from: https://s3.amazonaws.com/static.nicic.gov/Library/032648.pdf.

[17] Hahn, Robert et al. (2007). "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System." Center for Disease Control and Prevention Morbidity and Mortality Weekly Report. Retrieved from: https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm.

[18] Connecticut Juvenile Training School Advisory Board." Report to the Commissioner of the Department of Children and Families (2016). Available for download at: http://www.portal.ct.gov/DCF/Data-Connect/DCF-Data-Reports.

Connecticut Voices for Children is very concerned that this bill will increase the number of youth who end up in adult courts in Connecticut. Adolescence is a very unique developmental period, which requires unique developmental supports, policies and practices. Adult courts are simply not able to meet the developmental needs of adolescent offenders, oftentimes leading to youth missing out on a fair and developmentally-appropriate trial or commitment.[19]

In particular, we are concerned that the transfer of repeat juvenile offenders does not represent the current research regarding young offenders and serves to prevent these young people from getting the help that they need to improve their own pro-social development and enhance public safety. Policies that transfer juveniles out of youth court and into adult facilities run counter to Connecticut's previous commitment to the creation of a developmentally-appropriate justice system.[20] As discussed above, in the testimony regarding H.B. 5558, adult courts simply cannot meet the developmental needs of youth and young adults. We acknowledge that it is easier to understand why this is true of young people who engage in low-level offenses or only offend once.Just because a child commits several offenses or commits a serious offense does not change the fact that they are still developing and need supports that are appropriate for their individual path of social and emotional development.

The juvenile justice system is a far better place to try and sentence youth who commit repeat and serious offenses as it offers the supports that they need. Research shows that while youth who persist in committing crimes throughout their young adulthood tend to have lower levels of psychosocial maturity, most repeat offenders, as they grow and develop stop offending by adulthood.[21] This means that interventions to reduce youth offending must be facilitate the development of psychosocial maturity and do not introduce them to adult offending behaviors and patterns.[22] Juvenile courts are better equipped to meet the needs of repeat young offenders and ensure that they receive the supports that they need to become engaged members of their communities.

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[19] Young, M., & Gainsbororugh, J. (2000). *Prosecuting Juveniles in Adult Court An Assessment of Trends and Consequences*(Rep.). Retrieved https://www.prisonpolicy.org/scans/sp/juvenile.pdf

[20] Mendel, Richard. "Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth." The Justice Policy Institute (2013)

[21] Steinberg, Lawrence, Elizabeth Cauffman, and Kathryn C. Monahan. (2015). "Psychological Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders." Office of Juvenile Justice and Delinquency Prevention Juvenile Justice Bulletin

[22] *Ibid.*